

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.)