

1 AN ACT concerning juveniles.

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  
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  
12 in its findings or stated in or offered in connection with  
13 this Section may be by way of proffer based on reliable  
14 information offered by the State or minor. All evidence  
15 shall be admissible if it is relevant and reliable regardless  
16 of whether it would be admissible under the rules of evidence  
17 applicable at a trial. No hearing may be held unless the  
18 minor is represented by counsel.

19 (1) If the court finds that there is not probable cause  
20 to believe that the minor is a delinquent minor it shall  
21 release 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  
24 or her parent, guardian, custodian and other persons able to  
25 give relevant testimony may be examined before the court.  
26 The court may also consider any evidence by way of proffer  
27 based upon reliable information offered by the State or the  
28 minor. All evidence, including affidavits, shall be  
29 admissible if it is relevant and reliable regardless of  
30 whether it would be admissible under the rules of evidence  
31 applicable at trial. After such evidence is presented, the

1 court may enter an order that the minor shall be released  
2 upon the request of a parent, guardian or legal custodian if  
3 the parent, guardian or custodian appears to take custody.

4 If the court finds that it is a matter of immediate and  
5 urgent necessity for the protection of the minor or of the  
6 person or property of another that the minor be detained or  
7 placed in a shelter care facility or that he or she is likely  
8 to flee the jurisdiction of the court, the court may  
9 prescribe detention or shelter care and order that the minor  
10 be kept in a suitable place designated by the court or in a  
11 shelter care facility designated by the Department of  
12 Children and Family Services or a licensed child welfare  
13 agency; otherwise the court ~~it~~ shall release the minor from  
14 custody. If the court prescribes shelter care, then in  
15 placing the minor, the Department or other agency shall, to  
16 the extent compatible with the court's order, comply with  
17 Section 7 of the Children and Family Services Act. In making  
18 the determination of the existence of immediate and urgent  
19 necessity, the court shall consider among other matters: (a)  
20 the nature and seriousness of the alleged offense; (b) the  
21 minor's record of delinquency offenses, including whether the  
22 minor has delinquency cases pending; (c) the minor's record  
23 of willful failure to appear following the issuance of a  
24 summons or warrant; (d) the availability of non-custodial  
25 alternatives, including the presence of a parent, guardian or  
26 other responsible relative able and willing to provide  
27 supervision and care for the minor and to assure his or her  
28 compliance with a summons. If the minor is ordered placed in  
29 a shelter care facility of a licensed child welfare agency,  
30 the court shall, upon request of the agency, appoint the  
31 appropriate agency executive temporary custodian of the minor  
32 and the court may enter such other orders related to the  
33 temporary custody of the minor as it deems fit and proper.

34 The order together with the court's findings of fact in

1 support of the order shall be entered of record in the court.

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

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

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

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

25 (b) To accept or hold minors, 12 years of age or  
26 older, after the time period prescribed in clause (a) of  
27 subsection (4) of this Section but not exceeding 7 days  
28 including Saturdays, Sundays, and holidays, pending an  
29 adjudicatory hearing, county jails shall comply with all  
30 temporary detention standards promulgated by the  
31 Department of Corrections and training standards approved  
32 by the Illinois Law Enforcement Training Standards Board.

33 (c) To accept or hold minors 12 years of age or  
34 older, after the time period prescribed in clause (a) and

1 (b), of this subsection county jails shall comply with  
 2 all programmatic and training standards for juvenile  
 3 detention homes promulgated by the Department of  
 4 Corrections.

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

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

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

30 (a) It is no longer a matter of immediate and  
 31 urgent necessity that the minor remain in detention or  
 32 shelter care; or

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

1 or

2 (c) A person, including a parent, relative or legal  
3 guardian, is capable of assuming temporary custody of the  
4 minor; or

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

9 The clerk shall set the matter for hearing not later than  
10 14 days after such motion is filed. In the event that the  
11 court modifies or vacates a temporary order but does not  
12 vacate its finding of probable cause, the court may order  
13 that appropriate services be continued or initiated in behalf  
14 of the minor and his or her family.

15 (8) Whenever a petition has been filed under Section  
16 5-520 the court can, at any time prior to trial or  
17 sentencing, order that the minor be placed in detention or a  
18 shelter care facility after the court conducts a hearing and  
19 finds that the conduct and behavior of the minor may endanger  
20 the health, person, welfare, or property of himself or others  
21 or that the circumstances of his or her home environment may  
22 endanger his or her health, person, welfare or property.

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