



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1944

Introduced 2/26/2021, by Sen. Jil Tracy

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: (1) secure custody is a matter of immediate and urgent necessity for the protection of the minor or of the person or property of another; (2) the minor is likely to flee the jurisdiction of the court; or (3) the minor was taken into custody under a warrant. Provides that 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.

LRB102 04195 RLC 14212 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 5-410 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) secure
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 (a-5) For a minor arrested or taken into custody for
6 vehicular hijacking or aggravated vehicular hijacking, a
7 previous finding of delinquency for vehicular hijacking or
8 aggravated vehicular hijacking shall be given greater weight
9 in determining whether secured custody of a minor is a matter
10 of immediate and urgent necessity for the protection of the
11 minor or of the person or property of another.

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

21 (b-4) The consultation required by paragraph (b-5) shall
22 not be applicable if the probation officer or detention
23 officer (or other public officer designated by the court in a
24 county having 3,000,000 or more inhabitants) utilizes a
25 scorable detention screening instrument, which has been
26 developed with input by the State's Attorney, to determine

1 whether a minor should be detained, however, paragraph (b-5)
2 shall still be applicable where no such screening instrument
3 is used or where the probation officer, detention officer (or
4 other public officer designated by the court in a county
5 having 3,000,000 or more inhabitants) deviates from the
6 screening instrument.

7 (b-5) Subject to the provisions of paragraph (b-4), if a
8 probation officer or detention officer (or other public
9 officer designated by the court in a county having 3,000,000
10 or more inhabitants) does not intend to detain a minor for an
11 offense which constitutes one of the following offenses he or
12 she shall consult with the State's Attorney's Office prior to
13 the release of the minor: first degree murder, second degree
14 murder, involuntary manslaughter, criminal sexual assault,
15 aggravated criminal sexual assault, aggravated battery with a
16 firearm as described in Section 12-4.2 or subdivision (e) (1),
17 (e) (2), (e) (3), or (e) (4) of Section 12-3.05, aggravated or
18 heinous battery involving permanent disability or
19 disfigurement or great bodily harm, robbery, aggravated
20 robbery, armed robbery, ~~vehicular hijacking, aggravated~~
21 ~~vehicular hijacking,~~ vehicular invasion, arson, aggravated
22 arson, kidnapping, aggravated kidnapping, home invasion,
23 burglary, or residential burglary. Any minor 10 years of age
24 or older arrested or taken into custody under this Act for
25 vehicular hijacking or aggravated vehicular hijacking shall be
26 detained in an authorized detention facility until a detention

1 or shelter care hearing is held to determine if there is
2 probable cause to believe that the minor is a delinquent minor
3 and that: (1) secure custody is a matter of immediate and
4 urgent necessity for the protection of the minor or of the
5 person or property of another; (2) the minor is likely to flee
6 the jurisdiction of the court; or (3) the minor was taken into
7 custody under a warrant. If the court makes that
8 determination, the minor shall continue to be held until the
9 disposition of an adjudicatory hearing under this Article.

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

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

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

26 (iii) Upon placement in secure custody in a jail or

1 lockup, the minor shall be informed of the purpose of the
2 detention, the time it is expected to last and the fact
3 that it cannot exceed the time specified under this Act.

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

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

21 (A) the age of the person;

22 (B) any previous delinquent or criminal history of
23 the person;

24 (C) any previous abuse or neglect history of the
25 person; and

26 (D) any mental health or educational history of

1 the person, or both.

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

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

25 (iii) To accept or hold minors 12 years of age or older,
26 after the time period prescribed in paragraphs (d)(i) and

1 (d) (ii) of this subsection (2) of this Section, county jails
2 shall comply with all county juvenile detention standards
3 adopted by the Department of Juvenile Justice.

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

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

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

25 (3) If the probation officer or State's Attorney (or such
26 other public officer designated by the court in a county

1 having 3,000,000 or more inhabitants) determines that the
2 minor may be a delinquent minor as described in subsection (3)
3 of Section 5-105, and should be retained in custody but does
4 not require physical restriction, the minor may be placed in
5 non-secure custody for up to 40 hours pending a detention
6 hearing.

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

11 (5) The changes made to this Section by Public Act 98-61
12 apply to a minor who has been arrested or taken into custody on
13 or after January 1, 2014 (the effective date of Public Act
14 98-61).

15 (Source: P.A. 100-745, eff. 8-10-18; 101-81, eff. 7-12-19.)