



Rep. Barbara Flynn Currie

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1 AMENDMENT TO HOUSE BILL 2404

2 AMENDMENT NO. _____. Amend House Bill 2404 on page 1, by
3 replacing lines 4 through 6 with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 1-7, 1-8, 5-105, 5-120, 5-401.5, 5-410,
6 5-901, 5-905, and 5-915 as follows:"; and

7 on page 26, by inserting immediately below line 19 the
8 following:

9 "(705 ILCS 405/5-401.5)

10 Sec. 5-401.5. When statements by minor may be used.

11 (a) In this Section, "custodial interrogation" means any
12 interrogation (i) during which a reasonable person in the
13 subject's position would consider himself or herself to be in
14 custody and (ii) during which a question is asked that is
15 reasonably likely to elicit an incriminating response.

1 In this Section, "electronic recording" includes motion
2 picture, audiotape, videotape, or digital recording.

3 In this Section, "place of detention" means a building or a
4 police station that is a place of operation for a municipal
5 police department or county sheriff department or other law
6 enforcement agency at which persons are or may be held in
7 detention in connection with criminal charges against those
8 persons or allegations that those persons are delinquent
9 minors.

10 (b) An oral, written, or sign language statement of a minor
11 who, at the time of the commission of the offense was under the
12 age of 18 ~~17~~ years, made as a result of a custodial
13 interrogation conducted at a police station or other place of
14 detention on or after the effective date of this amendatory Act
15 of the 93rd General Assembly shall be presumed to be
16 inadmissible as evidence against the minor in any criminal
17 proceeding or juvenile court proceeding, for an act that if
18 committed by an adult would be brought under Section 9-1,
19 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, or 9-3.3, of the Criminal Code
20 of 1961 or the Criminal Code of 2012, or under clause (d) (1) (F)
21 of Section 11-501 of the Illinois Vehicle Code unless:

22 (1) an electronic recording is made of the custodial
23 interrogation; and

24 (2) the recording is substantially accurate and not
25 intentionally altered.

26 (c) Every electronic recording required under this Section

1 must be preserved until such time as the minor's adjudication
2 for any offense relating to the statement is final and all
3 direct and habeas corpus appeals are exhausted, or the
4 prosecution of such offenses is barred by law.

5 (d) If the court finds, by a preponderance of the evidence,
6 that the minor was subjected to a custodial interrogation in
7 violation of this Section, then any statements made by the
8 minor during or following that non-recorded custodial
9 interrogation, even if otherwise in compliance with this
10 Section, are presumed to be inadmissible in any criminal
11 proceeding or juvenile court proceeding against the minor
12 except for the purposes of impeachment.

13 (e) Nothing in this Section precludes the admission (i) of
14 a statement made by the minor in open court in any criminal
15 proceeding or juvenile court proceeding, before a grand jury,
16 or at a preliminary hearing, (ii) of a statement made during a
17 custodial interrogation that was not recorded as required by
18 this Section because electronic recording was not feasible,
19 (iii) of a voluntary statement, whether or not the result of a
20 custodial interrogation, that has a bearing on the credibility
21 of the accused as a witness, (iv) of a spontaneous statement
22 that is not made in response to a question, (v) of a statement
23 made after questioning that is routinely asked during the
24 processing of the arrest of the suspect, (vi) of a statement
25 made during a custodial interrogation by a suspect who
26 requests, prior to making the statement, to respond to the

1 interrogator's questions only if an electronic recording is not
2 made of the statement, provided that an electronic recording is
3 made of the statement of agreeing to respond to the
4 interrogator's question, only if a recording is not made of the
5 statement, (vii) of a statement made during a custodial
6 interrogation that is conducted out-of-state, (viii) of a
7 statement given at a time when the interrogators are unaware
8 that a death has in fact occurred, or (ix) of any other
9 statement that may be admissible under law. The State shall
10 bear the burden of proving, by a preponderance of the evidence,
11 that one of the exceptions described in this subsection (e) is
12 applicable. Nothing in this Section precludes the admission of
13 a statement, otherwise inadmissible under this Section, that is
14 used only for impeachment and not as substantive evidence.

15 (f) The presumption of inadmissibility of a statement made
16 by a suspect at a custodial interrogation at a police station
17 or other place of detention may be overcome by a preponderance
18 of the evidence that the statement was voluntarily given and is
19 reliable, based on the totality of the circumstances.

20 (g) Any electronic recording of any statement made by a
21 minor during a custodial interrogation that is compiled by any
22 law enforcement agency as required by this Section for the
23 purposes of fulfilling the requirements of this Section shall
24 be confidential and exempt from public inspection and copying,
25 as provided under Section 7 of the Freedom of Information Act,
26 and the information shall not be transmitted to anyone except

1 as needed to comply with this Section.

