

HB3063



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB3063

Introduced 2/26/2007, by Rep. Tom Cross

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-501

Amends the Juvenile Court Act of 1987. Makes a technical change in a Section concerning detention or shelter care hearings.

LRB095 06151 RLC 26244 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 5-501 as follows:

6 (705 ILCS 405/5-501)

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

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

22 (2) If the court finds that there is probable cause to
23 believe that the minor is a delinquent minor, the minor, his or

1 her parent, guardian, custodian and other persons able to give
2 relevant testimony may be examined before the court. The court
3 may also consider any evidence by way of proffer based upon
4 reliable information offered by the State or the minor. All
5 evidence, including affidavits, shall be admissible if it is
6 relevant and reliable regardless of whether it would be
7 admissible under the rules of evidence applicable at trial.
8 After such evidence is presented, the court may enter an order
9 that the minor shall be released upon the request of a parent,
10 guardian or legal custodian if the parent, guardian or
11 custodian appears to take custody.

12 If the court finds that it is a matter of immediate and
13 urgent necessity for the protection of the minor or of the
14 person or property of another that the minor be detained or
15 placed in a shelter care facility or that he or she is likely
16 to flee the jurisdiction of the court, the court may prescribe
17 detention or shelter care and order that the minor be kept in a
18 suitable place designated by the court or in a shelter care
19 facility designated by the Department of Children and Family
20 Services or a licensed child welfare agency; otherwise it shall
21 release the minor from custody. If the court prescribes shelter
22 care, then in placing the minor, the Department or other agency
23 shall, to the extent compatible with the court's order, comply
24 with Section 7 of the Children and Family Services Act. In
25 making the determination of the existence of immediate and
26 urgent necessity, the court shall consider among other matters:

1 (a) the nature and seriousness of the alleged offense; (b) the
2 minor's record of delinquency offenses, including whether the
3 minor has delinquency cases pending; (c) the minor's record of
4 willful failure to appear following the issuance of a summons
5 or warrant; (d) the availability of non-custodial
6 alternatives, including the presence of a parent, guardian or
7 other responsible relative able and willing to provide
8 supervision and care for the minor and to assure his or her
9 compliance with a summons. If the minor is ordered placed in a
10 shelter care facility of a licensed child welfare agency, the
11 court shall, upon request of the agency, appoint the
12 appropriate agency executive temporary custodian of the minor
13 and the court may enter such other orders related to the
14 temporary custody of the minor as it deems fit and proper.

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

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

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

1 subsection (4).

2 (4) Minors 12 years of age or older must be kept separate
3 from confined adults and may not at any time be kept in the
4 same cell, room or yard with confined adults. This paragraph
5 (4):

6 (a) shall only apply to confinement pending an
7 adjudicatory hearing and shall not exceed 40 hours,
8 excluding Saturdays, Sundays, and court designated
9 holidays. To accept or hold minors during this time period,
10 county jails shall comply with all monitoring standards for
11 juvenile detention homes promulgated by the Department of
12 Corrections and training standards approved by the
13 Illinois Law Enforcement Training Standards Board.

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

22 (c) To accept or hold minors 12 years of age or older,
23 after the time period prescribed in clause (a) and (b), of
24 this subsection county jails shall comply with all
25 programmatic and training standards for juvenile detention
26 homes promulgated by the Department of Corrections.

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

4 (6) If neither the parent, guardian or legal custodian
5 appears within 24 hours to take custody of a minor released
6 from detention or shelter care, then the clerk of the court
7 shall set the matter for rehearing not later than 7 days after
8 the original order and shall issue a summons directed to the
9 parent, guardian or legal custodian to appear. At the same time
10 the probation department shall prepare a report on the minor.
11 If a parent, guardian or legal custodian does not appear at
12 such rehearing, the judge may enter an order prescribing that
13 the minor be kept in a suitable place designated by the
14 Department of Human Services or a licensed child welfare
15 agency. The time during which a minor is in custody after being
16 released upon the request of a parent, guardian or legal
17 custodian shall be considered as time spent in detention for
18 purposes of scheduling the trial.

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

26 (a) It is no longer a matter of immediate and urgent

1 necessity that the minor remain in detention or shelter
2 care; or

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

5 (c) A person, including a parent, relative or legal
6 guardian, is capable of assuming temporary custody of the
7 minor; or

8 (d) Services provided by the Department of Children and
9 Family Services or a child welfare agency or other service
10 provider have been successful in eliminating the need for
11 temporary custody.

12 The clerk shall set the matter for hearing not later than
13 14 days after such motion is filed. In the event that the court
14 modifies or vacates a temporary order but does not vacate its
15 finding of probable cause, the court may order that appropriate
16 services be continued or initiated in behalf of the minor and
17 his or her family.

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

26 (Source: P.A. 90-590, eff. 1-1-99.)