



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB2306

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.

LRB101 09741 SLF 54841 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) secure  
11 ~~secured~~ custody is a matter of immediate and urgent necessity  
12 for the 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 (a-5) For a minor arrested or taken into custody for  
24 vehicular hijacking or aggravated vehicular hijacking, a  
25 previous finding of delinquency for vehicular hijacking or  
26 aggravated vehicular hijacking shall be given greater weight in

1 determining whether secured custody of a minor is a matter of  
2 immediate and urgent necessity for the protection of the minor  
3 or of the person or property of another.

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

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

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

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

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

23 (i) The period of detention is deemed to have begun  
24 once the minor has been placed in a locked room or cell or  
25 handcuffed to a stationary object in a building housing a  
26 county jail or municipal lockup. Time spent transporting a

1 minor is not considered to be time in detention or secure  
2 custody.

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

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

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

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



- 1 (A) the ~~The~~ age of the person;
- 2 (B) any ~~Any~~ previous delinquent or criminal  
3 history of the person;
- 4 (C) any ~~Any~~ previous abuse or neglect history of  
5 the person; and
- 6 (D) any ~~Any~~ mental health or educational history of  
7 the person, or both.

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

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

1 adjudicatory hearing, county jails shall comply with all  
2 temporary detention standards adopted by the Department of  
3 Corrections and training standards approved by the Illinois Law  
4 Enforcement Training Standards Board.

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

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

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

24 (g) For purposes of processing a minor, the minor may be  
25 taken to a county jail ~~County Jail~~ or municipal lockup under  
26 the direct and constant supervision of a law enforcement

1 officer or correctional officer. During such time as is  
2 necessary to process the minor, and while supervised by a law  
3 enforcement officer or correctional officer, the sight and  
4 sound separation provisions shall not apply.

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

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

16 (5) The changes made to this Section by Public Act 98-61  
17 apply to a minor who has been arrested or taken into custody on  
18 or after January 1, 2014 (the effective date of Public Act  
19 98-61).

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

22 (705 ILCS 405/5-415)

23 Sec. 5-415. Setting of detention or shelter care hearing;  
24 release.

25 (1) Unless sooner released, a minor alleged to be a

1 delinquent minor taken into temporary custody must be brought  
2 before a judicial officer within 40 hours for a detention or  
3 shelter care hearing to determine whether he or she shall be  
4 further held in custody. If a minor alleged to be a delinquent  
5 minor taken into custody is hospitalized or is receiving  
6 treatment for a physical or mental condition, and is unable to  
7 be brought before a judicial officer for a detention or shelter  
8 care hearing, the 40 hour period will not commence until the  
9 minor is released from the hospital or place of treatment. If  
10 the minor gives false information to law enforcement officials  
11 regarding the minor's identity or age, the 40 hour period will  
12 not commence until the court rules that the minor is subject to  
13 this Act and not subject to prosecution under the Criminal Code  
14 of 1961 or the Criminal Code of 2012. Any other delay  
15 attributable to a minor alleged to be a delinquent minor who is  
16 taken into temporary custody shall act to toll the 40 hour time  
17 period. The 40 hour time period shall be tolled to allow  
18 counsel for the minor to prepare for the detention or shelter  
19 care hearing, upon a motion filed by such counsel and granted  
20 by the court. In all cases, the 40 hour time period which  
21 includes ~~is exclusive of~~ Saturdays, Sundays, and  
22 court-designated holidays.

23 (2) If the State's Attorney or probation officer (or other  
24 public officer designated by the court in a county having more  
25 than 3,000,000 inhabitants) determines that the minor should be  
26 retained in custody, he or she shall cause a petition to be

1 filed as provided in Section 5-520 of this Article, and the  
2 clerk of the court shall set the matter for hearing on the  
3 detention or shelter care hearing calendar. Immediately upon  
4 the filing of a petition in the case of a minor retained in  
5 custody, the court shall cause counsel to be appointed to  
6 represent the minor. When a parent, legal guardian, custodian,  
7 or responsible relative is present and so requests, the  
8 detention or shelter care hearing shall be held immediately if  
9 the court is in session and the State is ready to proceed,  
10 otherwise at the earliest feasible time. In no event shall a  
11 detention or shelter care hearing be held until the minor has  
12 had adequate opportunity to consult with counsel. The probation  
13 officer or such other public officer designated by the court in  
14 a county having more than 3,000,000 inhabitants shall notify  
15 the minor's parent, legal guardian, custodian, or responsible  
16 relative of the time and place of the hearing. The notice may  
17 be given orally.

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

21 (4) After the initial 40 hour period has lapsed, the court  
22 may review the minor's custodial status at any time prior to  
23 the trial or sentencing hearing. If during this time period new  
24 or additional information becomes available concerning the  
25 minor's conduct, the court may conduct a hearing to determine  
26 whether the minor should be placed in a detention or shelter

1 care facility. If the court finds that there is probable cause  
2 that the minor is a delinquent minor and that it is a matter of  
3 immediate and urgent necessity for the protection of the minor  
4 or of the person or property of another, or that he or she is  
5 likely to flee the jurisdiction of the court, the court may  
6 order that the minor be placed in detention or shelter care.  
7 (Source: P.A. 97-1150, eff. 1-25-13.)