

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 Sections 5-415 and 5-501 as follows:

6 (705 ILCS 405/5-415)

7 Sec. 5-415. Setting of detention or shelter care hearing;
8 release.

9 (1) Unless sooner released, a minor alleged to be a
10 delinquent minor taken into temporary custody must be brought
11 before a judicial officer within 40 hours for a detention or
12 shelter care hearing to determine whether he or she shall be
13 further held in custody. If a minor alleged to be a delinquent
14 minor taken into custody is hospitalized or is receiving
15 treatment for a physical or mental condition, and is unable to
16 be brought before a judicial officer for a detention or shelter
17 care hearing, the 40 hour period will not commence until the
18 minor is released from the hospital or place of treatment. If
19 the minor gives false information to law enforcement officials
20 regarding the minor's identity or age, the 40 hour period will
21 not commence until the court rules that the minor is subject to
22 this Act and not subject to prosecution under the Criminal Code
23 of 1961. Any other delay attributable to a minor alleged to be

1 a delinquent minor who is taken into temporary custody shall
2 act to toll the 40 hour time period. The 40 hour time period
3 shall be tolled to allow counsel for the minor to prepare for
4 the detention or shelter care hearing, upon a motion filed by
5 such counsel and granted by the court. In all cases, the 40
6 hour time period is exclusive of Saturdays, Sundays and
7 court-designated holidays.

8 (2) If the State's Attorney or probation officer (or other
9 public officer designated by the court in a county having more
10 than 3,000,000 inhabitants) determines that the minor should be
11 retained in custody, he or she shall cause a petition to be
12 filed as provided in Section 5-520 of this Article, and the
13 clerk of the court shall set the matter for hearing on the
14 detention or shelter care hearing calendar. Immediately upon
15 the filing of a petition in the case of a minor retained in
16 custody, the court shall cause counsel to be appointed to
17 represent the minor. When a parent, legal guardian, custodian,
18 or responsible relative is present and so requests, the
19 detention or shelter care hearing shall be held immediately if
20 the court is in session and the State is ready to proceed,
21 otherwise at the earliest feasible time. In no event shall a
22 detention or shelter care hearing be held until the minor has
23 had adequate opportunity to consult with counsel. The probation
24 officer or such other public officer designated by the court in
25 a county having more than 3,000,000 inhabitants shall notify
26 the minor's parent, legal guardian, custodian, or responsible

1 relative of the time and place of the hearing. The notice may
2 be given orally.

3 (3) The minor must be released from custody at the
4 expiration of the 40 hour period specified by this Section if
5 not brought before a judicial officer within that period.

6 (4) After the initial 40 hour period has lapsed, the court
7 may review the minor's custodial status at any time prior to
8 the trial or sentencing hearing. If during this time period new
9 or additional information becomes available concerning the
10 minor's conduct, the court may conduct a hearing to determine
11 whether the minor should be placed in a detention or shelter
12 care facility. If the court finds that there is probable cause
13 that the minor is a delinquent minor and that it is a matter of
14 immediate and urgent necessity for the protection of the minor
15 or of the person or property of another, or that he or she is
16 likely to flee the jurisdiction of the court, the court may
17 order that the minor be placed in detention or shelter care.

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

19 (705 ILCS 405/5-501)

20 Sec. 5-501. Detention or shelter care hearing. At the
21 appearance of the minor before the court at the detention or
22 shelter care hearing, the court shall receive all relevant
23 information and evidence, including affidavits concerning the
24 allegations made in the petition. Evidence used by the court in
25 its findings or stated in or offered in connection with this

1 Section may be by way of proffer based on reliable information
2 offered by the State or minor. All evidence shall be admissible
3 if it is relevant and reliable regardless of whether it would
4 be admissible under the rules of evidence applicable at a
5 trial. No hearing may be held unless the minor is represented
6 by counsel and no hearing shall be held until the minor has had
7 adequate opportunity to consult with counsel.

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

11 (2) If the court finds that there is probable cause to
12 believe that the minor is a delinquent minor, the minor, his or
13 her parent, guardian, custodian and other persons able to give
14 relevant testimony may be examined before the court. The court
15 may also consider any evidence by way of proffer based upon
16 reliable information offered by the State or the minor. All
17 evidence, including affidavits, shall be admissible if it is
18 relevant and reliable regardless of whether it would be
19 admissible under the rules of evidence applicable at trial.
20 After such evidence is presented, the court may enter an order
21 that the minor shall be released upon the request of a parent,
22 guardian or legal custodian if the parent, guardian or
23 custodian appears to take custody.

24 If the court finds that it is a matter of immediate and
25 urgent necessity for the protection of the minor or of the
26 person or property of another that the minor be detained or

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

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

3 Once the court finds that it is a matter of immediate and
4 urgent necessity for the protection of the minor that the minor
5 be placed in a shelter care facility, the minor shall not be
6 returned to the parent, custodian or guardian until the court
7 finds that the placement is no longer necessary for the
8 protection of the minor.

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

14 (4) Minors 12 years of age or older must be kept separate
15 from confined adults and may not at any time be kept in the
16 same cell, room or yard with confined adults. This paragraph
17 (4):

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

26 (b) To accept or hold minors, 12 years of age or older,

1 after the time period prescribed in clause (a) of
2 subsection (4) of this Section but not exceeding 7 days
3 including Saturdays, Sundays, and holidays, pending an
4 adjudicatory hearing, county jails shall comply with all
5 temporary detention standards promulgated by the
6 Department of Corrections and training standards approved
7 by the Illinois Law Enforcement Training Standards Board.

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

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

16 (6) If neither the parent, guardian or legal custodian
17 appears within 24 hours to take custody of a minor released
18 from detention or shelter care, then the clerk of the court
19 shall set the matter for rehearing not later than 7 days after
20 the original order and shall issue a summons directed to the
21 parent, guardian or legal custodian to appear. At the same time
22 the probation department shall prepare a report on the minor.
23 If a parent, guardian or legal custodian does not appear at
24 such rehearing, the judge may enter an order prescribing that
25 the minor be kept in a suitable place designated by the
26 Department of Human Services or a licensed child welfare

1 agency. The time during which a minor is in custody after being
2 released upon the request of a parent, guardian or legal
3 custodian shall be considered as time spent in detention for
4 purposes of scheduling the trial.

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

12 (a) It is no longer a matter of immediate and urgent
13 necessity that the minor remain in detention or shelter
14 care; or

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

17 (c) A person, including a parent, relative or legal
18 guardian, is capable of assuming temporary custody of the
19 minor; or

20 (d) Services provided by the Department of Children and
21 Family Services or a child welfare agency or other service
22 provider have been successful in eliminating the need for
23 temporary custody.

24 The clerk shall set the matter for hearing not later than
25 14 days after such motion is filed. In the event that the court
26 modifies or vacates a temporary order but does not vacate its

1 finding of probable cause, the court may order that appropriate
2 services be continued or initiated in behalf of the minor and
3 his or her family.

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

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