SB265

U5I9DGX-1

By Senator Coleman-Madison

RFD: Finance and Taxation General Fund

First Read: 02-Apr-24

SYNOPSIS:

Under existing law, a juvenile court may order a child to be transferred to the custody of the Department of Youth Services.

This bill would require the Department of Youth Services to reimburse a county detention facility under certain circumstances for the costs of housing a child once the child has been ordered to be transferred to the custody of the Department of Youth Services.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL

TO BE ENTITLED

AN ACT

Relating to juvenile courts; to amend Sections 12-15-208 and 12-15-215, Code of Alabama 1975, to require the Department of Youth Services to reimburse a county detention facility for housing a child once the child has been ordered to the custody of the Department of Youth Services; and to make nonsubstantive, technical revisions to update the existing code language to current style.Relating to juvenile

courts; to amend Sections 12-15-208 and 12-15-215, Code of Alabama 1975, to require the Department of Youth Services to reimburse a county detention facility for housing a child once the child has been ordered to the custody of the Department of Youth Services; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 12-15-208 and 12-15-215, Code of Alabama 1975, are amended to read as follows:

"§12-15-208

(a) Persons who shall not be detained or confined in secure custody include all of the following:

(1) ~~STATUS OFFENDERS. Effective October 1, 2009,~~ A status ~~offenders~~offender, ~~as defined in this article, shall not be detained or confined in secure custody,~~ except as further provided in this subdivision and subsection (b)~~that a status offender who is charged with or who commits a violation of a valid court order may be detained in secure custody in a juvenile detention facility for up to 72 hours in any six-month period, provided that all conditions set forth in subdivision (3) of subsection (b) are satisfied~~.

a. Short-term secure custody of an accused status ~~offenders~~ offender may be necessary, such as detention in a juvenile detention facility, for a brief period~~,~~ not exceeding 24 hours, prior to formal juvenile court action, for investigative purposes, for identification purposes, or for the purpose of allowing return of a status offender to the

parent, legal guardian, or legal custodian.

b. Detention for a brief period of time pursuant to juvenile court authority may ~~also~~ be necessary in order to arrange for appropriate shelter care placement. If a petition regarding an alleged status offender is filed in juvenile court and if it is determined that the alleged status offender is at imminent risk of being placed in the legal or physical custody of the Department of Human Resources, the case shall be referred to the county children's services facilitation team, and the procedures in Article 5 shall be followed. Upon referral to the county children's services facilitation team, the juvenile probation officer shall continue to provide case management to the status offender unless the county children's services facilitation team appoints another person to act as case manager. The juvenile probation officer shall participate in county children's services facilitation team meetings and share records information and reports on the status offender with the county children's services facilitation team.

(2) ~~FEDERAL WARDS. Federal wards~~ A federal ward who is held beyond 24 hours in secure custody in state ~~and~~ or local juvenile detention facilities pursuant to a written contract or agreement with a federal agency and for the specific purpose of affecting a jurisdictional transfer, ~~or~~ appearance as a material witness, or for return to ~~their~~his or her lawful residence or country of citizenship shall be reported as ~~violations~~ a violation of the deinstitutionalization of status offender requirement.

(3) ~~NONOFFENDERS. Nonoffenders, as defined in this~~

~~article, shall not be detained or confined in secure custody~~A nonoffender.

(4) ~~CHILDREN 10 YEARS OF AGE AND YOUNGER. Children~~A child 10 years of age and younger~~ shall not be detained or confined in secure custody~~, unless the ~~children are~~ child is charged with ~~offenses~~ an offense causing death or serious bodily injury to ~~persons~~ a person or ~~offenses~~ an offense that would be classified as a Class A ~~felonies~~ felony if committed by ~~adults~~an adult.

~~Children~~ (5) A child 11 or 12 years of age~~ may only be detained or confined in secure custody by orders of juvenile courts~~, unless: (i) the ~~children are~~ child is charged with ~~offenses~~ an offense causing death or serious bodily injury to ~~persons~~ a person or ~~offenses~~ an offense that would be classified as a Class A ~~felonies~~ felony if committed by ~~adults~~an adult; or (ii) by order of a juvenile court.

