

1 AN ACT in relation to criminal law.

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
11 temporary care in a foster family home or other shelter
12 facility 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. No minor under 12 years of age shall be detained
22 in a county jail or a municipal lockup for more than 6 hours.

23 (b) The written authorization of the probation officer
24 or detention officer (or other public officer designated by
25 the court in a county having 3,000,000 or more inhabitants)
26 constitutes authority for the superintendent of any juvenile
27 detention home to detain and keep a minor for up to 40 hours,
28 excluding Saturdays, Sundays and court-designated holidays.
29 These records shall be available to the same persons and
30 pursuant to the same conditions as are law enforcement
31 records as provided in Section 5-905.

1 (b-4) The consultation required by subsection (b-5)
2 shall not be applicable if the probation officer or detention
3 officer (or other public officer designated by the court in a
4 county having 3,000,000 or more inhabitants) utilizes a
5 scorable detention screening instrument, which has been
6 developed with input by the State's Attorney, to determine
7 whether a minor should be detained, however, subsection (b-5)
8 shall still be applicable where no such screening instrument
9 is used or where the probation officer, detention officer (or
10 other public officer designated by the court in a county
11 having 3,000,000 or more inhabitants) deviates from the
12 screening instrument.

13 (b-5) Subject to the provisions of subsection (b-4), if
14 a probation officer or detention officer (or other public
15 officer designated by the court in a county having 3,000,000
16 or more inhabitants) does not intend to detain a minor for an
17 offense which constitutes one of the following offenses he or
18 she shall consult with the State's Attorney's Office prior to
19 the release of the minor: first degree murder, second degree
20 murder, involuntary manslaughter, criminal sexual assault,
21 aggravated criminal sexual assault, aggravated battery with a
22 firearm, aggravated or heinous battery involving permanent
23 disability or disfigurement or great bodily harm, robbery,
24 aggravated robbery, armed robbery, vehicular hijacking,
25 aggravated vehicular hijacking, vehicular invasion, arson,
26 aggravated arson, kidnapping, aggravated kidnapping, home
27 invasion, burglary, or residential burglary.

28 (c) Except as otherwise provided in paragraph (a), (d),
29 or (e), no minor shall be detained in a county jail or
30 municipal lockup for more than 12 hours, unless the offense
31 is a crime of violence in which case the minor may be
32 detained up to 24 hours. For the purpose of this paragraph,
33 "crime of violence" has the meaning ascribed to it in Section
34 1-10 of the Alcoholism and Other Drug Abuse and Dependency

1 Act.

2 (i) The period of detention is deemed to have begun once
3 the minor has been placed in a locked room or cell or
4 handcuffed to a stationary object in a building housing a
5 county jail or municipal lockup. Time spent transporting a
6 minor is not considered to be time in detention or secure
7 custody.

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

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

15 (iv) A log shall be kept which shows the offense which
16 is the basis for the detention, the reasons and circumstances
17 for the decision to detain and the length of time the minor
18 was in detention.

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

32 (A) The age of the person;

33 (B) Any previous delinquent or criminal history of the
34 person;

1 (C) Any previous abuse or neglect history of the person;
2 and

3 (D) Any mental health or educational history of the
4 person, or both.

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

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

28 (iii) To accept or hold minors 12 years of age or older,
29 after the time period prescribed in paragraphs (d)(i) and
30 (d)(ii) of this subsection (2) of this Section, county jails
31 shall comply with all programmatic and training standards for
32 juvenile detention homes promulgated by the Department of
33 Corrections.

34 (e) When a minor who is at least 15 years of age is

1 prosecuted under the criminal laws of this State, the court
2 may enter an order directing that the juvenile be confined in
3 the county jail. However, any juvenile confined in the
4 county jail under this provision shall be separated from
5 adults who are confined in the county jail in such a manner
6 that there will be no contact by sight, sound or otherwise
7 between the juvenile and adult prisoners.

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

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

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

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

33 (Source: P.A. 90-590, eff. 1-1-99.)