

HB2927



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2927

Introduced 2/16/2023, by Rep. Dennis Tipsword, Jr.

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-410

Amends the Juvenile Court Act of 1987. Provides that if a person 18 years of age or older is confined in a county jail for any matter or proceeding under the Act, the provision that the minor's confinement shall be implemented in such a manner that there will be no contact by sight, sound, or otherwise between the minor and adult prisoners does not apply.

LRB103 28489 RLC 54870 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. 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. If a
21 person 18 years of age or older is confined in a county jail
22 for any matter or proceeding under this Act, the provision of
23 this paragraph (d) that the minor's confinement shall be
24 implemented in such a manner that there will be no contact by
25 sight, sound, or otherwise between the minor and adult
26 prisoners does not apply. Minors 12 years of age or older must

1 be kept separate from confined adults and may not at any time
2 be kept in the same cell, room, or yard with confined adults.
3 This paragraph (d)(i) shall only apply to confinement pending
4 an adjudicatory hearing and shall not exceed 40 hours,
5 excluding Saturdays, Sundays, and court-designated holidays.
6 To accept or hold minors during this time period, county jails
7 shall comply with all monitoring standards adopted by the
8 Department of Corrections and training standards approved by
9 the Illinois Law Enforcement Training Standards Board.

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

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

23 (e) When a minor who is at least 15 years of age is
24 prosecuted under the criminal laws of this State, the court
25 may enter an order directing that the juvenile be confined in
26 the county jail. However, any juvenile confined in the county

1 jail under this provision shall be separated from adults who
2 are confined in the county jail in such a manner that there
3 will be no contact by sight, sound or otherwise between the
4 juvenile and adult prisoners.

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

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

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

26 (4) Any minor taken into temporary custody, not requiring

1 secure detention, may, however, be detained in the home of his
2 or her parent or guardian subject to such conditions as the
3 court may impose.

4 (5) The changes made to this Section by Public Act 98-61
5 apply to a minor who has been arrested or taken into custody on
6 or after January 1, 2014 (the effective date of Public Act
7 98-61).

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