

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 5-410 and 5-740 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 temporary
11 care in a foster family home or other shelter facility
12 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 in a
22 county jail or a municipal lockup for more than 6 hours.

23 (a-5) For any minor determined to need care away from home

1 in foster care, shelter care, or detention, the court shall
2 order, in accordance with subsections (1) and (2) of this
3 Section, consistent with the health, safety, and best interests
4 of the minor, the removal because the minor's home cannot
5 provide the quality of care and level of support and
6 supervision the minor needs at the time. Removal from the home
7 is in the minor's and community's best interest for any of the
8 following reasons: (i) the minor is without the care necessary
9 for the minor's well-being through no fault or lack of concern
10 by a parent, guardian, custodian, or other person, (ii) the
11 minor has no parent, guardian, custodian, or other person able
12 to return the minor to the court when required, or (iii) for
13 the protection of the minor.

14 (a-10) For any minor determined to need care away from home
15 in foster care, shelter care, or detention, the court, in
16 accordance with subsections (1) and (2) of this Section, shall
17 further find that reasonable efforts have been made or that,
18 consistent with the health, safety, and best interests of the
19 minor, no efforts reasonably can be made to prevent or
20 eliminate the necessity of removal of the minor from his or her
21 home. The court shall require documentation from the Probation
22 Department as to the reasonable efforts that were made to
23 prevent or eliminate the necessity of removal of the minor from
24 his or her home or the reasons why no efforts reasonably could
25 be made to prevent or eliminate the necessity of removal.

26 In making its findings that it is consistent with the

1 health, safety, and best interests of the minor to prescribe
2 shelter care, the court shall state in writing: (i) the factual
3 basis supporting its findings concerning the immediate and
4 urgent necessity for the protection of the minor or of the
5 person or property of another, (ii) the factual basis for the
6 finding of the minor's and community's best interests, and
7 (iii) the factual basis supporting its findings that reasonable
8 efforts were made to prevent or eliminate the removal of the
9 minor from his or her home or that no efforts reasonably could
10 be made to prevent or eliminate the removal of the minor from
11 his or her home.

12 Once the court finds that it is a matter of immediate and
13 urgent necessity for the protection of the minor that the minor
14 be placed in a shelter care facility, detention center, or
15 foster care, the minor shall not be returned to the parent,
16 custodian, or guardian until the court finds that such
17 placement is no longer necessary for the protection of the
18 minor.

19 (a-15) If the court finds it is a matter of immediate and
20 urgent necessity for the protection of the minor that the minor
21 be placed in a shelter care facility, detention center, or
22 foster care, there shall be a rebuttable presumption that such
23 findings comply with the factors outlined in subsections (a-5)
24 and (a-10).

25 (b) The written authorization of the probation officer or
26 detention officer (or other public officer designated by the

1 court in a county having 3,000,000 or more inhabitants)
2 constitutes authority for the superintendent of any juvenile
3 detention home to detain and keep a minor for up to 40 hours,
4 excluding Saturdays, Sundays and court-designated holidays.
5 These records shall be available to the same persons and
6 pursuant to the same conditions as are law enforcement records
7 as provided in Section 5-905.

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

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

1 criminal sexual assault, aggravated battery with a firearm,
2 aggravated or heinous battery involving permanent disability
3 or disfigurement or great bodily harm, robbery, aggravated
4 robbery, armed robbery, vehicular hijacking, aggravated
5 vehicular hijacking, vehicular invasion, arson, aggravated
6 arson, kidnapping, aggravated kidnapping, home invasion,
7 burglary, or residential burglary.

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

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

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

24 (iii) Upon placement in secure custody in a jail or
25 lockup, the minor shall be informed of the purpose of the
26 detention, the time it is expected to last and the fact

1 that it cannot exceed the time specified under this Act.

2 (iv) A log shall be kept which shows the offense which
3 is the basis for the detention, the reasons and
4 circumstances for the decision to detain and the length of
5 time the minor was in detention.

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

19 (A) The age of the person;

20 (B) Any previous delinquent or criminal history of
21 the person;

22 (C) Any previous abuse or neglect history of the
23 person; and

24 (D) Any mental health or educational history of the
25 person, or both.

26 (d) (i) If a minor 12 years of age or older is confined in a

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

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

23 (iii) To accept or hold minors 12 years of age or older,
24 after the time period prescribed in paragraphs (d)(i) and
25 (d)(ii) of this subsection (2) of this Section, county jails
26 shall comply with all programmatic and training standards for

1 juvenile detention homes promulgated by the Department of
2 Corrections.

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

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

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

24 (3) If the probation officer or State's Attorney (or such
25 other public officer designated by the court in a county having
26 3,000,000 or more inhabitants) determines that the minor may be

1 a delinquent minor as described in subsection (3) of Section
2 5-105, and should be retained in custody but does not require
3 physical restriction, the minor may be placed in non-secure
4 custody for up to 40 hours pending a detention hearing.

