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1 AMENDMENT TO SENATE BILL 2354

2 AMENDMENT NO. _____. Amend Senate Bill 2354 by replacing
3 everything after the enacting clause with the following:

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 secured custody pursuant to paragraph (a) of
11 subsection (2) ~~physical restriction~~ shall be given temporary
12 care in a foster family home or other shelter facility
13 designated by the court.

14 (2) (a) Any minor 10 years of age or older arrested
15 pursuant to this Act where there is probable cause to believe
16 that the minor is a delinquent minor and that (i) secured

1 custody is a matter of immediate and urgent necessity for the
2 protection of the minor or of the person or property of
3 another, (ii) the minor is likely to flee the jurisdiction of
4 the court, or (iii) the minor was taken into custody under a
5 warrant, may be kept or detained in an authorized detention
6 facility. No minor under 12 years of age shall be detained in a
7 county jail or a municipal lockup for more than 6 hours. Where
8 a court orders a minor to be kept or detained in a facility
9 authorized for juvenile detention in accordance with this Act
10 and it appears from the record that, notwithstanding the order
11 of detention, removal of the minor from the minor's home may
12 also be in the minor's best interest, the court shall further
13 determine whether the removal is, in fact, in the best
14 interests of the minor, consistent with paragraphs (a-5) and
15 (a-10) of this subsection (2) and shall include such findings
16 on the initial court order authorizing the detention.

17 (a-5) For any minor determined to need care away from home
18 in foster care or shelter care, but who does not require
19 secured custody pursuant to paragraph (a) of subsection (2) the
20 court shall order, in accordance with subsections (1) of this
21 Section, consistent with the health, safety, and best interests
22 of the minor, the removal because the minor's home cannot
23 provide the quality of care and level of support and
24 supervision the minor needs at the time. Removal from the home
25 is in the minor's and community's best interest for any of the
26 following reasons: (i) the minor is without the care necessary

1 for the minor's well-being through no fault or lack of concern
2 by a parent, guardian, custodian, or other person, (ii) the
3 minor has no parent, guardian, custodian, or other person able
4 to return the minor to the court when required, or (iii) for
5 the protection of the minor.

6 (a-10) For any minor who does not require secured custody
7 pursuant to paragraph (a) of subsection (2) and who is
8 determined to need care away from home in foster care or
9 shelter care the court, in accordance with paragraph (a) of
10 subsection (2) of this Section, shall further find that
11 reasonable efforts have been made or that, consistent with the
12 health, safety, and best interests of the minor and the
13 community, no efforts reasonably can be made to prevent or
14 eliminate the necessity of removal of the minor from his or her
15 home. The court shall require documentation from the Probation
16 Department as to the reasonable efforts that were made to
17 prevent or eliminate the necessity of removal of the minor from
18 his or her home or the reasons why no efforts reasonably could
19 be made to prevent or eliminate the necessity of removal.

20 In making its findings that it is consistent with the
21 health, safety, and best interests of the minor and the
22 community to prescribe shelter care, the court shall state in
23 writing: (i) the factual basis supporting its findings
24 concerning the immediate and urgent necessity for the
25 protection of the minor, (ii) the factual basis for the finding
26 of the minor's and community's best interests, and (iii) the

1 factual basis supporting its findings that reasonable efforts
2 were made to prevent or eliminate the removal of the minor from
3 his or her home or that no efforts reasonably could be made to
4 prevent or eliminate the removal of the minor from his or her
5 home.

6 Once the court determines that the minor requires care away
7 from home for the protection of the minor and places the minor
8 in a shelter care facility or foster care, the minor shall not
9 be returned to the parent, custodian, or guardian until the
10 court finds that such placement is no longer necessary for the
11 protection of the minor.

12 (a-15) If the court determines that the minor requires care
13 away from home for the protection of the minor and places the
14 minor in a shelter care facility, there shall be a rebuttable
15 presumption that such findings comply with the factors outlined
16 in paragraphs (a-5) and (a-10) of subsection (2).

17 (b) The written authorization of the probation officer or
18 detention officer (or other public officer designated by the
19 court in a county having 3,000,000 or more inhabitants)
20 constitutes authority for the superintendent of any juvenile
21 detention home to detain and keep a minor for up to 40 hours,
22 excluding Saturdays, Sundays and court-designated holidays.
23 These records shall be available to the same persons and
24 pursuant to the same conditions as are law enforcement records
25 as provided in Section 5-905.