2 (h) A statement, admission, confession, or incriminating
3 information made by or obtained from a minor related to the
4 instant offense, as part of any behavioral health screening,
5 assessment, evaluation, or treatment, whether or not
6 court-ordered, shall not be admissible as evidence against the
7 minor on the issue of guilt only in the instant juvenile court
8 proceeding. The provisions of this subsection (h) are in
9 addition to and do not override any existing statutory and
10 constitutional prohibition on the admission into evidence in
11 delinquency proceedings of information obtained during
12 screening, assessment, or treatment.

13 The changes made to this Section by this amendatory Act of
14 the 98th General Assembly apply to statements of a minor made
15 on or after the effective date of this amendatory Act.

16 (Source: P.A. 96-1251, eff. 1-1-11; 97-1150, eff. 1-25-13.)

17 (705 ILCS 405/5-410)

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

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

24 (2) (a) Any minor 10 years of age or older arrested
25 pursuant to this Act where there is probable cause to believe

1 that the minor is a delinquent minor and that (i) secured
2 custody is a matter of immediate and urgent necessity for the
3 protection of the minor or of the person or property of
4 another, (ii) the minor is likely to flee the jurisdiction of
5 the court, or (iii) the minor was taken into custody under a
6 warrant, may be kept or detained in an authorized detention
7 facility. No minor under 12 years of age shall be detained in a
8 county jail or a municipal lockup for more than 6 hours.

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

18 (b-4) The consultation required by subsection (b-5) shall
19 not be applicable if the probation officer or detention officer
20 (or other public officer designated by the court in a county
21 having 3,000,000 or more inhabitants) utilizes a scorable
22 detention screening instrument, which has been developed with
23 input by the State's Attorney, to determine whether a minor
24 should be detained, however, subsection (b-5) shall still be
25 applicable where no such screening instrument is used or where
26 the probation officer, detention officer (or other public

1 officer designated by the court in a county having 3,000,000 or
2 more inhabitants) deviates from the screening instrument.

3 (b-5) Subject to the provisions of subsection (b-4), if a
4 probation officer or detention officer (or other public officer
5 designated by the court in a county having 3,000,000 or more
6 inhabitants) does not intend to detain a minor for an offense
7 which constitutes one of the following offenses he or she shall
8 consult with the State's Attorney's Office prior to the release
9 of the minor: first degree murder, second degree murder,
10 involuntary manslaughter, criminal sexual assault, aggravated
11 criminal sexual assault, aggravated battery with a firearm as
12 described in Section 12-4.2 or subdivision (e)(1), (e)(2),
13 (e)(3), or (e)(4) of Section 12-3.05, aggravated or heinous
14 battery involving permanent disability or disfigurement or
15 great bodily harm, robbery, aggravated robbery, armed robbery,
16 vehicular hijacking, aggravated vehicular hijacking, vehicular
17 invasion, arson, aggravated arson, kidnapping, aggravated
18 kidnapping, home invasion, burglary, or residential burglary.

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

26 (i) The period of detention is deemed to have begun

1 once the minor has been placed in a locked room or cell or
2 handcuffed to a stationary object in a building housing a
3 county jail or municipal lockup. Time spent transporting a
4 minor is not considered to be time in detention or secure
5 custody.

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

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

13 (iv) A log shall be kept which shows the offense which
14 is the basis for the detention, the reasons and
15 circumstances for the decision to detain and the length of
16 time the minor was in detention.

17 (v) Violation of the time limit on detention in a
18 county jail or municipal lockup shall not, in and of
19 itself, render inadmissible evidence obtained as a result
20 of the violation of this time limit. Minors under 18 ~~17~~
21 years of age shall be kept separate from confined adults
22 and may not at any time be kept in the same cell, room or
23 yard with adults confined pursuant to criminal law. Persons
24 18 ~~17~~ years of age and older who have a petition of
25 delinquency filed against them may be confined in an adult
26 detention facility. In making a determination whether to

1 confine a person 18 ~~17~~ years of age or older who has a
2 petition of delinquency filed against the person, these
3 factors, among other matters, shall be considered:

4 (A) The age of the person;

5 (B) Any previous delinquent or criminal history of
6 the person;

7 (C) Any previous abuse or neglect history of the
8 person; and

9 (D) Any mental health or educational history of the
10 person, or both.

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

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

1 after the time period prescribed in paragraph (d)(i) of this
2 subsection (2) 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 Department of
6 Corrections and training standards approved by the Illinois Law
7 Enforcement Training Standards Board.

