



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB2099

Introduced 2/14/2005, by Rep. Michael J. Madigan - Barbara Flynn Currie - Robert S. Molaro

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-501

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

LRB094 03046 RLC 33047 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 5-501 as follows:

6 (705 ILCS 405/5-501)

7 Sec. 5-501. Detention or shelter care hearing. At ~~the~~ 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 it shall  
12 release the minor from custody. If the court prescribes shelter  
13 care, then in placing the minor, the Department or other agency  
14 shall, to the extent compatible with the court's order, comply  
15 with Section 7 of the Children and Family Services Act. In  
16 making the determination of the existence of immediate and  
17 urgent necessity, the court shall consider among other matters:  
18 (a) the nature and seriousness of the alleged offense; (b) the  
19 minor's record of delinquency offenses, including whether the  
20 minor has delinquency cases pending; (c) the minor's record of  
21 willful failure to appear following the issuance of a summons  
22 or warrant; (d) the availability of non-custodial  
23 alternatives, including the presence of a parent, guardian or  
24 other responsible relative able and willing to provide  
25 supervision and care for the minor and to assure his or her  
26 compliance with a summons. If the minor is ordered placed in a  
27 shelter care facility of a licensed child welfare agency, the  
28 court shall, upon request of the agency, appoint the  
29 appropriate agency executive temporary custodian of the minor  
30 and the court may enter such other orders related to the  
31 temporary custody of the minor as it deems fit and proper.

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

34 Once the court finds that it is a matter of immediate and  
35 urgent necessity for the protection of the minor that the minor  
36 be placed in a shelter care facility, the minor shall not be

1 returned to the parent, custodian or guardian until the court  
2 finds that the placement is no longer necessary for the  
3 protection of the minor.

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

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

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

21 (b) To accept or hold minors, 12 years of age or older,  
22 after the time period prescribed in clause (a) of  
23 subsection (4) of this Section but not exceeding 7 days  
24 including Saturdays, Sundays, and holidays, pending an  
25 adjudicatory hearing, county jails shall comply with all  
26 temporary detention standards promulgated by the  
27 Department of Corrections and training standards approved  
28 by the Illinois Law Enforcement Training Standards Board.

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

34 (5) If the minor is not brought before a judicial officer  
35 within the time period as specified in Section 5-415 the minor  
36 must immediately be released from custody.

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

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

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

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

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

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

35 The clerk shall set the matter for hearing not later than  
36 14 days after such motion is filed. In the event that the court

1 modifies or vacates a temporary order but does not vacate its  
2 finding of probable cause, the court may order that appropriate  
3 services be continued or initiated in behalf of the minor and  
4 his or her family.

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

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