



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4473

by Rep. Robyn Gabel

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-415

Amends the Juvenile Court Act of 1987. Provides that the decision to place a minor alleged to be a delinquent minor in detention shall be a last resort and for as short of a time period as possible. Provides that a review of the decision to detain a minor alleged to be a delinquent minor shall be held as soon as possible. Provides that unless sooner released, a minor alleged to be a delinquent minor taken into temporary custody must be brought before a judicial officer as soon as possible but in no event later than 24 hours including weekends and holidays for a detention or shelter care hearing to determine whether he or she shall be further held in custody (rather than within 40 hours exclusive of Saturdays, Sundays, and court-designated holidays). Makes conforming changes.

LRB100 17989 SLF 33175 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 5-415 as follows:

6 (705 ILCS 405/5-415)

7 Sec. 5-415. Setting of detention or shelter care hearing;
8 release.

9 (1) The decision to place a minor alleged to be a
10 delinquent minor in detention shall be a last resort and for as
11 short of a time period as possible. A review of the decision to
12 detain a minor alleged to be a delinquent minor shall be held
13 as soon as possible. Unless sooner released, a minor alleged to
14 be a delinquent minor taken into temporary custody must be
15 brought before a judicial officer as soon as possible but in no
16 event later than 24 hours including weekends and holidays
17 ~~within 40 hours~~ for a detention or shelter care hearing to
18 determine whether he or she shall be further held in custody.
19 If a minor alleged to be a delinquent minor taken into custody
20 is hospitalized or is receiving treatment for a physical or
21 mental condition, and is unable to be brought before a judicial
22 officer for a detention or shelter care hearing, the time ~~40~~
23 ~~hour~~ period will not commence until the minor is released from

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

12 (4) After the initial time ~~40-hour~~ period has lapsed, the
13 court may review the minor's custodial status at any time prior
14 to the trial or sentencing hearing. If during this time period
15 new 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.)