26 (b-4) The consultation required by subsection (b-5) shall

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

11 (b-5) Subject to the provisions of subsection (b-4), if a
12 probation officer or detention officer (or other public officer
13 designated by the court in a county having 3,000,000 or more
14 inhabitants) does not intend to detain a minor for an offense
15 which constitutes one of the following offenses he or she shall
16 consult with the State's Attorney's Office prior to the release
17 of the minor: first degree murder, second degree murder,
18 involuntary manslaughter, criminal sexual assault, aggravated
19 criminal sexual assault, aggravated battery with a firearm,
20 aggravated or heinous battery involving permanent disability
21 or disfigurement or great bodily harm, robbery, aggravated
22 robbery, armed robbery, vehicular hijacking, aggravated
23 vehicular hijacking, vehicular invasion, arson, aggravated
24 arson, kidnapping, aggravated kidnapping, home invasion,
25 burglary, or residential burglary.

26 (c) Except as otherwise provided in paragraph (a), (d), or

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

7 (i) The period of detention is deemed to have begun
8 once the minor has been placed in a locked room or cell or
9 handcuffed to a stationary object in a building housing a
10 county jail or municipal lockup. Time spent transporting a
11 minor is not considered to be time in detention or secure
12 custody.

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

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

20 (iv) A log shall be kept which shows the offense which
21 is the basis for the detention, the reasons and
22 circumstances for the decision to detain and the length of
23 time the minor was in detention.

24 (v) Violation of the time limit on detention in a
25 county jail or municipal lockup shall not, in and of
26 itself, render inadmissible evidence obtained as a result

1 of the violation of this time limit. Minors under 17 years
2 of age shall be kept separate from confined adults and may
3 not at any time be kept in the same cell, room or yard with
4 adults confined pursuant to criminal law. Persons 17 years
5 of age and older who have a petition of delinquency filed
6 against them may be confined in an adult detention
7 facility. In making a determination whether to confine a
8 person 17 years of age or older who has a petition of
9 delinquency filed against the person, these factors, among
10 other matters, shall be considered:

11 (A) The age of the person;

12 (B) Any previous delinquent or criminal history of
13 the person;

14 (C) Any previous abuse or neglect history of the
15 person; and

16 (D) Any mental health or educational history of the
17 person, or both.

18 (d) (i) If a minor 12 years of age or older is confined in a
19 county jail in a county with a population below 3,000,000
20 inhabitants, then the minor's confinement shall be implemented
21 in such a manner that there will be no contact by sight, sound
22 or otherwise between the minor and adult prisoners. Minors 12
23 years of age or older must be kept separate from confined
24 adults and may not at any time be kept in the same cell, room,
25 or yard with confined adults. This paragraph (d) (i) shall only
26 apply to confinement pending an adjudicatory hearing and shall

1 not exceed 40 hours, excluding Saturdays, Sundays and court
2 designated holidays. To accept or hold minors during this time
3 period, county jails shall comply with all monitoring standards
4 promulgated by the Department of Corrections and training
5 standards approved by the Illinois Law Enforcement Training
6 Standards Board.

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

15 (iii) To accept or hold minors 12 years of age or older,
16 after the time period prescribed in paragraphs (d)(i) and
17 (d)(ii) of this subsection (2) of this Section, county jails
18 shall comply with all programmatic and training standards for
19 juvenile detention homes promulgated by the Department of
20 Corrections.

21 (e) When a minor who is at least 15 years of age is
22 prosecuted under the criminal laws of this State, the court may
23 enter an order directing that the juvenile be confined in the
24 county jail. However, any juvenile confined in the county jail
25 under this provision shall be separated from adults who are
26 confined in the county jail in such a manner that there will be

1 no contact by sight, sound or otherwise between the juvenile
2 and adult prisoners.

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

9 (g) For purposes of processing a minor, the minor may be
10 taken to a County Jail or municipal lockup under the direct and
11 constant supervision of a law enforcement officer or
12 correctional officer. During such time as is necessary to
13 process the minor, and while supervised by a law enforcement
14 officer or correctional officer, the sight and sound separation
15 provisions shall not apply.

16 (3) If the probation officer or State's Attorney (or such
17 other public officer designated by the court in a county having
18 3,000,000 or more inhabitants) determines that the minor may be
19 a delinquent minor as described in subsection (3) of Section
20 5-105, and should be retained in custody but does not require
21 physical restriction, the minor may be placed in non-secure
22 custody for up to 40 hours pending a detention hearing.

