



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2986

by Rep. Justin Slaughter

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-407
705 ILCS 405/5-410
705 ILCS 405/5-415

Amends the Juvenile Court Act of 1987. Provides that minors shall be brought before a judicial officer within 40 hours, which includes Saturdays, Sundays, and court-designated holidays (rather than within 40 hours exclusive of Saturdays, Sundays, and court-designated holidays. Makes conforming changes.

LRB100 10976 SLF 21214 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 Sections 5-407, 5-410, and 5-415 as follows:

6 (705 ILCS 405/5-407)

7 Sec. 5-407. Processing of juvenile in possession of a
8 firearm.

9 (a) If a law enforcement officer detains a minor pursuant
10 to Section 10-27.1A of the School Code, the officer shall
11 deliver the minor to the nearest juvenile officer, in the
12 manner prescribed by subsection (2) of Section 5-405 of this
13 Act. The juvenile officer shall deliver the minor without
14 unnecessary delay to the court or to the place designated by
15 rule or order of court for the reception of minors. In no event
16 shall the minor be eligible for any other disposition by the
17 juvenile police officer, notwithstanding the provisions of
18 subsection (3) of Section 5-405 of this Act.

19 (b) Minors shall be brought before a judicial officer
20 within 40 hours, which includes ~~exclusive~~ of Saturdays,
21 Sundays, and court-designated holidays, for a detention
22 hearing to determine whether he or she shall be further held in
23 custody. If the court finds that there is probable cause to

1 believe that the minor is a delinquent minor by virtue of his
2 or her violation of item (4) of subsection (a) of Section 24-1
3 of the Criminal Code of 1961 or the Criminal Code of 2012 while
4 on school grounds, that finding shall create a presumption that
5 immediate and urgent necessity exists under subdivision (2) of
6 Section 5-501 of this Act. Once the presumption of immediate
7 and urgent necessity has been raised, the burden of
8 demonstrating the lack of immediate and urgent necessity shall
9 be on any party that is opposing detention for the minor.
10 Should the court order detention pursuant to this Section, the
11 minor shall be detained, pending the results of a court-ordered
12 psychological evaluation to determine if the minor is a risk to
13 himself, herself, or others. Upon receipt of the psychological
14 evaluation, the court shall review the determination regarding
15 the existence of urgent and immediate necessity. The court
16 shall consider the psychological evaluation in conjunction
17 with the other factors identified in subdivision (2) of Section
18 5-501 of this Act in order to make a de novo determination
19 regarding whether it is a matter of immediate and urgent
20 necessity for the protection of the minor or of the person or
21 property of another that the minor be detained or placed in a
22 shelter care facility. In addition to the pre-trial conditions
23 found in Section 5-505 of this Act, the court may order the
24 minor to receive counseling and any other services recommended
25 by the psychological evaluation as a condition for release of
26 the minor.

1 (c) Upon making a determination that the student presents a
2 risk to himself, herself, or others, the court shall issue an
3 order restraining the student from entering the property of the
4 school if he or she has been suspended or expelled from the
5 school as a result of possessing a firearm. The order shall
6 restrain the student from entering the school and school owned
7 or leased property, including any conveyance owned, leased, or
8 contracted by the school to transport students to or from
9 school or a school-related activity. The order shall remain in
10 effect until such time as the court determines that the student
11 no longer presents a risk to himself, herself, or others.

12 (d) Psychological evaluations ordered pursuant to
13 subsection (b) of this Section and statements made by the minor
14 during the course of these evaluations, shall not be admissible
15 on the issue of delinquency during the course of any
16 adjudicatory hearing held under this Act.

17 (e) In this Section:

18 "School" means any public or private elementary or
19 secondary school.

20 "School grounds" includes the real property comprising any
21 school, any conveyance owned, leased, or contracted by a school
22 to transport students to or from school or a school-related
23 activity, or any public way within 1,000 feet of the real
24 property comprising any school.

25 (Source: P.A. 99-258, eff. 1-1-16.)