(b) Persons who may be detained or confined in secure custody include all of the following:

(1) ~~Persons~~ A person who ~~violate~~ violates the federal law, which prohibits possession of a handgun by a child under ~~the age of~~ 18 years of age, or who ~~violate~~ violates a similar state or municipal law~~,~~. A person under this subdivision may be placed in ~~secure custody in~~ juvenile detention facilities.

(2) ~~Persons~~ A person in custody pursuant to the Interstate Compact ~~on~~ for Juveniles, contained in Section ~~44-2-1, et seq.,~~44-2-10. A person under this subdivision may be placed in ~~secure custody in~~ juvenile detention facilities.

(3) ~~Status offenders~~A status offender who ~~violate~~

violates a valid court order.

a. A status offender who is charged with or has committed a violation of a valid court order may be detained in secure custody in a juvenile detention facility for up to 72 hours in any six-month period.

b. ~~Status offenders~~ A status offender who ~~violate~~ violates a valid court ~~orders~~ order shall not be committed to the Department of Youth Services~~,~~ nor ~~shall they be~~ held in ~~jails~~ a jail or ~~lockups~~ lockup for adult offenders.

c. For this valid court order exception to apply, the following actions must occur ~~whenever~~ when a status offender is taken into custody for violating a valid court order:

~~a.~~1. The juvenile detention facility shall immediately notify the juvenile court intake or probation officer that the child is being held in secure custody for violating a valid court order. The notice shall include the date and time the child entered the juvenile detention facility.

~~b.~~2. Within the first 24 hours during which a status offender is held in secure custody ~~for violating a valid court order~~, not including weekends or holidays, a juvenile court intake or probation officer, or an authorized representative of the department or agency having custody or supervision of the child, shall interview the child~~,~~ in person.

~~c.~~3. Within 48 hours of the admission of the status offender to secure custody ~~for violating a valid court order~~, not including weekends or holidays:

~~1. The~~(i) the individual who interviewed the child shall submit a written assessment report to the juvenile court

regarding the immediate needs of the child; and

~~2. If~~(ii) if the juvenile court has not yet determined whether the child has~~, in fact,~~ violated the order, the juvenile court shall conduct a hearing to determine whether there is reasonable cause to believe that the child violated the order and the appropriate placement of the child pending disposition of the alleged violation.

(c) ~~Compliance with jail removal.~~ No person under ~~the age of~~ 18 years of age shall be detained or confined in any jail or lockup for adults except ~~for the following exceptions~~as follows:

(1) ~~A child may be detained in a jail or lockup for adults for~~ For up to six hours while processing the case of the child.

(2) ~~A~~ If the child is transferred for criminal prosecution pursuant to Section 12-15-203~~ may be detained in a jail or lockup for adults~~.

(3) ~~A person~~ If the child is charged pursuant to Section 12-15-204~~ may be detained in a jail or lockup for adults~~.

(d)(1) When a case is transferred to another court for criminal prosecution under subdivision (c)(2), the person shall be transferred to the appropriate officer or jail or lockup in accordance with the law governing the detention of the person charged with the crime. ~~Jails and lockups~~ A jail or lockup used for holding adults shall not hold a status ~~offenders~~ offender in secure custody at any time. An accused status offender may be detained in a nonsecure area of a jail

or lockup for processing while waiting transportation to a nonsecure shelter care facility or a juvenile detention facility or while waiting for release to a parent, legal guardian, or legal custodian.

(2) Nothing in this ~~subsection~~ section shall prohibit a circuit court judge exercising criminal jurisdiction from ~~recommending~~ ordering that a child described in subdivision (c)(2) or (3) should be placed in a juvenile detention center instead of an adult jail or lockup.

