



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2328

Introduced 2/14/2023, by Rep. Robyn Gabel

SYNOPSIS AS INTRODUCED:

20 ILCS 505/17a-9
705 ILCS 405/5-410

from Ch. 23, par. 5017a-9

Amends the Children and Family Services Act. Provides that the Illinois Juvenile Justice Commission shall study and make recommendations to the General Assembly regarding the availability of youth services to reduce the use of detention and prevent deeper criminal involvement. Amends the Juvenile Court Act of 1987. Provides that placement of a minor away from his or her home must be a last resort and the least restrictive alternative available. Provides that any minor 14 (rather than 10) years of age or older may be kept or detained in an authorized detention facility if the minor is arrested pursuant to the Act and there is probable cause to believe that the minor is a delinquent minor and that secure custody is a matter of immediate and urgent necessity in light of specified factors. Provides that no minor under 14 (instead of 12) years of age shall be detained in a county jail or a municipal lockup for more than 6 hours. Provides that a minor found to be guilty may be committed to the Department of Juvenile Justice if the minor is at least 14 (rather than 13) years and under 20 years of age, if the minor was found guilty of a felony offense or first degree murder. Provides that a minor under the age of 14 who is in violation of the law may be the subject of a petition under the Minors Requiring Authoritative Intervention Article of the Act, or may be held accountable through a community mediation program.

LRB103 28293 RLC 54672 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 Children and Family Services Act is amended
5 by changing Section 17a-9 as follows:

6 (20 ILCS 505/17a-9) (from Ch. 23, par. 5017a-9)

7 Sec. 17a-9. Illinois Juvenile Justice Commission.

8 (a) There is hereby created the Illinois Juvenile Justice
9 Commission which shall consist of 25 persons appointed by the
10 Governor. The Chairperson of the Commission shall be appointed
11 by the Governor. Of the initial appointees, 8 shall serve a
12 one-year term, 8 shall serve a two-year term and 9 shall serve
13 a three-year term. Thereafter, each successor shall serve a
14 three-year term. Vacancies shall be filled in the same manner
15 as original appointments. Once appointed, members shall serve
16 until their successors are appointed and qualified. Members
17 shall serve without compensation, except they shall be
18 reimbursed for their actual expenses in the performance of
19 their duties. The Commission shall carry out the rights,
20 powers and duties established in subparagraph (3) of paragraph
21 (a) of Section 223 of the Federal "Juvenile Justice and
22 Delinquency Prevention Act of 1974", as now or hereafter
23 amended. The Commission shall determine the priorities for

1 expenditure of funds made available to the State by the
2 Federal Government pursuant to that Act. The Commission shall
3 have the following powers and duties:

4 (1) Development, review and final approval of the
5 State's juvenile justice plan for funds under the Federal
6 "Juvenile Justice and Delinquency Prevention Act of 1974";

7 (2) Review and approve or disapprove juvenile justice
8 and delinquency prevention grant applications to the
9 Department for federal funds under that Act;

10 (3) Annual submission of recommendations to the
11 Governor and the General Assembly concerning matters
12 relative to its function;

13 (4) Responsibility for the review of funds allocated
14 to Illinois under the "Juvenile Justice and Delinquency
15 Prevention Act of 1974" to ensure compliance with all
16 relevant federal laws and regulations;

17 (5) Function as the advisory committee for the State
18 Youth and Community Services Program as authorized under
19 Section 17 of this Act, and in that capacity be authorized
20 and empowered to assist and advise the Secretary of Human
21 Services on matters related to juvenile justice and
22 delinquency prevention programs and services; ~~and~~

23 (5.5) Study and make recommendations to the General
24 Assembly regarding the availability of youth services to
25 reduce the use of detention and prevent deeper criminal
26 involvement; and

1 (6) Study the impact of, develop timelines, and
2 propose a funding structure to accommodate the expansion
3 of the jurisdiction of the Illinois Juvenile Court to
4 include youth age 17 under the jurisdiction of the
5 Juvenile Court Act of 1987. The Commission shall submit a
6 report by December 31, 2011 to the General Assembly with
7 recommendations on extending juvenile court jurisdiction
8 to youth age 17 charged with felony offenses.

9 (b) On the effective date of this amendatory Act of the
10 96th General Assembly, the Illinois Juvenile Jurisdiction Task
11 Force created by Public Act 95-1031 is abolished and its
12 duties are transferred to the Illinois Juvenile Justice
13 Commission as provided in paragraph (6) of subsection (a) of
14 this Section.

15 (Source: P.A. 96-1199, eff. 1-1-11.)