1 (705 ILCS 405/5-410)

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

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

8 (2) (a) Any minor 10 years of age or older arrested
9 pursuant to this Act where there is probable cause to believe
10 that the minor is a delinquent minor and that (i) secured
11 custody is a matter of immediate and urgent necessity for the
12 protection of the minor or of the person or property of
13 another, (ii) the minor is likely to flee the jurisdiction of
14 the court, or (iii) the minor was taken into custody under a
15 warrant, may be kept or detained in an authorized detention
16 facility. A minor under 13 years of age shall not be admitted,
17 kept, or detained in a detention facility unless a local youth
18 service provider, including a provider through the
19 Comprehensive Community Based Youth Services network, has been
20 contacted and has not been able to accept the minor. No minor
21 under 12 years of age shall be detained in a county jail or a
22 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

1 detention home to detain and keep a minor for up to 40 hours,
2 which includes ~~excluding~~ Saturdays, Sundays and
3 court-designated holidays. These records shall be available to
4 the same persons and pursuant to the same conditions as are law
5 enforcement records as provided in Section 5-905.

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

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

1 (e) (3), or (e) (4) of Section 12-3.05, aggravated or heinous
2 battery involving permanent disability or disfigurement or
3 great bodily harm, robbery, aggravated robbery, armed robbery,
4 vehicular hijacking, aggravated vehicular hijacking, vehicular
5 invasion, arson, aggravated arson, kidnapping, aggravated
6 kidnapping, home invasion, burglary, or residential burglary.

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

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

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

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

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

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

18 (A) The age of the person;

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

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

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

25 (d) (i) If a minor 12 years of age or older is confined in a
26 county jail in a county with a population below 3,000,000

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

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

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

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

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

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

22 (3) If the probation officer or State's Attorney (or such
23 other public officer designated by the court in a county having
24 3,000,000 or more inhabitants) determines that the minor may be
25 a delinquent minor as described in subsection (3) of Section
26 5-105, and should be retained in custody but does not require

1 physical restriction, the minor may be placed in non-secure
2 custody for up to 40 hours pending a detention hearing.

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

7 (5) The changes made to this Section by Public Act 98-61
8 apply to a minor who has been arrested or taken into custody on
9 or after January 1, 2014 (the effective date of Public Act
10 98-61).

11 (Source: P.A. 98-61, eff. 1-1-14; 98-685, eff. 1-1-15; 98-756,
12 eff. 7-16-14; 99-254, eff. 1-1-16.)

13 (705 ILCS 405/5-415)

14 Sec. 5-415. Setting of detention or shelter care hearing;
15 release.

16 (1) Unless sooner released, a minor alleged to be a
17 delinquent minor taken into temporary custody must be brought
18 before a judicial officer within 40 hours for a detention or
19 shelter care hearing to determine whether he or she shall be
20 further held in custody. If a minor alleged to be a delinquent
21 minor taken into custody is hospitalized or is receiving
22 treatment for a physical or mental condition, and is unable to
23 be brought before a judicial officer for a detention or shelter
24 care hearing, the 40 hour period will not commence until the
25 minor is released from the hospital or place of treatment. If

1 the minor gives false information to law enforcement officials
2 regarding the minor's identity or age, the 40 hour period will
3 not commence until the court rules that the minor is subject to
4 this Act and not subject to prosecution under the Criminal Code
5 of 1961 or the Criminal Code of 2012. Any other delay
6 attributable to a minor alleged to be a delinquent minor who is
7 taken into temporary custody shall act to toll the 40 hour time
8 period. The 40 hour time period shall be tolled to allow
9 counsel for the minor to prepare for the detention or shelter
10 care hearing, upon a motion filed by such counsel and granted
11 by the court. In all cases, the 40 hour time period which
12 includes ~~is exclusive of~~ Saturdays, Sundays, and
13 court-designated holidays.

14 (2) If the State's Attorney or probation officer (or other
15 public officer designated by the court in a county having more
16 than 3,000,000 inhabitants) determines that the minor should be
17 retained in custody, he or she shall cause a petition to be
18 filed as provided in Section 5-520 of this Article, and the
19 clerk of the court shall set the matter for hearing on the
20 detention or shelter care hearing calendar. Immediately upon
21 the filing of a petition in the case of a minor retained in
22 custody, the court shall cause counsel to be appointed to
23 represent the minor. When a parent, legal guardian, custodian,
24 or responsible relative is present and so requests, the
25 detention or shelter care hearing shall be held immediately if
26 the court is in session and the State is ready to proceed,

1 otherwise at the earliest feasible time. In no event shall a
2 detention or shelter care hearing be held until the minor has
3 had adequate opportunity to consult with counsel. The probation
4 officer or such other public officer designated by the court in
5 a county having more than 3,000,000 inhabitants shall notify
6 the minor's parent, legal guardian, custodian, or responsible
7 relative of the time and place of the hearing. The notice may
8 be given orally.

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

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

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