



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 2/6/2004, by Michael J. Madigan

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-501

Amends the Juvenile Court Act of 1987. Makes a technical change in the Section concerning detention or shelter care hearings.

LRB093 17156 RLC 42822 b

1 AN ACT concerning juveniles.

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 5-501 as follows:

6 (705 ILCS 405/5-501)

7 Sec. 5-501. Detention or shelter care hearing. At the
8 appearance of the minor before the court at the detention or
9 shelter care hearing, the court shall receive all relevant
10 information and evidence, including affidavits concerning the
11 allegations made in the petition. Evidence used by the court in
12 its findings or stated in or offered in connection with this
13 Section may be by way of proffer based on reliable information
14 offered by the State or minor. All evidence shall be admissible
15 if it is relevant and reliable regardless of whether it would
16 be admissible under the rules of evidence applicable at a
17 trial. No hearing may be held unless the minor is represented
18 by counsel.

19 (1) If the court finds that there is not probable cause to
20 believe that the minor is a delinquent minor it shall release
21 the minor and dismiss the petition.

22 (2) If the court finds that there is probable cause to
23 believe that the minor is a delinquent minor, the minor, his or
24 her parent, guardian, custodian and other persons able to give
25 relevant testimony may be examined before the court. The court
26 may also consider any evidence by way of proffer based upon
27 reliable information offered by the State or the minor. All
28 evidence, including affidavits, shall be admissible if it is
29 relevant and reliable regardless of whether it would be
30 admissible under the rules of evidence applicable at trial.
31 After such evidence is presented, the court may enter an order
32 that the minor shall be released upon the request of a parent,

1 guardian or legal custodian if the parent, guardian or
2 custodian appears to take custody.

3 If the court finds that it is a matter of immediate and
4 urgent necessity for the protection of the minor or of the
5 person or property of another that the minor be detained or
6 placed in a shelter care facility or that he or she is likely
7 to flee the jurisdiction of the court, the court may prescribe
8 detention or shelter care and order that the minor be kept in a
9 suitable place designated by the court or in a shelter care
10 facility designated by the Department of Children and Family
11 Services or a licensed child welfare agency; otherwise the
12 court ~~it~~ shall release the minor from custody. If the court
13 prescribes shelter care, then in placing the minor, the
14 Department or other agency shall, to the extent compatible with
15 the court's order, comply with Section 7 of the Children and
16 Family Services Act. In making the determination of the
17 existence of immediate and urgent necessity, the court shall
18 consider among other matters: (a) the nature and seriousness of
19 the alleged offense; (b) the minor's record of delinquency
20 offenses, including whether the minor has delinquency cases
21 pending; (c) the minor's record of willful failure to appear
22 following the issuance of a summons or warrant; (d) the
23 availability of non-custodial alternatives, including the
24 presence of a parent, guardian or other responsible relative
25 able and willing to provide supervision and care for the minor
26 and to assure his or her compliance with a summons. If the
27 minor is ordered placed in a shelter care facility of a
28 licensed child welfare agency, the court shall, upon request of
29 the agency, appoint the appropriate agency executive temporary
30 custodian of the minor and the court may enter such other
31 orders related to the temporary custody of the minor as it
32 deems fit and proper.

33 The order together with the court's findings of fact in
34 support of the order shall be entered of record in the court.

35 Once the court finds that it is a matter of immediate and
36 urgent necessity for the protection of the minor that the minor

1 be placed in a shelter care facility, the minor shall not be
2 returned to the parent, custodian or guardian until the court
3 finds that the placement is no longer necessary for the
4 protection of the minor.

5 (3) Only when there is reasonable cause to believe that the
6 minor taken into custody is a delinquent minor may the minor be
7 kept or detained in a facility authorized for juvenile
8 detention. This Section shall in no way be construed to limit
9 subsection (4).

10 (4) Minors 12 years of age or older must be kept separate
11 from confined adults and may not at any time be kept in the
12 same cell, room or yard with confined adults. This paragraph
13 (4):

14 (a) shall only apply to confinement pending an
15 adjudicatory hearing and shall not exceed 40 hours,
16 excluding Saturdays, Sundays, and court designated
17 holidays. To accept or hold minors during this time period,
18 county jails shall comply with all monitoring standards for
19 juvenile detention homes promulgated by the Department of
20 Corrections and training standards approved by the
21 Illinois Law Enforcement Training Standards Board.

22 (b) To accept or hold minors, 12 years of age or older,
23 after the time period prescribed in clause (a) of
24 subsection (4) 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
27 temporary detention standards promulgated by the
28 Department of Corrections and training standards approved
29 by the Illinois Law Enforcement Training Standards Board.

30 (c) To accept or hold minors 12 years of age or older,
31 after the time period prescribed in clause (a) and (b), of
32 this subsection county jails shall comply with all
33 programmatic and training standards for juvenile detention
34 homes promulgated by the Department of Corrections.

35 (5) If the minor is not brought before a judicial officer
36 within the time period as specified in Section 5-415 the minor

1 must immediately be released from custody.

2 (6) If neither the parent, guardian or legal custodian
3 appears within 24 hours to take custody of a minor released
4 from detention or shelter care, then the clerk of the court
5 shall set the matter for rehearing not later than 7 days after
6 the original order and shall issue a summons directed to the
7 parent, guardian or legal custodian to appear. At the same time
8 the probation department shall prepare a report on the minor.
9 If a parent, guardian or legal custodian does not appear at
10 such rehearing, the judge may enter an order prescribing that
11 the minor be kept in a suitable place designated by the
12 Department of Human Services or a licensed child welfare
13 agency. The time during which a minor is in custody after being
14 released upon the request of a parent, guardian or legal
15 custodian shall be considered as time spent in detention for
16 purposes of scheduling the trial.

17 (7) Any party, including the State, the temporary
18 custodian, an agency providing services to the minor or family
19 under a service plan pursuant to Section 8.2 of the Abused and
20 Neglected Child Reporting Act, foster parent, or any of their
21 representatives, may file a motion to modify or vacate a
22 temporary custody order or vacate a detention or shelter care
23 order on any of the following grounds:

24 (a) It is no longer a matter of immediate and urgent
25 necessity that the minor remain in detention or shelter
26 care; or

27 (b) There is a material change in the circumstances of
28 the natural family from which the minor was removed; or

29 (c) A person, including a parent, relative or legal
30 guardian, is capable of assuming temporary custody of the
31 minor; or

32 (d) Services provided by the Department of Children and
33 Family Services or a child welfare agency or other service
34 provider have been successful in eliminating the need for
35 temporary custody.

36 The clerk shall set the matter for hearing not later than

1 14 days after such motion is filed. In the event that the court
2 modifies or vacates a temporary order but does not vacate its
3 finding of probable cause, the court may order that appropriate
4 services be continued or initiated in behalf of the minor and
5 his or her family.

6 (8) Whenever a petition has been filed under Section 5-520
7 the court can, at any time prior to trial or sentencing, order
8 that the minor be placed in detention or a shelter care
9 facility after the court conducts a hearing and finds that the
10 conduct and behavior of the minor may endanger the health,
11 person, welfare, or property of himself or others or that the
12 circumstances of his or her home environment may endanger his
13 or her health, person, welfare or property.

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