

HB2627



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2627

Introduced 2/20/2009, by Rep. Annazette Collins

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-410

Amends the Juvenile Court Act of 1987. Provides that no minor under 17 (instead of 12) years of age shall be detained in a county jail or a municipal lockup for more than 6 hours unless the minor is prosecuted as an adult under the criminal laws. Deletes a provision requiring a minor's confinement to be implemented in such a manner that there is no contact by sight, sound, or otherwise with adult prisoners. Makes other changes.

LRB096 09437 RLC 19594 b

A BILL FOR

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 5-410 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 17 ~~12~~ years of age shall be detained
22 in a county jail or a municipal lockup for more than 6 hours.

23 (b) The written authorization of the probation officer or

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

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

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

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

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

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

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

25 (iii) Upon placement in secure custody in a jail or
26 lockup, the minor shall be informed of the purpose of the

1 detention, the time it is expected to last and the fact
2 that it cannot exceed the time specified under this Act.

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

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

20 (A) The age of the person;

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

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

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

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

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

24 ~~(iii) To accept or hold minors 12 years of age or older,~~
25 ~~after the time period prescribed in paragraphs (d)(i) and~~
26 ~~(d)(ii) of this subsection (2) of this Section, county jails~~

1 ~~shall comply with all programmatic and training standards for~~
2 ~~juvenile detention homes promulgated by the Department of~~
3 ~~Corrections.~~

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

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

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

25 (3) If the probation officer or State's Attorney (or such
26 other public officer designated by the court in a county having

1 3,000,000 or more inhabitants) determines that the minor may be
2 a delinquent minor as described in subsection (3) of Section
3 5-105, and should be retained in custody but does not require
4 physical restriction, the minor may be placed in non-secure
5 custody for up to 40 hours pending a detention hearing.

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

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