



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5700

by Rep. Mike Smiddy

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-410

Amends the Juvenile Court Act of 1987. Provides that persons 18 years of age and older who have a petition of delinquency filed against them shall (rather than may) be confined in an adult detention facility. Provides that a person who is 18 years of age or older who has been adjudicated a delinquent minor and who has violated the terms or conditions of his or her juvenile parole or aftercare release and is being tried as an adult for violating the terms or conditions of his or her juvenile parole or aftercare release may not be confined in a juvenile detention facility.

LRB098 17846 RLC 52970 b

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 12 years of age shall be detained in a
22 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 as
3 described in Section 12-4.2 or subdivision (e)(1), (e)(2),
4 (e)(3), or (e)(4) of Section 12-3.05, aggravated or heinous
5 battery involving permanent disability or disfigurement or
6 great bodily harm, robbery, aggravated robbery, armed robbery,
7 vehicular hijacking, aggravated vehicular hijacking, vehicular
8 invasion, arson, aggravated arson, kidnapping, aggravated
9 kidnapping, home invasion, burglary, or residential burglary.

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

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

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

26 (iii) Upon placement in secure custody in a jail or

1 lockup, the minor shall be informed of the purpose of the
2 detention, the time it is expected to last and the fact
3 that it cannot exceed the time specified under this Act.

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

8 (v) Violation of the time limit on detention in a
9 county jail or municipal lockup shall not, in and of
10 itself, render inadmissible evidence obtained as a result
11 of the violation of this time limit. Minors under 18 years
12 of age shall be kept separate from confined adults and may
13 not at any time be kept in the same cell, room or yard with
14 adults confined pursuant to criminal law. Persons 18 years
15 of age and older who have a petition of delinquency filed
16 against them shall ~~may~~ be confined in an adult detention
17 facility. A person who is 18 years of age or older who has
18 been adjudicated a delinquent minor and who has violated
19 the terms or conditions of his or her juvenile parole or
20 aftercare release and is being tried as an adult for
21 violating the terms or conditions of his or her juvenile
22 parole or aftercare release may not be confined in a
23 juvenile detention facility. ~~In making a determination~~
24 ~~whether to confine a person 18 years of age or older who~~
25 ~~has a petition of delinquency filed against the person,~~
26 ~~these factors, among other matters, shall be considered:~~

- 1 (A) (Blank); ~~The age of the person;~~
2 (B) (Blank); ~~Any previous delinquent or criminal~~
3 ~~history of the person;~~
4 (C) (Blank); and ~~Any previous abuse or neglect~~
5 ~~history of the person; and~~
6 (D) (Blank). ~~Any mental health or educational~~
7 ~~history of the person, or both.~~

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

23 (ii) To accept or hold minors, 12 years of age or older,
24 after the time period prescribed in paragraph (d) (i) of this
25 subsection (2) of this Section but not exceeding 7 days
26 including Saturdays, Sundays and holidays pending an

1 adjudicatory hearing, county jails shall comply with all
2 temporary detention standards promulgated by the Department of
3 Corrections and training standards approved by the Illinois Law
4 Enforcement Training Standards Board.

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

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

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

25 (g) For purposes of processing a minor, the minor may be
26 taken to a County Jail or municipal lockup under the direct and

1 constant supervision of a law enforcement officer or
2 correctional officer. During such time as is necessary to
3 process the minor, and while supervised by a law enforcement
4 officer or correctional officer, the sight and sound separation
5 provisions shall not apply.

6 (3) If the probation officer or State's Attorney (or such
7 other public officer designated by the court in a county having
8 3,000,000 or more inhabitants) determines that the minor may be
9 a delinquent minor as described in subsection (3) of Section
10 5-105, and should be retained in custody but does not require
11 physical restriction, the minor may be placed in non-secure
12 custody for up to 40 hours pending a detention hearing.

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

17 (5) The changes made to this Section by Public Act 98-61
18 ~~this amendatory Act of the 98th General Assembly~~ apply to a
19 minor who has been arrested or taken into custody on or after
20 January 1, 2014 (the effective date of Public Act 98-61) ~~this~~
21 ~~amendatory Act.~~

22 (Source: P.A. 98-61, eff. 1-1-14; revised 11-22-13.)