

HB199 ENGROSSED



1 HB199
2 TNNJ559-2
3 By Representative Hendrix
4 RFD: Public Safety and Homeland Security
5 First Read: 05-Feb-25



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4 A BILL
5 TO BE ENTITLED
6 AN ACT

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8 Relating to juveniles; to amend Sections 12-15-128 and
9 12-15-208, Code of Alabama 1975; to authorize the Board of
10 Pardons and Paroles or other state agency to provide
11 electronic monitoring to children released from custody in
12 certain circumstances; and to revise a requirement under which
13 status offenders who violate a valid court order may be
14 detained in a juvenile facility for up to 72 hours within a
15 six-month period.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Section 12-15-128, Code of Alabama 1975, is
18 amended to read as follows:

19 "§12-15-128

20 (a) An allegedly delinquent child, dependent child, or
21 child in need of supervision lawfully taken into custody shall
22 immediately be released, upon the ascertainment of the
23 necessary facts, to the care, custody, and control of the
24 parent, legal guardian, or legal custodian of the child or
25 other suitable ~~person~~ individual able to provide supervision
26 and care for the child, unless the juvenile court or juvenile
27 court intake officer, subject to the limitations in Section
28 12-15-208, finds any of the following:



29 (1) The child has no parent, legal guardian, legal
30 custodian, or other suitable ~~person~~ individual able to provide
31 supervision and care for the child.

32 (2) The release of the child would present a clear and
33 substantial threat of a serious nature to the person or
34 property of others and where the child is alleged to be
35 delinquent.

36 (3) The release of the child would present a serious
37 threat of substantial harm to the child.

38 (4) The child has a history of failing to appear for
39 hearings before the juvenile court.

40 (5) The child is alleged to be delinquent for
41 possessing a pistol, short-barreled rifle, or short-barreled
42 shotgun, in which case the child may be detained in a juvenile
43 detention facility until the hearing required by Section
44 12-15-207. Pistol as used in this section shall be as defined
45 in ~~subdivision (1) of~~ Section 13A-11-70. Short-barreled rifle
46 and short-barreled shotgun as used in this section shall be as
47 defined in Section 13A-11-62.

48 (b) The criteria for continuing the allegedly
49 delinquent child or child in need of supervision in detention
50 or shelter or other care, or for continuing the allegedly
51 dependent child in shelter or other care, as ~~set forth~~
52 provided in subsection (a) shall govern the decisions of all
53 persons involved in determining whether the continued
54 detention or shelter care is warranted pending juvenile court
55 disposition and those criteria shall be supported by clear and
56 convincing evidence in support of the decision not to release



57 the child.

58 (c) (1) In releasing a child, a juvenile court or the
59 juvenile court intake officer may impose restrictions on the
60 travel, association, or place of abode of the child or place
61 the child under the supervision of a department, agency, or
62 organization agreeing to supervise him or her, and may place
63 the child under supervision such as electronic or telephone
64 monitoring, if available. A child, once placed in detention,
65 may also be released pursuant to the same conditions should
66 there be a need to release the child from a juvenile detention
67 facility because of an overcrowded population.

68 (2) The Board of Pardons and Paroles or any other state
69 agency may provide electronic monitoring services as provided
70 in subdivision (1)."

71 Section 2. Section 12-15-208, Code of Alabama 1975, is
72 amended to read as follows:

73 "§12-15-208

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

76 (1) A status offender, except as further provided in
77 this subdivision and subsection (b).

78 a. Short-term secure custody of an accused status
79 offender may be necessary, such as detention in a juvenile
80 detention facility, for a brief period not exceeding 24 hours,
81 prior to formal juvenile court action, for investigative
82 purposes, for identification purposes, or for the purpose of
83 allowing return of a status offender to the parent, legal
84 guardian, or legal custodian.



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

102 (2) A federal ward who is held beyond 24 hours in
103 secure custody in a state or local juvenile detention facility
104 pursuant to a written contract or agreement with a federal
105 agency and for the specific purpose of affecting a
106 jurisdictional transfer, for appearance as a material witness,
107 or for return to his or her lawful residence or country of
108 citizenship shall be reported as a violation of the
109 deinstitutionalization of status offender requirement.

110 (3) A nonoffender.