~~(d) Compliance with separation. Accused~~ (e)(1) An accused or adjudicated delinquent ~~children~~ child or a status ~~offenders~~ offender shall not have contact with adult inmates, including ~~trusties~~trustees. "Contact" is defined ~~to include~~ as any physical or sustained sight and sound contact. "Sight contact" is defined as clear visual contact between adult inmates and an accused or adjudicated delinquent ~~children~~ child or a status ~~offenders~~ offender within close proximity to each other. "Sound contact" is defined as direct verbal communication between adult inmates and an accused or adjudicated delinquent ~~children~~ child or a status ~~offenders~~offender.

(2) No child shall enter pursuant to public authority, for any amount of time, in secure custody in a secure section of a jail, lockup, or correctional facility for adults as a disposition of an offense or as a means of modifying his or her behavior ~~(e.g., Shock Incarceration or Scared Straight)~~.

~~(c)~~(f) Except as provided ~~above~~in this section, in providing detention and shelter or other care for ~~children~~ a

child referred to or coming under the jurisdiction of the juvenile court, the juvenile court shall ~~utilize~~ only ~~those facilities~~ utilize a facility ~~as have~~ that has been established, licensed, or approved by the Department of Youth Services or Department of Human Resources for those purposes.

~~(f) After October 1, 1991, the Department of Youth Services shall accept all children committed to it within seven days of notice of disposition.~~

(g) Except as provided ~~above~~in this section, the official in charge of a jail or lockup for the detention of adult offenders or persons charged with crimes shall inform the juvenile court immediately when a child, who is or appears to be a child as defined by this chapter, is received at the jail or lockup. Upon request, the official shall deliver the child to the juvenile court or transfer him or her to a juvenile detention facility designated by the juvenile court.

(h) The Department of Youth Services shall continue to develop and implement a statewide system of juvenile detention facilities ~~which~~ that shall be licensed by the Department of Youth Services for the detention of children.

(i) The Department of Youth Services shall subsidize the detention of children in the juvenile detention facilities in an amount up to one half the average cost of detention~~, which term is defined in this article, the~~. The amount ~~depending~~ of the subsidy shall depend on the ~~provision of~~ funds appropriated by the Legislature to the Department of Youth Services. Juvenile detention facilities may contract with the Department of Youth Services or other counties for

the detention of children.

~~(j) When a case is transferred to another court for criminal prosecution, the child shall be transferred to the appropriate officer or jail or lockup in accordance with the law governing the detention of the person charged with criminal offenses.~~

~~(k)~~ (j) Any law enforcement officer, at the direction of the juvenile court, shall provide security and transportation services for the juvenile court in transporting children to and from juvenile detention facilities and the Department of Youth Services."

"§12-15-215

(a) If the juvenile court finds on proof beyond a reasonable doubt, based upon competent, material, and relevant evidence, that a child committed the acts by reason of which the child is alleged to be delinquent or in need of supervision, ~~it~~ the court may proceed immediately to hear evidence as to whether the child is in need of care or rehabilitation and ~~to file~~ record its findings ~~thereon~~. In the absence of evidence to the contrary, a finding that the child has committed ~~an act which constitutes~~ a felony is sufficient to sustain a finding that the child is in need of care or rehabilitation.

(b) If the juvenile court finds that the child is not in need of care or rehabilitation, it shall dismiss the proceedings and discharge the child from any detention or other temporary care theretofore ordered.

(c) If the juvenile court finds that the child is in

need of care or rehabilitation, it may ~~make~~ order any of the following~~ orders or dispositions~~, subject to the limitations and prohibitions on secure custody contained in Section 12-15-208:

(1) ~~Permit the~~ That the child ~~to~~ shall remain with the parent, legal guardian, or ~~other~~ legal custodian~~ of the child~~, subject to the conditions and limitations prescribed by the juvenile court~~ may prescribe~~.

(2) ~~Place the~~ That the child shall be placed on probation pursuant to conditions and limitations prescribed by the juvenile court~~ may prescribe~~.

