

SB2370



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2370

Introduced 2/10/2023, by Sen. Cristina Castro

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-501

Amends the Juvenile Court Act of 1987. Provides that the Department of Children and Family Services shall reimburse any county probation department for the costs of placement of any youth in care, whether the youth in care is in the custody of a county juvenile detention center or appropriate placement that meets the needs of the youth in care. Provides that the costs shall include expenditures for transportation and medical or mental health services. Provides that placement costs shall be at the detention center's usual and customary rate. Contains findings.

LRB103 28381 RLC 54761 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 1. Findings.

5 (a) The General Assembly finds that:

6 (1) an adequate continuum of care is necessary to
7 better address the needs of juveniles within the court
8 system;

9 (2) the unique partnership of State and local services
10 is needed to provide the right placements, and the right
11 services for justice-involved juveniles; and

12 (3) providing juveniles who are youth in care of the
13 State and in the care or recently in the care of the
14 Department of Children and Family Services, should be
15 receiving a continuum of care and services, even when the
16 juvenile unfortunately becomes involved with the juvenile
17 justice system.

18 (b) The General Assembly recommends that juveniles who are
19 youth in care of the State and in the care or recently in the
20 care of the Department of Children and Family Services shall
21 not have their services interrupted or be left unnecessarily
22 in juvenile detention centers.

23 Section 5. The Juvenile Court Act of 1987 is amended by

1 changing Section 5-501 as follows:

2 (705 ILCS 405/5-501)

3 Sec. 5-501. Detention or shelter care hearing. At the
4 appearance of the minor before the court at the detention or
5 shelter care hearing, the court shall receive all relevant
6 information and evidence, including affidavits concerning the
7 allegations made in the petition. Evidence used by the court
8 in its findings or stated in or offered in connection with this
9 Section may be by way of proffer based on reliable information
10 offered by the State or minor. All evidence shall be
11 admissible if it is relevant and reliable regardless of
12 whether it would be admissible under the rules of evidence
13 applicable at a trial. No hearing may be held unless the minor
14 is represented by counsel and no hearing shall be held until
15 the minor has had adequate opportunity to consult with
16 counsel.

17 (1) If the court finds that there is not probable cause to
18 believe that the minor is a delinquent minor, it shall release
19 the minor and dismiss the petition.

20 (2) If the court finds that there is probable cause to
21 believe that the minor is a delinquent minor, the minor, his or
22 her parent, guardian, custodian and other persons able to give
23 relevant testimony may be examined before the court. The court
24 may also consider any evidence by way of proffer based upon
25 reliable information offered by the State or the minor. All

1 evidence, including affidavits, shall be admissible if it is
2 relevant and reliable regardless of whether it would be
3 admissible under the rules of evidence applicable at trial.
4 After such evidence is presented, the court may enter an order
5 that the minor shall be released upon the request of a parent,
6 guardian or legal custodian if the parent, guardian or
7 custodian appears to take custody.

8 If the court finds that it is a matter of immediate and
9 urgent necessity for the protection of the minor or of the
10 person or property of another that the minor be detained or
11 placed in a shelter care facility or that he or she is likely
12 to flee the jurisdiction of the court, the court may prescribe
13 detention or shelter care and order that the minor be kept in a
14 suitable place designated by the court or in a shelter care
15 facility designated by the Department of Children and Family
16 Services or a licensed child welfare agency; otherwise it
17 shall release the minor from custody. If the court prescribes
18 shelter care, then in placing the minor, the Department or
19 other agency shall, to the extent compatible with the court's
20 order, comply with Section 7 of the Children and Family
21 Services Act. In making the determination of the existence of
22 immediate and urgent necessity, the court shall consider among
23 other matters: (a) the nature and seriousness of the alleged
24 offense; (b) the minor's record of delinquency offenses,
25 including whether the minor has delinquency cases pending; (c)
26 the minor's record of willful failure to appear following the

1 issuance of a summons or warrant; (d) the availability of
2 non-custodial alternatives, including the presence of a
3 parent, guardian or other responsible relative able and
4 willing to provide supervision and care for the minor and to
5 assure his or her compliance with a summons. If the minor is
6 ordered placed in a shelter care facility of a licensed child
7 welfare agency, the court shall, upon request of the agency,
8 appoint the appropriate agency executive temporary custodian
9 of the minor and the court may enter such other orders related
10 to the temporary custody of the minor as it deems fit and
11 proper.