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

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

22 (f) For purposes of appearing in a physical lineup, the
23 minor may be taken to a county jail or municipal lockup under
24 the direct and constant supervision of a juvenile police
25 officer. During such time as is necessary to conduct a lineup,
26 and while supervised by a juvenile police officer, the sight

1 and sound separation provisions shall not apply.

2 (g) For purposes of processing a minor, the minor may be
3 taken to a County Jail or municipal lockup under the direct and
4 constant supervision of a law enforcement officer or
5 correctional officer. During such time as is necessary to
6 process the minor, and while supervised by a law enforcement
7 officer or correctional officer, the sight and sound separation
8 provisions shall not apply.

9 (3) If the probation officer or State's Attorney (or such
10 other public officer designated by the court in a county having
11 3,000,000 or more inhabitants) determines that the minor may be
12 a delinquent minor as described in subsection (3) of Section
13 5-105, and should be retained in custody but does not require
14 physical restriction, the minor may be placed in non-secure
15 custody for up to 40 hours pending a detention hearing.

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

20 The changes made to this Section by this amendatory Act of
21 the 98th General Assembly apply to a minor who has been
22 arrested or taken into custody on or after the effective date
23 of this amendatory Act.

24 (Source: P.A. 96-1551, eff. 7-1-11.)

25 (705 ILCS 405/5-901)

1 Sec. 5-901. Court file.

2 (1) The Court file with respect to proceedings under this
3 Article shall consist of the petitions, pleadings, victim
4 impact statements, process, service of process, orders, writs
5 and docket entries reflecting hearings held and judgments and
6 decrees entered by the court. The court file shall be kept
7 separate from other records of the court.

8 (a) The file, including information identifying the
9 victim or alleged victim of any sex offense, shall be
10 disclosed only to the following parties when necessary for
11 discharge of their official duties:

12 (i) A judge of the circuit court and members of the
13 staff of the court designated by the judge;

14 (ii) Parties to the proceedings and their
15 attorneys;

16 (iii) Victims and their attorneys, except in cases
17 of multiple victims of sex offenses in which case the
18 information identifying the nonrequesting victims
19 shall be redacted;

20 (iv) Probation officers, law enforcement officers
21 or prosecutors or their staff;

22 (v) Adult and juvenile Prisoner Review Boards.

23 (b) The Court file redacted to remove any information
24 identifying the victim or alleged victim of any sex offense
25 shall be disclosed only to the following parties when
26 necessary for discharge of their official duties:

1 (i) Authorized military personnel;

2 (ii) Persons engaged in bona fide research, with
3 the permission of the judge of the juvenile court and
4 the chief executive of the agency that prepared the
5 particular recording: provided that publication of
6 such research results in no disclosure of a minor's
7 identity and protects the confidentiality of the
8 record;

9 (iii) The Secretary of State to whom the Clerk of
10 the Court shall report the disposition of all cases, as
11 required in Section 6-204 or Section 6-205.1 of the
12 Illinois Vehicle Code. However, information reported
13 relative to these offenses shall be privileged and
14 available only to the Secretary of State, courts, and
15 police officers;

16 (iv) The administrator of a bonafide substance
17 abuse student assistance program with the permission
18 of the presiding judge of the juvenile court;

19 (v) Any individual, or any public or private agency
20 or institution, having custody of the juvenile under
21 court order or providing educational, medical or
22 mental health services to the juvenile or a
23 court-approved advocate for the juvenile or any
24 placement provider or potential placement provider as
25 determined by the court.

26 (3) A minor who is the victim or alleged victim in a

1 juvenile proceeding shall be provided the same confidentiality
2 regarding disclosure of identity as the minor who is the
3 subject of record. Information identifying victims and alleged
4 victims of sex offenses, shall not be disclosed or open to
5 public inspection under any circumstances. Nothing in this
6 Section shall prohibit the victim or alleged victim of any sex
7 offense from voluntarily disclosing his or her identity.

8 (4) Relevant information, reports and records shall be made
9 available to the Department of Juvenile Justice when a juvenile
10 offender has been placed in the custody of the Department of
11 Juvenile Justice.

12 (5) Except as otherwise provided in this subsection (5),
13 juvenile court records shall not be made available to the
14 general public but may be inspected by representatives of
15 agencies, associations and news media or other properly
16 interested persons by general or special order of the court.
17 The State's Attorney, the minor, his or her parents, guardian
18 and counsel shall at all times have the right to examine court
19 files and records.