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

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

10 (705 ILCS 405/5-740)

11 Sec. 5-740. Placement; legal custody or guardianship.

12 (1) If the court finds that the parents, guardian, or legal
13 custodian of a minor adjudged a ward of the court are unfit or
14 are unable, for some reason other than financial circumstances
15 alone, to care for, protect, train or discipline the minor or
16 are unwilling to do so, and that appropriate services aimed at
17 family preservation and family reunification have been
18 unsuccessful in rectifying the conditions which have led to a
19 finding of unfitness or inability to care for, protect, train
20 or discipline the minor, and that it is in the best interest of
21 the minor to take him or her from the custody of his or her
22 parents, guardian or custodian, the court may:

23 (a) place him or her in the custody of a suitable
24 relative or other person;

25 (b) place him or her under the guardianship of a

1 probation officer;

2 (c) commit him or her to an agency for care or
3 placement, except an institution under the authority of the
4 Department of Corrections or of the Department of Children
5 and Family Services;

6 (d) commit him or her to some licensed training school
7 or industrial school; or

8 (e) commit him or her to any appropriate institution
9 having among its purposes the care of delinquent children,
10 including a child protective facility maintained by a child
11 protection district serving the county from which
12 commitment is made, but not including any institution under
13 the authority of the Department of Corrections or of the
14 Department of Children and Family Services.

15 For any minor determined to need care away from home in
16 foster care, shelter care or detention, the court shall order,
17 in accordance with this subsection (1), consistent with the
18 health, safety, and best interests of the minor, the removal
19 because the minor's home cannot provide the quality of care and
20 level of support and supervision the minor needs at the time.
21 Removal from the home is in the minor's and community's best
22 interest for any of the following reasons: (i) the minor is
23 without the care necessary for the minor's well-being through
24 no fault or lack of concern by a parent, guardian, custodian,
25 or other person, (ii) the minor has no parent, guardian,
26 custodian, or other person able to return the minor to the

1 court when required, or (iii) for the protection of the minor.

2 For any minor determined to need care away from home in
3 foster care, shelter care, or detention, the court, in
4 accordance with this subsection (1), shall further find that
5 reasonable efforts have been made or that, consistent with the
6 health, safety and best interests of the minor, no efforts
7 reasonably can be made to prevent or eliminate the necessity of
8 removal of the minor from his or her home. The court shall
9 require documentation from the Probation Department as to the
10 reasonable efforts that were made to prevent or eliminate the
11 necessity of removal of the minor from his or her home or the
12 reasons why no efforts reasonably could be made to prevent or
13 eliminate the necessity of removal.

14 In making its findings that it is consistent with the
15 health, safety and best interests of the minor to prescribe
16 shelter care, the court shall state in writing: (i) the factual
17 basis supporting its findings concerning the immediate and
18 urgent necessity for the protection of the minor or of the
19 person or property of another, (ii) the factual basis for the
20 finding of the minor's and community's best interests, and
21 (iii) the factual basis supporting its findings that reasonable
22 efforts were made to prevent or eliminate the removal of the
23 minor from his or her home or that no efforts reasonably could
24 be made to prevent or eliminate the removal of the minor from
25 his or her home.

26 Once the court finds that it is a matter of immediate and

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

7 (2) When making such placement, the court, wherever
8 possible, shall select a person holding the same religious
9 belief as that of the minor or a private agency controlled by
10 persons of like religious faith of the minor and shall require
11 the Department of Children and Family Services to otherwise
12 comply with Section 7 of the Children and Family Services Act
13 in placing the child. In addition, whenever alternative plans
14 for placement are available, the court shall ascertain and
15 consider, to the extent appropriate in the particular case, the
16 views and preferences of the minor.

17 (3) When a minor is placed with a suitable relative or
18 other person, the court shall appoint him or her the legal
19 custodian or guardian of the person of the minor. When a minor
20 is committed to any agency, the court shall appoint the proper
21 officer or representative of the proper officer as legal
22 custodian or guardian of the person of the minor. Legal
23 custodians and guardians of the person of the minor have the
24 respective rights and duties set forth in subsection (9) of
25 Section 5-105 except as otherwise provided by order of court;
26 but no guardian of the person may consent to adoption of the

1 minor. An agency whose representative is appointed guardian of
2 the person or legal custodian of the minor may place him or her
3 in any child care facility, but the facility must be licensed
4 under the Child Care Act of 1969 or have been approved by the
5 Department of Children and Family Services as meeting the
6 standards established for such licensing. Like authority and
7 restrictions shall be conferred by the court upon any probation
8 officer who has been appointed guardian of the person of a
9 minor.

10 (4) No placement by any probation officer or agency whose
11 representative is appointed guardian of the person or legal
12 custodian of a minor may be made in any out of State child care
13 facility unless it complies with the Interstate Compact on the
14 Placement of Children.

15 (5) The clerk of the court shall issue to the guardian or
16 legal custodian of the person a certified copy of the order of
17 court, as proof of his or her authority. No other process is
18 necessary as authority for the keeping of the minor.

19 (6) Legal custody or guardianship granted under this
20 Section continues until the court otherwise directs, but not
21 after the minor reaches the age of 21 years except as set forth
22 in Section 5-750.

23 (7) Whenever a minor is removed from home and placed in
24 foster care or other residential placement and the county will
25 be responsible for the costs of such placement under Section
26 6-7 of this Act, then the Court shall order that the Probation

1 Department shall be responsible for the child's placement,
2 care, and control until such time as the Court finds that such
3 placement is no longer required for the protection of the
4 child.

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

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.