12 If the court prescribes detention, and the minor is a
13 youth in care of the Department of Children and Family
14 Services, a hearing shall be held every 14 days to determine
15 whether there is an urgent and immediate necessity to detain
16 the minor for the protection of the person or property of
17 another. If urgent and immediate necessity is not found on the
18 basis of the protection of the person or property of another,
19 the minor shall be released to the custody of the Department of
20 Children and Family Services. If the court prescribes
21 detention based on the minor being likely to flee the
22 jurisdiction, and the minor is a youth in care of the
23 Department of Children and Family Services, a hearing shall be
24 held every 7 days for status on the location of shelter care
25 placement by the Department of Children and Family Services.
26 Detention shall not be used as a shelter care placement for

1 minors in the custody or guardianship of the Department of
2 Children and Family Services.

3 The Department of Children and Family Services shall
4 reimburse any county probation department for the costs of
5 placement of any youth in care, whether the youth in care is in
6 the custody of a county juvenile detention center or
7 appropriate placement that meets the needs of the youth in
8 care. Costs shall include expenditures for transportation and
9 medical or mental health services. Placement costs shall be at
10 the detention center's usual and customary rate.

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

13 Once the court finds that it is a matter of immediate and
14 urgent necessity for the protection of the minor that the
15 minor be placed in a shelter care facility, the minor shall not
16 be returned to the parent, custodian or guardian until the
17 court finds that the placement is no longer necessary for the
18 protection of the minor.

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

24 (4) (a) Minors 12 years of age or older must be kept
25 separate from confined adults and may not at any time be kept
26 in the same cell, room or yard with confined adults. This

1 paragraph (4) shall only apply to confinement pending an
2 adjudicatory hearing and shall not exceed 40 hours, excluding
3 Saturdays, Sundays, and court designated holidays. To accept
4 or hold minors during this time period, county jails shall
5 comply with all monitoring standards adopted by the Department
6 of Corrections and training standards approved by the Illinois
7 Law Enforcement Training Standards Board.

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

16 (c) To accept or hold minors 12 years of age or older after
17 the time period prescribed in clause (a) and (b) of this
18 subsection, county jails shall comply with all county juvenile
19 detention standards adopted by the Department of Juvenile
20 Justice.

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

24 (6) If neither the parent, guardian, or legal custodian
25 appears within 24 hours to take custody of a minor released
26 from detention or shelter care, then the clerk of the court

1 shall set the matter for rehearing not later than 7 days after
2 the original order and shall issue a summons directed to the
3 parent, guardian, or legal custodian to appear. At the same
4 time the probation department shall prepare a report on the
5 minor. If a parent, guardian, or legal custodian does not
6 appear at such rehearing, the judge may enter an order
7 prescribing that the minor be kept in a suitable place
8 designated by the Department of Human Services or a licensed
9 child welfare agency. The time during which a minor is in
10 custody after being released upon the request of a parent,
11 guardian, or legal custodian shall be considered as time spent
12 in detention for purposes of scheduling the trial.

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

20 (a) It is no longer a matter of immediate and urgent
21 necessity that the minor remain in detention or shelter
22 care; or

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

25 (c) A person, including a parent, relative, or legal
26 guardian, is capable of assuming temporary custody of the

1 minor; or

2 (d) Services provided by the Department of Children
3 and Family Services or a child welfare agency or other
4 service provider have been successful in eliminating the
5 need for temporary custody.

6 The clerk shall set the matter for hearing not later than
7 14 days after such motion is filed. In the event that the court
8 modifies or vacates a temporary order but does not vacate its
9 finding of probable cause, the court may order that
10 appropriate services be continued or initiated on behalf of
11 the minor and his or her family.

12 (8) Whenever a petition has been filed under Section
13 5-520, the court can, at any time prior to trial or sentencing,
14 order that the minor be placed in detention or a shelter care
15 facility after the court conducts a hearing and finds that the
16 conduct and behavior of the minor may endanger the health,
17 person, welfare, or property of himself or others or that the
18 circumstances of his or her home environment may endanger his
19 or her health, person, welfare, or property.

20 (Source: P.A. 102-654, eff. 1-1-23; 102-813, eff. 5-13-22.)