20 (a) The court shall allow the general public to have
21 access to the name, address, and offense of a minor who is
22 adjudicated a delinquent minor under this Act under either
23 of the following circumstances:

24 (i) The adjudication of delinquency was based upon
25 the minor's commission of first degree murder, attempt
26 to commit first degree murder, aggravated criminal

1 sexual assault, or criminal sexual assault; or

2 (ii) The court has made a finding that the minor
3 was at least 13 years of age at the time the act was
4 committed and the adjudication of delinquency was
5 based upon the minor's commission of: (A) an act in
6 furtherance of the commission of a felony as a member
7 of or on behalf of a criminal street gang, (B) an act
8 involving the use of a firearm in the commission of a
9 felony, (C) an act that would be a Class X felony
10 offense under or the minor's second or subsequent Class
11 2 or greater felony offense under the Cannabis Control
12 Act if committed by an adult, (D) an act that would be
13 a second or subsequent offense under Section 402 of the
14 Illinois Controlled Substances Act if committed by an
15 adult, (E) an act that would be an offense under
16 Section 401 of the Illinois Controlled Substances Act
17 if committed by an adult, or (F) an act that would be
18 an offense under the Methamphetamine Control and
19 Community Protection Act if committed by an adult.

20 (b) The court shall allow the general public to have
21 access to the name, address, and offense of a minor who is
22 at least 13 years of age at the time the offense is
23 committed and who is convicted, in criminal proceedings
24 permitted or required under Section 5-805, under either of
25 the following circumstances:

26 (i) The minor has been convicted of first degree

1 murder, attempt to commit first degree murder,
2 aggravated criminal sexual assault, or criminal sexual
3 assault,

4 (ii) The court has made a finding that the minor
5 was at least 13 years of age at the time the offense
6 was committed and the conviction was based upon the
7 minor's commission of: (A) an offense in furtherance of
8 the commission of a felony as a member of or on behalf
9 of a criminal street gang, (B) an offense involving the
10 use of a firearm in the commission of a felony, (C) a
11 Class X felony offense under the Cannabis Control Act
12 or a second or subsequent Class 2 or greater felony
13 offense under the Cannabis Control Act, (D) a second or
14 subsequent offense under Section 402 of the Illinois
15 Controlled Substances Act, (E) an offense under
16 Section 401 of the Illinois Controlled Substances Act,
17 or (F) an offense under the Methamphetamine Control and
18 Community Protection Act.

19 (6) Nothing in this Section shall be construed to limit the
20 use of a adjudication of delinquency as evidence in any
21 juvenile or criminal proceeding, where it would otherwise be
22 admissible under the rules of evidence, including but not
23 limited to, use as impeachment evidence against any witness,
24 including the minor if he or she testifies.

25 (7) Nothing in this Section shall affect the right of a
26 Civil Service Commission or appointing authority examining the

1 character and fitness of an applicant for a position as a law
2 enforcement officer to ascertain whether that applicant was
3 ever adjudicated to be a delinquent minor and, if so, to
4 examine the records or evidence which were made in proceedings
5 under this Act.

6 (8) Following any adjudication of delinquency for a crime
7 which would be a felony if committed by an adult, or following
8 any adjudication of delinquency for a violation of Section
9 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961 or the
10 Criminal Code of 2012, the State's Attorney shall ascertain
11 whether the minor respondent is enrolled in school and, if so,
12 shall provide a copy of the sentencing order to the principal
13 or chief administrative officer of the school. Access to such
14 juvenile records shall be limited to the principal or chief
15 administrative officer of the school and any guidance counselor
16 designated by him or her.

17 (9) Nothing contained in this Act prevents the sharing or
18 disclosure of information or records relating or pertaining to
19 juveniles subject to the provisions of the Serious Habitual
20 Offender Comprehensive Action Program when that information is
21 used to assist in the early identification and treatment of
22 habitual juvenile offenders.

23 (11) The Clerk of the Circuit Court shall report to the
24 Department of State Police, in the form and manner required by
25 the Department of State Police, the final disposition of each
26 minor who has been arrested or taken into custody before his or

1 her 18th ~~17th~~ birthday for those offenses required to be
2 reported under Section 5 of the Criminal Identification Act.
3 Information reported to the Department under this Section may
4 be maintained with records that the Department files under
5 Section 2.1 of the Criminal Identification Act.

6 (12) Information or records may be disclosed to the general
7 public when the court is conducting hearings under Section
8 5-805 or 5-810.

9 The changes made to this Section by this amendatory Act of
10 the 98th General Assembly apply to juvenile court records of a
11 minor who has been arrested or taken into custody on or after
12 the effective date of this amendatory Act.
13 (Source: P.A. 97-1150, eff. 1-25-13.)".