



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB1084

Introduced 1/12/2023, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-410

730 ILCS 5/3-15-2

from Ch. 38, par. 1003-15-2

Amends the Unified Code of Corrections. Provides that a minor placed in a State or county juvenile detention facility may not be placed in isolation for discipline, punishment, retaliation, or any other reason except as a temporary response to a minor's behavior that poses a serious and immediate risk of physical harm to any individual, including the minor. Provides that if a minor placed in a State or county juvenile detention facility poses a serious and immediate risk of physical harm to any individual, including the minor, before a staff member of the facility places the minor in isolation, the staff member shall attempt to use other less restrictive options, unless attempting those options poses a threat to the safety or security of any minor or staff. Limits the amount of time the minor may be placed in isolation. Amends the Juvenile Court Act of 1987 to make conforming changes.

LRB103 05019 RLC 50032 b

1 AN ACT concerning minors.

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) secure
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. A minor under 13 years of age shall not be admitted,
22 kept, or detained in a detention facility unless a local youth
23 service provider, including a provider through the

1 Comprehensive Community Based Youth Services network, has been
2 contacted and has not been able to accept the minor. No minor
3 under 12 years of age shall be detained in a county jail or a
4 municipal lockup for more than 6 hours.

5 (a-5) For a minor arrested or taken into custody for
6 vehicular hijacking or aggravated vehicular hijacking, a
7 previous finding of delinquency for vehicular hijacking or
8 aggravated vehicular hijacking shall be given greater weight
9 in determining whether secured custody of a minor is a matter
10 of immediate and urgent necessity for the protection of the
11 minor or of the person or property of another.

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

21 (b-4) The consultation required by paragraph (b-5) shall
22 not be applicable if the probation officer or detention
23 officer (or other public officer designated by the court in a
24 county having 3,000,000 or more inhabitants) utilizes a
25 scorable detention screening instrument, which has been
26 developed with input by the State's Attorney, to determine

1 whether a minor should be detained, however, paragraph (b-5)
2 shall still be applicable where no such screening instrument
3 is used or where the probation officer, detention officer (or
4 other public officer designated by the court in a county
5 having 3,000,000 or more inhabitants) deviates from the
6 screening instrument.

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

24 (c) Except as otherwise provided in paragraph (a), (d), or
25 (e), no minor shall be detained in a county jail or municipal
26 lockup for more than 12 hours, unless the offense is a crime of

1 violence in which case the minor may be detained up to 24
2 hours. For the purpose of this paragraph, "crime of violence"
3 has the meaning ascribed to it in Section 1-10 of the
4 Alcoholism and Other Drug Abuse and Dependency Act.

5 (i) The period of detention is deemed to have begun
6 once the minor has been placed in a locked room or cell or
7 handcuffed to a stationary object in a building housing a
8 county jail or municipal lockup. Time spent transporting a
9 minor is not considered to be time in detention or secure
10 custody.

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

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

18 (iv) A log shall be kept which shows the offense which
19 is the basis for the detention, the reasons and
20 circumstances for the decision to detain, and the length
21 of time the minor was in detention.

22 (v) Violation of the time limit on detention in a
23 county jail or municipal lockup shall not, in and of
24 itself, render inadmissible evidence obtained as a result
25 of the violation of this time limit. Minors under 18 years
26 of age shall be kept separate from confined adults and may

1 not at any time be kept in the same cell, room, or yard
2 with adults confined pursuant to criminal law. Persons 18
3 years of age and older who have a petition of delinquency
4 filed against them may be confined in an adult detention
5 facility. In making a determination whether to confine a
6 person 18 years of age or older who has a petition of
7 delinquency filed against the person, these factors, among
8 other matters, shall be considered:

9 (A) the age of the person;

10 (B) any previous delinquent or criminal history of
11 the person;

12 (C) any previous abuse or neglect history of the
13 person; and

14 (D) any mental health or educational history of
15 the person, or both.

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

1 this time period, county jails shall comply with all
2 monitoring standards adopted by the Department of Corrections
3 and training standards approved by the Illinois Law
4 Enforcement Training Standards Board.

