

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 3. The Children and Family Services Act is amended
5 by changing Section 17a-5 as follows:

6 (20 ILCS 505/17a-5) (from Ch. 23, par. 5017a-5)

7 Sec. 17a-5. The Department of Human Services shall be
8 successor to the Department of Children and Family Services in
9 the latter Department's capacity as successor to the Illinois
10 Law Enforcement Commission in the functions of that Commission
11 relating to juvenile justice and the federal Juvenile Justice
12 and Delinquency Prevention Act of 1974 as amended, and shall
13 have the powers, duties and functions specified in this Section
14 relating to juvenile justice and the federal Juvenile Justice
15 and Delinquency Prevention Act of 1974, as amended.

16 (1) Definitions. As used in this Section:

17 (a) "juvenile justice system" means all activities by
18 public or private agencies or persons pertaining to the
19 handling of youth involved or having contact with the
20 police, courts or corrections;

21 (b) "unit of general local government" means any
22 county, municipality or other general purpose political
23 subdivision of this State;

1 (c) "Commission" means the Illinois Juvenile Justice
2 Commission provided for in Section 17a-9 of this Act.

3 (2) Powers and Duties of Department. The Department of
4 Human Services shall serve as the official State Planning
5 Agency for juvenile justice for the State of Illinois and in
6 that capacity is authorized and empowered to discharge any and
7 all responsibilities imposed on such bodies by the federal
8 Juvenile Justice and Delinquency Prevention Act of 1974, as
9 amended, specifically the deinstitutionalization of status
10 offenders, separation of juveniles and adults in municipal and
11 county jails, removal of juveniles from county and municipal
12 jails and monitoring of compliance with these mandates. In
13 furtherance thereof, the Department has the powers and duties
14 set forth in paragraphs 3 through 15 of this Section:

15 (3) To develop annual comprehensive plans based on analysis
16 of juvenile crime problems and juvenile justice and delinquency
17 prevention needs in the State, for the improvement of juvenile
18 justice throughout the State, such plans to be in accordance
19 with the federal Juvenile Justice and Delinquency Prevention
20 Act of 1974, as amended;

21 (4) To define, develop and correlate programs and projects
22 relating to administration of juvenile justice for the State
23 and units of general local government within the State or for
24 combinations of such units for improvement in law enforcement:

25 (5) To advise, assist and make recommendations to the
26 Governor as to how to achieve a more efficient and effective

1 juvenile justice system;

2 (6) To act as a central repository for federal, State,
3 regional and local research studies, plans, projects, and
4 proposals relating to the improvement of the juvenile justice
5 system;

6 (7) To act as a clearing house for information relating to
7 all aspects of juvenile justice system improvement;

8 (8) To undertake research studies to aid in accomplishing
9 its purposes;

10 (9) To establish priorities for the expenditure of funds
11 made available by the United States for the improvement of the
12 juvenile justice system throughout the State;

13 (10) To apply for, receive, allocate, disburse, and account
14 for grants of funds made available by the United States
15 pursuant to the federal Juvenile Justice and Delinquency
16 Prevention Act of 1974, as amended; and such other similar
17 legislation as may be enacted from time to time in order to
18 plan, establish, operate, coordinate, and evaluate projects
19 directly or through grants and contracts with public and
20 private agencies for the development of more effective
21 education, training, research, prevention, diversion,
22 treatment and rehabilitation programs in the area of juvenile
23 delinquency and programs to improve the juvenile justice
24 system;

25 (11) To insure that no more than the maximum percentage of
26 the total annual State allotment of juvenile justice funds be

1 utilized for the administration of such funds;

2 (12) To provide at least 66-2/3 per centum of funds
3 received by the State under the Juvenile Justice and
4 Delinquency Prevention Act of 1974, as amended, are expended
5 through:

6 (a) programs of units of general local government or
7 combinations thereof, to the extent such programs are
8 consistent with the State plan; and

9 (b) programs of local private agencies, to the extent
10 such programs are consistent with the State plan;

11 (13) To enter into agreements with the United States
12 government which may be required as a condition of obtaining
13 federal funds;

14 (14) To enter into contracts and cooperate with units of
15 general local government or combinations of such units, State
16 agencies, and private organizations of all types, for the
17 purpose of carrying out the duties of the Department imposed by
18 this Section or by federal law or regulations;

19 (14.5) To operate a toll-free number to arrange for the
20 immediate pick-up and transportation of minor offenders to
21 detention facilities throughout the State pursuant to Section
22 5-410 of the Juvenile Court Act of 1987;

23 (15) To exercise all other powers that are reasonable and
24 necessary to fulfill its functions under applicable federal law
25 or to further the purposes of this Section.