(3) ~~Transfer legal~~ That the legal and physical custody ~~to~~ of the child shall be transferred to any of the following:

a. ~~The~~ In the case of a delinquent child, the Department of Youth Services, with or without an order to a specific institution.

b. In the case of a child in need of supervision, ~~the Department of Youth Services, or~~ the Department of Human Resources~~; provided however 1. that prior to any transfer of custody to the Department of Human Resources, the case shall first be referred to the county children's services facilitation team, which must proceed according to Article 5; and 2. that the child's commission of one or more status offenses shall not constitute a sufficient basis for transfer of legal or physical custody to the Department of Human Resources. Upon referral to the county children's services facilitation team, the juvenile probation officer shall continue to provide case management to the status offender~~

~~unless the county children's services facilitation team appoints another person to act as case manager. The juvenile probation officer shall participate in county children's services facilitation team meetings and share records information and reports on the status offender with the county children's services facilitation team. When the juvenile court transfers legal and physical custody to the Department of Human Resources, all requirements which shall be met for a child to be eligible for federal funding shall apply, including, but not limited to, the requirements set out in Sections 12-15-312, 12-15-315, and 12-15-317~~. The child's commission of one or more status offenses shall not constitute a sufficient basis for transfer of legal or physical custody to the Department of Human Resources.

1. Prior to any transfer of custody to the Department of Human Resources, the case shall first be referred to the county children's services facilitation team, which must proceed according to Article 5.

2. Upon referral to the county children's services facilitation team pursuant to subparagraph 1., the juvenile probation officer shall continue to provide case management to the status offender unless the county children's services facilitation team appoints another person to act as case manager.

3. The juvenile probation officer shall participate in county children's services facilitation team meetings and share records, information, and reports on the status offender with the county children's services facilitation team.

c. A local, public, or private agency, organization, or facility that is licensed or otherwise authorized by law to receive and provide care for children and willing and able to assume the education, care, and maintenance of the child ~~and which is licensed or otherwise authorized by law to receive and provide care for children~~.

d. ~~During the term of supervision, a~~ A relative or other individual who is found by the juvenile court to be qualified to receive and care for the child during the term of supervision.

(4) The parent, legal guardian, or legal custodian of the child perform reasonable acts as are deemed necessary to promote the best interests of the child.

(5) ~~Make any~~ Any other order ~~as~~ the juvenile court ~~in its discretion shall deem~~ determines to be appropriate for the welfare and best interests of the child, including random drug screens, assessment of fines not to exceed two hundred fifty dollars ($250), and restitution against the parent, legal guardian, legal custodian, or child~~, as the juvenile court deems appropriate~~. Costs for juvenile court-ordered drug screening may be ordered paid for by the state out of ~~moneys~~monies appropriated as "court costs not otherwise provided for." Restitution against the parent, legal guardian, or legal custodian~~, or child~~ shall be governed by the same principles applicable in the Restitution to Victims of Crime Act, commencing with Section 15-18-65. Restitution against the child shall be governed by the same principles applicable in Rule 26.11 of the Alabama Rules of Criminal Procedure.

~~(5) Direct the parent, legal guardian, or legal custodian of the child to perform reasonable acts as are deemed necessary to promote the best interests of the child.~~

~~(6)~~ (d) In any case where a child is adjudicated delinquent for possessing a pistol, short-barreled rifle, or short-barreled shotgun, ~~any~~ the pistol, short-barreled rifle, or short-barreled shotgun possessed by that child ~~is~~ shall be forfeited and ~~shall be ordered to be destroyed by~~ the juvenile court shall order its destruction.

(e) When the juvenile court transfers legal and physical custody of a child to the Department of Human Resources as provided by paragraph (c)(3)b., all requirements that shall be met for a child to be eligible for federal funding shall apply, including, but not limited to, the requirements set out in Sections 12-15-312, 12-15-315, and 12-15-317.

~~(b)~~ (f) No child by virtue of a disposition pursuant to this section shall be committed or transferred to a penal institution or other facility used for the execution of sentences of persons convicted of a crime.