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

13 (iii) To accept or hold minors 12 years of age or older,
14 after the time period prescribed in paragraphs (d)(i) and
15 (d)(ii) of this subsection (2) of this Section, county jails
16 shall comply with all county juvenile detention standards,
17 including standards on isolation of minors under Section
18 3-15-2 of the Unified Code of Corrections, adopted by the
19 Department of Juvenile Justice.

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

1 juvenile and adult prisoners.

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

8 (g) For purposes of processing a minor, the minor may be
9 taken to a county jail or municipal lockup under the direct and
10 constant supervision of a law enforcement officer or
11 correctional officer. During such time as is necessary to
12 process the minor, and while supervised by a law enforcement
13 officer or correctional officer, the sight and sound
14 separation provisions shall not apply.

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

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

1 (5) The changes made to this Section by Public Act 98-61
2 apply to a minor who has been arrested or taken into custody on
3 or after January 1, 2014 (the effective date of Public Act
4 98-61).

5 (Source: P.A. 100-745, eff. 8-10-18; 101-81, eff. 7-12-19.)

6 Section 10. The Unified Code of Corrections is amended by
7 changing Section 3-15-2 as follows:

8 (730 ILCS 5/3-15-2) (from Ch. 38, par. 1003-15-2)

9 Sec. 3-15-2. Standards and Assistance to Local Jails and
10 Detention and Shelter Care Facilities.

11 (a) The Department of Corrections shall establish for the
12 operation of county and municipal jails and houses of
13 correction, minimum standards for the physical condition of
14 such institutions and for the treatment of inmates with
15 respect to their health and safety and the security of the
16 community.

17 (1) The Department of Juvenile Justice shall establish
18 for the operation of county juvenile detention and shelter
19 care facilities established pursuant to the County Shelter
20 Care and Detention Home Act, minimum standards for the
21 physical condition of such institutions and for the
22 treatment of juveniles with respect to their health and
23 safety and the security of the community.

24 (2) Such standards shall not apply to county shelter

1 care facilities which were in operation prior to January
2 1, 1980; except that standards on isolation of minors
3 placed in those county shelter care facilities under
4 paragraph (3) apply.

5 (3) A minor placed in a State or county juvenile
6 detention facility may not be placed in isolation for
7 discipline, punishment, retaliation, or any other reason
8 except as as a temporary response to a minor's behavior
9 that poses a serious and immediate risk of physical harm
10 to any individual, including the minor. If a minor placed
11 in a State or county juvenile detention facility poses a
12 serious and immediate risk of physical harm to any
13 individual, including the minor, before a staff member of
14 the facility places the minor in isolation, the staff
15 member shall attempt to use other less restrictive
16 options, unless attempting those options poses a threat to
17 the safety or security of any minor or staff. If the minor
18 is placed in isolation because the minor poses a serious
19 and immediate risk of physical harm to himself or herself,
20 or to others, the minor shall be released from isolation
21 immediately upon the minor sufficiently gaining control so
22 as to no longer engage in behavior that threatens a
23 serious and immediate risk of physical harm to himself or
24 herself, or to others, but in no event later than:

25 (A) 3 hours after being placed in isolation, in
26 the case of a minor who poses a serious and immediate

1 risk of physical harm to others; or

2 (B) 30 minutes after being placed in isolation, in
3 the case of a minor who poses a serious and immediate
4 risk of physical harm only to himself or herself.

5 As used in this paragraph (3):

6 "Isolation" means a state of isolation in which a
7 minor is unable to engage in social interactions and
8 religious and recreational activities with other
9 minors placed in the facility or with parents,
10 guardians, other family members, friends, loved ones,
11 caregivers, and external support systems.

12 "Religious and recreational activities" includes
13 any religious, social, or recreational activity that
14 is consistent with a minor's preferences and choosing,
15 regardless of whether the activity is coordinated,
16 offered, provided, or sponsored by facility staff or
17 by an outside activities provider.

18 (4) Such standards shall not seek to mandate minimum
19 floor space requirements for each inmate housed in cells
20 and detention rooms in county and municipal jails and
21 houses of correction. However, no more than two inmates
22 may be housed in a single cell or detention room.

