



Rep. Brian W. Stewart

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09800HB4869ham001

LRB098 16471 RLC 58471 a

1 AMENDMENT TO HOUSE BILL 4869

2 AMENDMENT NO. _____. Amend House Bill 4869 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 Section 5-501 as follows:

6 (705 ILCS 405/5-501)

7 Sec. 5-501. Detention or shelter care hearing. At the
8 appearance of the minor before the court at the detention or
9 shelter care hearing, the court shall receive all relevant
10 information and evidence, including affidavits concerning the
11 allegations made in the petition. Evidence used by the court in
12 its findings or stated in or offered in connection with this
13 Section may be by way of proffer based on reliable information
14 offered by the State or minor. All evidence shall be admissible
15 if it is relevant and reliable regardless of whether it would
16 be admissible under the rules of evidence applicable at a

1 trial. No hearing may be held unless the minor is represented
2 by counsel and no hearing shall be held until the minor has had
3 adequate opportunity to consult with counsel.

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

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

20 If the court finds that it is a matter of immediate and
21 urgent necessity for the protection of the minor or of the
22 person or property of another that the minor be detained or
23 placed in a shelter care facility or that he or she is likely
24 to flee the jurisdiction of the court, the court may prescribe
25 detention or shelter care and order that the minor be kept in a
26 suitable place designated by the court or in a shelter care

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

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

25 Once the court finds that it is a matter of immediate and
26 urgent necessity for the protection of the minor that the minor

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

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

10 (4) Minors 12 years of age or older must be kept separate
11 from confined adults and may not at any time be kept in the
12 same cell, room or yard with confined adults. This paragraph
13 (4):

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

22 (b) To accept or hold minors, 12 years of age or older,
23 after the time period prescribed in clause (a) of
24 subsection (4) of this Section but not exceeding 7 days
25 including Saturdays, Sundays, and holidays, pending an
26 adjudicatory hearing, county jails shall comply with all

1 temporary detention standards promulgated by the
2 Department of Corrections and training standards approved
3 by the Illinois Law Enforcement Training Standards Board.

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

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

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

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

8 (a) It is no longer a matter of immediate and urgent
9 necessity that the minor remain in detention or shelter
10 care; or

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

13 (c) A person, including a parent, relative or legal
14 guardian, is capable of assuming temporary custody of the
15 minor; or

16 (d) Services provided by the Department of Children and
17 Family Services or a child welfare agency or other service
18 provider have been successful in eliminating the need for
19 temporary custody.

20 The clerk shall set the matter for hearing not later than
21 14 days after such motion is filed. In the event that the court
22 modifies or vacates a temporary order but does not vacate its
23 finding of probable cause, the court may order that appropriate
24 services be continued or initiated in behalf of the minor and
25 his or her family.

26 (8) Whenever a petition has been filed under Section 5-520

1 the court can, at any time prior to trial or sentencing, order
2 that the minor be placed in detention or a shelter care
3 facility after the court conducts a hearing and finds that the
4 conduct and behavior of the minor may endanger the health,
5 person, welfare, or property of himself or others or that the
6 circumstances of his or her home environment may endanger his
7 or her health, person, welfare or property.

8 (9) Whenever the appearance in person in court, in either a
9 detention or shelter care hearing, is required of a minor held
10 in a place of custody or confinement operated by the State, the
11 court may permit the personal appearance of the minor to be
12 made by means of two-way audio-visual communication, including
13 closed circuit television or computerized video conference.
14 The two-way audio-visual communication facilities must provide
15 two-way audio-visual communication between the court and the
16 place of custody or confinement, and must include a secure line
17 over which the minor in custody and his or her counsel, may
18 communicate.

19 (Source: P.A. 95-846, eff. 1-1-09.)".