26 (Source: P.A. 89-507, eff. 7-1-97.)

1 Section 5. The Juvenile Court Act of 1987 is amended by
2 changing Section 5-410 as follows:

3 (705 ILCS 405/5-410)

4 Sec. 5-410. Non-secure custody or detention.

5 (1) Any minor arrested or taken into custody pursuant to
6 this Act who requires care away from his or her home but who
7 does not require physical restriction shall be given temporary
8 care in a foster family home or other shelter facility
9 designated by the court.

10 (2) (a) Any minor 10 years of age or older arrested
11 pursuant to this Act where there is probable cause to believe
12 that the minor is a delinquent minor and that (i) secured
13 custody is a matter of immediate and urgent necessity for the
14 protection of the minor or of the person or property of
15 another, (ii) the minor is likely to flee the jurisdiction of
16 the court, or (iii) the minor was taken into custody under a
17 warrant, may be kept or detained in an authorized detention
18 facility. No minor under 17 ~~12~~ years of age shall be detained
19 in a county jail or a municipal lockup for more than 6 hours,
20 except as provided in paragraph (d) of this subsection (2).

21 (b) The written authorization of the probation officer or
22 detention officer (or other public officer designated by the
23 court in a county having 3,000,000 or more inhabitants)
24 constitutes authority for the superintendent of any juvenile

1 detention home to detain and keep a minor for up to 40 hours,
2 excluding Saturdays, Sundays and court-designated holidays.
3 These records shall be available to the same persons and
4 pursuant to the same conditions as are law enforcement records
5 as provided in Section 5-905.

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

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

1 or disfigurement or great bodily harm, robbery, aggravated
2 robbery, armed robbery, vehicular hijacking, aggravated
3 vehicular hijacking, vehicular invasion, arson, aggravated
4 arson, kidnapping, aggravated kidnapping, home invasion,
5 burglary, or residential burglary.

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

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

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

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

26 (iv) A log shall be kept which shows the offense which

1 is the basis for the detention, the reasons and
2 circumstances for the decision to detain and the length of
3 time the minor was in detention.

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

17 (A) The age of the person;

18 (B) Any previous delinquent or criminal history of
19 the person;

20 (C) Any previous abuse or neglect history of the
21 person; and

22 (D) Any mental health or educational history of the
23 person, or both.

24 (d) Whenever it appears that a minor who is arrested
25 pursuant to paragraph (a) of this subsection (2) will need to
26 be detained for longer than 6 hours in a county jail or a

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

21 ~~(ii) To accept or hold minors, 12 years of age or older,~~
22 ~~after the time period prescribed in paragraph (d) (i) of this~~
23 ~~subsection (2) 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 Department of~~

1 ~~Corrections and training standards approved by the Illinois Law~~
2 ~~Enforcement Training Standards Board.~~

3 ~~(iii) To accept or hold minors 12 years of age or older,~~
4 ~~after the time period prescribed in paragraphs (d)(i) and~~
5 ~~(d)(ii) of this subsection (2) of this Section, county jails~~
6 ~~shall comply with all programmatic and training standards for~~
7 ~~juvenile detention homes promulgated by the Department of~~
8 ~~Corrections.~~

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

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

23 (g) For purposes of processing a minor, the minor may be
24 taken to a County Jail or municipal lockup under the direct and
25 constant supervision of a law enforcement officer or
26 correctional officer. During such time as is necessary to

1 process the minor, and while supervised by a law enforcement
2 officer or correctional officer, the sight and sound separation
3 provisions shall not apply.

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

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

15 (Source: P.A. 93-255, eff. 1-1-04.)