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

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

2 (705 ILCS 405/5-740)

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

4 (1) As to minors adjudged a ward of the court, if the court
5 finds that the minor's home cannot provide the quality of care
6 and level of support and supervision the minor needs at the
7 time and that the removal of the minor from the home is in the
8 minor's and community's best interest for any of the following
9 reasons: (i) the minor is without the care necessary for the
10 minor's well being through no fault or lack of concern by a
11 parent, guardian, custodian, or other person, or (ii) for the
12 protection of the minor, the court may:

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

15 (b) place him or her under the temporary guardianship
16 of a probation officer;

17 (c) commit him or her to an agency for care or
18 placement, except an institution under the authority of the
19 Department of Corrections or of the Department of Children
20 and Family Services;

21 (d) commit him or her to some licensed training school
22 or industrial school, or

23 (e) commit him or her to any appropriate institution
24 having among its purposes the care of delinquent children,
25 including a child protective facility maintained by a child

1 protection district serving the county from which
2 commitment is made, but not including any institution under
3 the authority of the Department of Corrections or of the
4 Department of Children and Family Services. As to any minor
5 adjudged a ward of the court who is determined to need care
6 away from home in placement pursuant to subsection (1)
7 above the court, in accordance with this subsection (1),
8 shall further find that reasonable efforts have been made
9 or that, consistent with the health, safety and best
10 interests of the minor and the community, no efforts
11 reasonably can be made to prevent or eliminate the
12 necessity of removal of the minor from his or her home. The
13 court shall require documentation from the Probation
14 Department as to the reasonable efforts that were made to
15 prevent or eliminate the necessity of removal of the minor
16 from his or her home or the reasons why no efforts
17 reasonably could be made to prevent or eliminate the
18 necessity of removal.

19 In making its findings that it is consistent with the
20 health, safety and best interests of the minor and the
21 community to remove the minor from the home the court shall
22 state in writing the factual basis for the finding of the
23 minor's and community's best interests, and the factual basis
24 supporting its findings that reasonable efforts were made to
25 prevent or eliminate the removal of the minor from his or her
26 home or that no efforts reasonably could be made to prevent or

1 eliminate the removal of the minor from his or her home.

2 If the court finds that the removal of a minor adjudged a
3 ward of the court from his home is in the best interest of the
4 minor and community and the court finds that it is for the
5 protection of the minor, the minor shall not be returned to the
6 parent, custodian, or guardian until the court finds that such
7 placement is no longer necessary for the protection of the
8 minor. If the court finds that the parents, guardian, or legal
9 custodian of a minor adjudged a ward of the court are unfit or
10 are unable, for some reason other than financial circumstances
11 alone, to care for, protect, train or discipline the minor or
12 are unwilling to do so, and that appropriate services aimed at
13 family preservation and family reunification have been
14 unsuccessful in rectifying the conditions which have led to a
15 finding of unfitness or inability to care for, protect, train
16 or discipline the minor, and that it is in the best interest of
17 the minor to take him or her from the custody of his or her
18 parents, guardian or custodian, the court may:

19 ~~(a) place him or her in the custody of a suitable~~
20 ~~relative or other person;~~

21 ~~(b) place him or her under the guardianship of a~~
22 ~~probation officer;~~

23 ~~(c) commit him or her to an agency for care or~~
24 ~~placement, except an institution under the authority of the~~
25 ~~Department of Corrections or of the Department of Children~~
26 ~~and Family Services;~~

1 ~~(d) commit him or her to some licensed training school~~
2 ~~or industrial school; or~~

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

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

20 (3) When a minor is placed with a suitable relative or
21 other person, the court shall appoint him or her the legal
22 custodian or guardian of the person of the minor. When a minor
23 is committed to any agency, the court shall appoint the proper
24 officer or representative of the proper officer as legal
25 custodian or guardian of the person of the minor. Legal
26 custodians and guardians of the person of the minor have the

1 respective rights and duties set forth in subsection (9) of
2 Section 5-105 except as otherwise provided by order of court;
3 but no guardian of the person may consent to adoption of the
4 minor. An agency whose representative is appointed guardian of
5 the person or legal custodian of the minor may place him or her
6 in any child care facility, but the facility must be licensed
7 under the Child Care Act of 1969 or have been approved by the
8 Department of Children and Family Services as meeting the
9 standards established for such licensing. Like authority and
10 restrictions shall be conferred by the court upon any probation
11 officer who has been appointed guardian of the person of a
12 minor.

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

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

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

26 (7) Whenever a minor is removed from home and placed in

1 foster care or other residential placement and the county will
2 be responsible for the costs of such placement under Section
3 6-7 of this Act, then the Court shall order that the Probation
4 Department shall be responsible for the child's placement,
5 care, and control until such time as the Court finds that such
6 placement is no longer required.

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