

# SB2807



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2807

Introduced 1/17/2024, by Sen. Jil Tracy

### SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-410

Amends the Juvenile Court Act of 1987. Provides that any minor 15 years of age or older arrested or taken into custody under the Act for aggravated vehicular hijacking shall be detained in an authorized detention facility until a detention or shelter care hearing is held to determine if there is probable cause to believe that the minor is a delinquent minor and: (1) secure custody is a matter of immediate and urgent necessity for the protection of the minor or of the person or property of another; (2) the minor is likely to flee the jurisdiction of the court; or (3) the minor was taken into custody under a warrant. Provides that if the court makes that determination, the minor shall continue to be held until the disposition of an adjudicatory hearing under the Delinquent Minors Article of the Act.

LRB103 34067 RLC 63884 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 the minor's 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, the  
12 probation officer or detention officer (or other public  
13 officer designated by the court in a county having 3,000,000  
14 or more inhabitants) shall consult with the State's Attorney's  
15 Office prior to the release of the minor: first degree murder,  
16 second degree murder, involuntary manslaughter, criminal  
17 sexual assault, aggravated criminal sexual assault, aggravated  
18 battery with a firearm as described in Section 12-4.2 or  
19 subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section  
20 12-3.05, aggravated or heinous battery involving permanent  
21 disability or disfigurement or great bodily harm, robbery,  
22 aggravated robbery, armed robbery, vehicular hijacking,  
23 ~~aggravated vehicular hijacking,~~ vehicular invasion, arson,  
24 aggravated arson, kidnapping, aggravated kidnapping, home  
25 invasion, burglary, or residential burglary. Any minor 15  
26 years of age or older arrested or taken into custody under this

1 Act for aggravated vehicular hijacking shall be detained in an  
2 authorized detention facility until a detention or shelter  
3 care hearing is held to determine if there is probable cause to  
4 believe that the minor is a delinquent minor and: (1) secure  
5 custody is a matter of immediate and urgent necessity for the  
6 protection of the minor or of the person or property of  
7 another; (2) the minor is likely to flee the jurisdiction of  
8 the court; or (3) the minor was taken into custody under a  
9 warrant. If the court makes that determination, the minor  
10 shall continue to be held until the disposition of an  
11 adjudicatory hearing under this Article.

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

19 (i) The period of detention is deemed to have begun  
20 once the minor has been placed in a locked room or cell or  
21 handcuffed to a stationary object in a building housing a  
22 county jail or municipal lockup. Time spent transporting a  
23 minor is not considered to be time in detention or secure  
24 custody.

25 (ii) Any minor so confined shall be under periodic  
26 supervision and shall not be permitted to come into or

1 remain in contact with adults in custody in the building.

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

6 (iv) A log shall be kept which shows the offense which  
7 is the basis for the detention, the reasons and  
8 circumstances for the decision to detain, and the length  
9 of time the minor was in detention.

10 (v) Violation of the time limit on detention in a  
11 county jail or municipal lockup shall not, in and of  
12 itself, render inadmissible evidence obtained as a result  
13 of the violation of this time limit. Minors under 18 years  
14 of age shall be kept separate from confined adults and may  
15 not at any time be kept in the same cell, room, or yard  
16 with adults confined pursuant to criminal law. Persons 18  
17 years of age and older who have a petition of delinquency  
18 filed against them may be confined in an adult detention  
19 facility. In making a determination whether to confine a  
20 person 18 years of age or older who has a petition of  
21 delinquency filed against the person, these factors, among  
22 other matters, shall be considered:

23 (A) the age of the person;

24 (B) any previous delinquent or criminal history of  
25 the person;

26 (C) any previous abuse or neglect history of the

1 person; and

2 (D) any mental health or educational history of  
3 the person, or both.

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

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

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

6           (e) When a minor who is at least 15 years of age is  
7 prosecuted under the criminal laws of this State, the court  
8 may enter an order directing that the juvenile be confined in  
9 the county jail. However, any juvenile confined in the county  
10 jail under this provision shall be separated from adults who  
11 are confined in the county jail in such a manner that there  
12 will be no contact by sight, sound or otherwise between the  
13 juvenile and adult prisoners.

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

20           (g) For purposes of processing a minor, the minor may be  
21 taken to a county jail or municipal lockup under the direct and  
22 constant supervision of a law enforcement officer or  
23 correctional officer. During such time as is necessary to  
24 process the minor, and while supervised by a law enforcement  
25 officer or correctional officer, the sight and sound  
26 separation provisions shall not apply.



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

9           (4) Any minor taken into temporary custody, not requiring  
10 secure detention, may, however, be detained in the home of the  
11 minor's parent or guardian subject to such conditions as the  
12 court may impose.

13           (5) The changes made to this Section by Public Act 98-61  
14 apply to a minor who has been arrested or taken into custody on  
15 or after January 1, 2014 (the effective date of Public Act  
16 98-61).

17           (Source: P.A. 103-22, eff. 8-8-23.)