

SB2570



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2570

Introduced 2/6/2018, by Sen. Michael Connelly

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-410

Amends the Juvenile Court Act of 1987. Makes a technical change in the Section on non-secure custody or detention.

LRB100 20359 MRW 35653 b

A BILL FOR

1 AN ACT concerning juvenile offenders.

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 ~~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. A minor under 13 years of age shall not be admitted,
22 kept, or detained in a detention facility unless a local youth
23 service provider, including a provider through the

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

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

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

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

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

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

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

1 custody.

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

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

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

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

26 (A) The age of the person;

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

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

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

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

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

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

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

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

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

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

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

4 (3) If the probation officer or State's Attorney (or such
5 other public officer designated by the court in a county having
6 3,000,000 or more inhabitants) determines that the minor may be
7 a delinquent minor as described in subsection (3) of Section
8 5-105, and should be retained in custody but does not require
9 physical restriction, the minor may be placed in non-secure
10 custody for up to 40 hours pending a detention hearing.

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

15 (5) The changes made to this Section by Public Act 98-61
16 apply to a minor who has been arrested or taken into custody on
17 or after January 1, 2014 (the effective date of Public Act
18 98-61).

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