

# SB2370



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB2370

Introduced 2/26/2021, by Sen. John Connor

#### SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-501

Amends the Juvenile Court Act of 1987. Provides that if the Court prescribes detention, and the minor is a ward of the Department of Children and Family Services, a hearing shall be held every 14 days to determine that there is urgent and immediate necessity to detain the minor for the protection of person or property of another. Provides that if urgent and immediate necessity is not found on the basis of the protection of the community, the minor shall be released to the custody of the Department of Children and Family Services. Provides that if the Court prescribes detention based on the minor being likely to flee the jurisdiction, and the minor is a ward of the Department of Children and Family Services, a hearing shall be held every 7 days for status on the location of shelter care placement by the Department of Children and Family Services. Detention shall not be used as a shelter care placement for minors in the custody or guardianship of the Department of Children and Family Services.

LRB102 14304 KMF 19656 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. Findings.

5 The General Assembly finds that an adequate continuum of  
6 care is necessary to better address the needs of juveniles  
7 within the court system.

8 The General Assembly finds that the unique partnership of  
9 State and local services is needed to provide the right  
10 placements, and the right services for justice-involved  
11 juveniles.

12 The General Assembly finds that providing juveniles that  
13 are wards of the State and in the care or recently in the care  
14 of the 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 Therefore, the General Assembly recommends that juveniles  
19 that are wards 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 10. 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 ward  
13 of the Department of Children and Family Services, a hearing  
14 shall be held every 14 days to determine that there is urgent  
15 and immediate necessity to detain the minor for the protection  
16 of person or property of another. If urgent and immediate  
17 necessity is not found on the basis of the protection of the  
18 community, the minor shall be released to the custody of the  
19 Department of Children and Family Services. If the Court  
20 prescribes detention based on the minor being likely to flee  
21 the jurisdiction, and the minor is a ward of the Department of  
22 Children and Family Services, a hearing shall be held every 7  
23 days for status on the location of shelter care placement by  
24 the Department of Children and Family Services. Detention  
25 shall not be used as a shelter care placement for minors in the  
26 custody or guardianship of the Department of Children and

1 Family Services.

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

4 Once the court finds that it is a matter of immediate and  
5 urgent necessity for the protection of the minor that the  
6 minor be placed in a shelter care facility, the minor shall not  
7 be returned to the parent, custodian or guardian until the  
8 court finds that the placement is no longer necessary for the  
9 protection of the minor.

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

15 (4) Minors 12 years of age or older must be kept separate  
16 from confined adults and may not at any time be kept in the  
17 same cell, room or yard with confined adults. This paragraph  
18 (4):

19 (a) shall only apply to confinement pending an  
20 adjudicatory hearing and shall not exceed 40 hours,  
21 excluding Saturdays, Sundays, and court designated  
22 holidays. To accept or hold minors during this time  
23 period, county jails shall comply with all monitoring  
24 standards adopted by the Department of Corrections and  
25 training standards approved by the Illinois Law  
26 Enforcement Training Standards Board.

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

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

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

17          (6) If neither the parent, guardian or legal custodian  
18          appears within 24 hours to take custody of a minor released  
19          from detention or shelter care, then the clerk of the court  
20          shall set the matter for rehearing not later than 7 days after  
21          the original order and shall issue a summons directed to the  
22          parent, guardian or legal custodian to appear. At the same  
23          time the probation department shall prepare a report on the  
24          minor. If a parent, guardian or legal custodian does not  
25          appear at such rehearing, the judge may enter an order  
26          prescribing that the minor be kept in a suitable place

1 designated by the Department of Human Services or a licensed  
2 child welfare agency. The time during which a minor is in  
3 custody after being released upon the request of a parent,  
4 guardian or legal custodian shall be considered as time spent  
5 in detention for purposes of scheduling the trial.

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

13 (a) It is no longer a matter of immediate and urgent  
14 necessity that the minor remain in detention or shelter  
15 care; or

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

18 (c) A person, including a parent, relative or legal  
19 guardian, is capable of assuming temporary custody of the  
20 minor; or

21 (d) Services provided by the Department of Children  
22 and Family Services or a child welfare agency or other  
23 service provider have been successful in eliminating the  
24 need for temporary custody.

25 The clerk shall set the matter for hearing not later than  
26 14 days after such motion is filed. In the event that the court



1 modifies or vacates a temporary order but does not vacate its  
2 finding of probable cause, the court may order that  
3 appropriate services be continued or initiated in behalf of  
4 the minor and his or her family.

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

13 (Source: P.A. 98-685, eff. 1-1-15.)