~~(c)~~ (g) No child in need of supervision, unless also a delinquent child, shall be ordered to be placed in an institution or facility established for the care and rehabilitation of delinquent children unless the juvenile probation officer submits a written recommendation and the juvenile court ~~finds~~, upon a further hearing, finds that the child is not amenable to treatment or rehabilitation pursuant to any prior disposition. In ~~determining if a child is not~~

~~amenable to treatment or rehabilitation~~ making its determination, the juvenile court shall consider evidence of the following and other relevant factors~~:~~, which shall be included in the written recommendations of the juvenile probation officer:

(1) Prior treatment efforts, ~~such as~~including, but not limited to~~:~~, any mental health counseling, individualized service plans, individualized education plans, and other education records.

~~a. Mental health counseling, if any.~~

~~b. Individualized educational plans, if any.~~

~~c. Other educational records.~~

~~d. Individualized service plans, if any.~~

(2) The age of the child.

(3) The history of the ~~child being involved~~ child's involvement with the juvenile court, including, but not limited to, informal adjustments, consent decrees, adjudications, prior diversion programs, and prior placements.

(4) Other factors contributing to the behavioral difficulties of the child.

~~The written recommendations of the juvenile probation officer shall include evidence of the foregoing and other relevant factors.~~

~~(d)~~ (h) When a delinquent child ~~may be~~ meets the criteria for commitment ~~committable~~ to the Department of Mental Health, the juvenile court shall proceed as provided in Article 4~~, commencing with Section 12-15-401~~.

~~(e) Whenever~~ (i) When the juvenile court ~~vests~~ issues

an order transferring legal custody ~~in an agency or department, it~~ of a child to the Department of Youth Services, within 10 business days of the date the order is input into the State Judicial Information System pursuant to Rule 58(c) of the Alabama Rules of Civil Procedure, a juvenile probation officer shall ~~transmit with~~ send a copy of the order and ~~copies of the clinical reports, predisposition study, and other information it has pertinent to~~ the information required by Rule 950-2-2-.01 of the Alabama Administrative Code regarding the care and treatment of the child. Upon receipt of the order and information provided by the juvenile probation officer, if the child is detained in a juvenile detention facility, the Department of Youth Services shall notify the county commission responsible for the cost of the detention of the child that legal custody of the child has been transferred to the Department of Youth Services.

~~(f)~~ (j) When a child is placed in the legal custody of a department, agency, organization, entity, or person as provided in this section, ~~when~~ and the parent, legal guardian, or legal custodian of the child has resources for child support, the juvenile court shall order child support in conformity with the child support guidelines as set out in Rule 32, Alabama Rules of Judicial Administration. The child support shall be paid to the department, agency, organization, entity, or person in whose legal custody the child is placed and may be expended for those matters that are necessary for the welfare and well-being of ~~those children placed in the departments, agencies, organizations, entities, or persons~~ the

child. In these cases, the juvenile court shall issue income withholding orders subject to state law.

~~(g) Whenever~~ (k)(1) When the juvenile court ~~commits a child to a state or local department or agency or orders a state or local department or agency to provide services or treatment for a child~~issues an order transferring legal custody to the Department of Youth Services, ~~that department or agency~~ the Department of Youth Services shall accept the child for commitment~~, ordered services, or treatment~~ within ~~seven~~ 12 business days of ~~the order of the juvenile court~~receipt of the order and the information required by Rule 950-2-2-.01 of the Alabama Administrative Code.

(2) Notwithstanding ~~the foregoing~~subdivision (1), if compliance with the order of the juvenile court within ~~seven~~12 business days would place ~~a department or agency~~ the Department of Youth Services in violation of ~~either~~ a state or federal statute or standard, ~~then compliance is not required~~the department may choose not to accept the child.

(3) If the Department of Youth Services does not accept the child by the 12th business day as provided in subdivision (1), the Department of Youth Services shall reimburse the county commission responsible for the cost of the detention of the child for expenses incurred by the county each day after the 12th business day, including, but not limited to, medical, dental, and mental health costs."

Section 2. This act shall become effective on October 1, 2024.