23 (5) When an inmate is tested for an airborne
24 communicable disease, as determined by the Illinois
25 Department of Public Health including but not limited to
26 tuberculosis, the results of the test shall be personally

1 delivered by the warden or his or her designee in a sealed
2 envelope to the judge of the court in which the inmate must
3 appear for the judge's inspection in camera if requested
4 by the judge. Acting in accordance with the best interests
5 of those in the courtroom, the judge shall have the
6 discretion to determine what if any precautions need to be
7 taken to prevent transmission of the disease in the
8 courtroom.

9 (b) At least once each year, the Department of Corrections
10 may inspect each adult facility for compliance with the
11 standards established and the results of such inspection shall
12 be made available by the Department for public inspection. At
13 least once each year, the Department of Juvenile Justice shall
14 inspect each county juvenile detention and shelter care
15 facility for compliance with the standards established, and
16 the Department of Juvenile Justice shall make the results of
17 such inspections available for public inspection. If any
18 detention, shelter care or correctional facility does not
19 comply with the standards established, the Director of
20 Corrections or the Director of Juvenile Justice, as the case
21 may be, shall give notice to the county board and the sheriff
22 or the corporate authorities of the municipality, as the case
23 may be, of such noncompliance, specifying the particular
24 standards that have not been met by such facility. If the
25 facility is not in compliance with such standards when six
26 months have elapsed from the giving of such notice, the

1 Director of Corrections or the Director of Juvenile Justice,
2 as the case may be, may petition the appropriate court for an
3 order requiring such facility to comply with the standards
4 established by the Department or for other appropriate relief.

5 (c) The Department of Corrections may provide consultation
6 services for the design, construction, programs and
7 administration of correctional facilities and services for
8 adults operated by counties and municipalities and may make
9 studies and surveys of the programs and the administration of
10 such facilities. Personnel of the Department shall be admitted
11 to these facilities as required for such purposes. The
12 Department may develop and administer programs of
13 grants-in-aid for correctional services in cooperation with
14 local agencies. The Department may provide courses of training
15 for the personnel of such institutions and conduct pilot
16 projects in the institutions.

17 (c-5) The Department of Juvenile Justice may provide
18 consultation services for the design, construction, programs,
19 and administration of detention and shelter care services for
20 children operated by counties and municipalities and may make
21 studies and surveys of the programs and the administration of
22 such facilities. Personnel of the Department of Juvenile
23 Justice shall be admitted to these facilities as required for
24 such purposes. The Department of Juvenile Justice may develop
25 and administer programs of grants-in-aid for juvenile
26 correctional services in cooperation with local agencies. The

1 Department of Juvenile Justice may provide courses of training
2 for the personnel of such institutions and conduct pilot
3 projects in the institutions.

4 (d) The Department is authorized to issue reimbursement
5 grants for counties, municipalities or public building
6 commissions for the purpose of meeting minimum correctional
7 facilities standards set by the Department under this Section.
8 Grants may be issued only for projects that were completed
9 after July 1, 1980 and initiated prior to January 1, 1987.

10 (1) Grants for regional correctional facilities shall
11 not exceed 90% of the project costs or \$7,000,000,
12 whichever is less.

13 (2) Grants for correctional facilities by a single
14 county, municipality or public building commission shall
15 not exceed 75% of the proposed project costs or
16 \$4,000,000, whichever is less.

17 (3) As used in this subsection (d), "project" means
18 only that part of a facility that is constructed for jail,
19 correctional or detention purposes and does not include
20 other areas of multi-purpose buildings.

21 Construction or renovation grants are authorized to be
22 issued by the Capital Development Board from capital
23 development bond funds after application by a county or
24 counties, municipality or municipalities or public building
25 commission or commissions and approval of a construction or
26 renovation grant by the Department for projects initiated

1 after January 1, 1987.

2 (e) The Department of Corrections shall adopt standards
3 for county jails to hold juveniles on a temporary basis, as
4 provided in Section 5-410 of the Juvenile Court Act of 1987.
5 These standards shall include monitoring, educational,
6 recreational, and disciplinary standards as well as access to
7 medical services, crisis intervention, mental health services,
8 suicide prevention, health care, nutritional needs, and
9 visitation rights. The Department of Corrections shall also
10 notify any county applying to hold juveniles in a county jail
11 of the standards for juvenile detention under Section 5-410 of
12 the Juvenile Court Act of 1987.

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