16 Section 10. The Juvenile Court Act of 1987 is amended by
17 changing Section 5-410 as follows:

18 (705 ILCS 405/5-410)

19 Sec. 5-410. Non-secure custody or detention.

20 (1) Placement of a minor away from his or her home must be
21 a last resort and the least restrictive alternative available.

22 Any minor arrested or taken into custody pursuant to this Act
23 who requires care away from his or her home but who does not
24 require physical restriction shall be given temporary care in

1 a foster family home or other shelter facility designated by
2 the court.

3 (2) (a) Any minor 14 ~~10~~ years of age or older arrested
4 pursuant to this Act where there is probable cause to believe
5 that the minor is a delinquent minor and that ~~(i)~~ secure
6 custody is a matter of immediate and urgent necessity, in
7 light of a serious threat to the physical safety of a person or
8 persons in the community or in order to secure the presence of
9 the minor at the next hearing, as evidenced by a demonstrable
10 record of willful failure to appear at a scheduled court
11 hearing within the past 12 months, may be kept or detained in
12 an authorized detention facility. ~~for the protection of the~~
13 ~~minor or of the person or property of another, (ii) the minor~~
14 ~~is likely to flee the jurisdiction of the court, or (iii) the~~
15 ~~minor was taken into custody under a warrant, may be kept or~~
16 ~~detained in an authorized detention facility. A minor under 13~~
17 ~~years of age shall not be admitted, kept, or detained in a~~
18 ~~detention facility unless a local youth service provider,~~
19 ~~including a provider through the Comprehensive Community Based~~
20 ~~Youth Services network, has been contacted and has not been~~
21 ~~able to accept the minor.~~ No minor under 14 ~~12~~ years of age
22 shall be detained in a county jail or a municipal lockup for
23 more than 6 hours. A minor under the age of 14 who is in
24 violation of the law may be the subject of a petition under
25 Article III or may be held accountable through a community
26 mediation program as set forth in Section 5-310.

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

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

17 (b-4) The consultation required by paragraph (b-5) shall
18 not be applicable if the probation officer or detention
19 officer (or other public officer designated by the court in a
20 county having 3,000,000 or more inhabitants) utilizes a
21 scorable detention screening instrument, which has been
22 developed with input by the State's Attorney, to determine
23 whether a minor should be detained, however, paragraph (b-5)
24 shall still be applicable where no such screening instrument
25 is used or where the probation officer, detention officer (or
26 other public officer designated by the court in a county

1 having 3,000,000 or more inhabitants) deviates from the
2 screening instrument.

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

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

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

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

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

14 (iv) A log shall be kept which shows the offense which
15 is the basis for the detention, the reasons and
16 circumstances for the decision to detain, and the length
17 of time the minor was in detention.

18 (v) Violation of the time limit on detention in a
19 county jail or municipal lockup shall not, in and of
20 itself, render inadmissible evidence obtained as a result
21 of the violation of this time limit. Minors under 18 years
22 of age shall be kept separate from confined adults and may
23 not at any time be kept in the same cell, room, or yard
24 with adults confined pursuant to criminal law. Persons 18
25 years of age and older who have a petition of delinquency
26 filed against them may be confined in an adult detention

1 facility. In making a determination whether to confine a
2 person 18 years of age or older who has a petition of
3 delinquency filed against the person, these factors, among
4 other matters, shall be considered:

5 (A) the age of the person;

6 (B) any previous delinquent or criminal history of
7 the person;

8 (C) any previous abuse or neglect history of the
9 person; and

10 (D) any mental health or educational history of
11 the person, or both.

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

1 (ii) To accept or hold minors, 12 years of age or older,
2 after the time period prescribed in paragraph (d)(i) of this
3 subsection (2) 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 Illinois
8 Law Enforcement Training Standards Board.

9 (iii) To accept or hold minors 12 years of age or older,
10 after the time period prescribed in paragraphs (d)(i) and
11 (d)(ii) of this subsection (2) of this Section, county jails
12 shall comply with all county juvenile detention standards
13 adopted by the Department of Juvenile Justice.

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

22 (f) For purposes of appearing in a physical lineup, the
23 minor may be taken to a county jail or municipal lockup under
24 the direct and constant supervision of a juvenile police
25 officer. During such time as is necessary to conduct a lineup,
26 and while supervised by a juvenile police officer, the sight

1 and sound separation provisions shall not apply.

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

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

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

21 (5) The changes made to this Section by Public Act 98-61
22 apply to a minor who has been arrested or taken into custody on
23 or after January 1, 2014 (the effective date of Public Act
24 98-61).

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