

# SB3562



## 100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3562

Introduced 2/16/2018, by Sen. Michael Connelly

### SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-410

Amends the Juvenile Court Act of 1987. Provides that any minor 10 years of age or older arrested or taken into custody under the Act for vehicular hijacking or aggravated vehicular hijacking shall be detained in an authorized detention facility until a detention or shelter care hearing is held to determine if there is probable cause to believe that the minor is a delinquent minor and that (i) secured custody is a matter of immediate and urgent necessity for the protection of the minor or of the person or property of another, (ii) the minor is likely to flee the jurisdiction of the court, or (iii) the minor was taken into custody under a warrant. If the court makes that determination, the minor shall continue to be held until the disposition of an adjudicatory hearing under the Delinquent Minors Article of the Act.

LRB100 20360 RLC 35654 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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. 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 Any minor 10 years of age or older arrested or taken into  
16 custody under this Act for vehicular hijacking or aggravated  
17 vehicular hijacking shall be detained in an authorized  
18 detention facility until a detention or shelter care hearing is  
19 held to determine if there is probable cause to believe that  
20 the minor is a delinquent minor and that (i) secured custody is  
21 a matter of immediate and urgent necessity for the protection  
22 of the minor or of the person or property of another, (ii) the  
23 minor is likely to flee the jurisdiction of the court, or (iii)  
24 the minor was taken into custody under a warrant. If the court  
25 makes that determination, the minor shall continue to be held  
26 until the disposition of an adjudicatory hearing under this

1 Article.

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

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

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

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

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

26 (v) Violation of the time limit on detention in a

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

13 (A) The age of the person;

14 (B) Any previous delinquent or criminal history of  
15 the person;

16 (C) Any previous abuse or neglect history of the  
17 person; and

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

20 (d) (i) If a minor 12 years of age or older is confined in a  
21 county jail in a county with a population below 3,000,000  
22 inhabitants, then the minor's confinement shall be implemented  
23 in such a manner that there will be no contact by sight, sound  
24 or otherwise between the minor and adult prisoners. Minors 12  
25 years of age or older must be kept separate from confined  
26 adults and may not at any time be kept in the same cell, room,

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

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

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

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

1 confined in the county jail in such a manner that there will be  
2 no contact by sight, sound or otherwise between the juvenile  
3 and adult prisoners.

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

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

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

24 (4) Any minor taken into temporary custody, not requiring  
25 secure detention, may, however, be detained in the home of his  
26 or her parent or guardian subject to such conditions as the



1 court may impose.

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

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