111 (4) A child 10 years of age or younger, unless the
112 child is charged with an offense causing death or serious



113 bodily injury to a person or an offense that would be
114 classified as a Class A felony if committed by an adult.

115 (5) A child 11 or 12 years of age, unless: (i) the
116 child is charged with an offense causing death or serious
117 bodily injury to a person or an offense that would be
118 classified as a Class A felony if committed by an adult; or
119 (ii) by order of a juvenile court.

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

122 (1) A person who violates the federal law that
123 prohibits possession of a handgun by a child under 18 years of
124 age or who violates a similar state or municipal law. A person
125 under this subdivision may be placed in a juvenile detention
126 facility.

127 (2) A person in custody pursuant to the Interstate
128 Compact for Juveniles, contained in Section 44-2-10. A person
129 under this subdivision may be placed in juvenile detention
130 facilities.

131 (3) A status offender who violates a valid court order.

132 a. A status offender who is charged with or has
133 committed a violation of a valid court order may be detained
134 in secure custody in a juvenile detention facility for up to
135 72 hours in any six-month period for a first violation and up
136 to seven days for a second or subsequent violation upon
137 issuance of a written detention order that complies with 34
138 U.S.C. § 11133(a) (23) (C) (iii).

139 b. A status offender who violates a valid court order
140 shall not be committed to the Department of Youth Services nor



141 held in a jail or lockup for adult offenders.

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

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

150 2. Within the first 24 hours during which a status
151 offender is held in secure custody, not including weekends or
152 holidays, a juvenile court intake or probation officer, or an
153 authorized representative of the department or agency having
154 custody or supervision of the child, shall interview the child
155 in person.

156 3. Within 48 hours of the admission of the status
157 offender to secure custody, not including weekends or
158 holidays:

159 (i) The individual who interviewed the child shall
160 submit a written assessment report to the juvenile court
161 regarding the immediate needs of the child; and

162 (ii) If the juvenile court has not yet determined
163 whether the child has violated the order, the juvenile court
164 shall conduct a hearing to determine whether there is
165 reasonable cause to believe that the child violated the order
166 and the appropriate placement of the child pending disposition
167 of the alleged violation.

168 (c) No person under 18 years of age shall be detained



169 or confined in any jail or lockup for adults except as
170 follows:

171 (1) For up to six hours while processing the case of
172 the child.

173 (2) If the child is transferred for criminal
174 prosecution pursuant to Section 12-15-203.

175 (3) If the child is charged pursuant to Section
176 12-15-204.

177 (d) (1) When a case is transferred to another court for
178 criminal prosecution under subdivision (c) (2), the person
179 shall be transferred to the appropriate officer or jail or
180 lockup in accordance with the law governing the detention of
181 the person charged with the crime. A jail or lockup used for
182 holding adults shall not hold a status offender in secure
183 custody at any time. An accused status offender may be
184 detained in a nonsecure area of a jail or lockup for
185 processing while waiting transportation to a nonsecure shelter
186 care facility or a juvenile detention facility or while
187 waiting for release to a parent, legal guardian, or legal
188 custodian.

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

194 (e) (1) An accused or adjudicated delinquent child or a
195 status offender shall not have contact with adult inmates,
196 including trustees. "Contact" is defined as any physical or



197 sustained sight and sound contact. "Sight contact" is defined
198 as clear visual contact between adult inmates and an accused
199 or adjudicated delinquent child or a status offender within
200 close proximity to each other. "Sound contact" is defined as
201 direct verbal communication between adult inmates and an
202 accused or adjudicated delinquent child or a status offender.

203 (2) No child shall enter pursuant to public authority,
204 for any amount of time, in secure custody in a secure section
205 of a jail, lockup, or correctional facility for adults as a
206 disposition of an offense or as a means of modifying his or
207 her behavior.

208 (f) Except as provided in this section, in providing
209 detention and shelter or other care for a child referred to or
210 coming under the jurisdiction of the juvenile court, the
211 juvenile court shall only use a facility that has been
212 established, licensed, or approved by the Department of Youth
213 Services or Department of Human Resources for those purposes.

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

222 (h) The Department of Youth Services shall continue to
223 develop and implement a statewide system of juvenile detention
224 facilities that shall be licensed by the Department of Youth



225 Services for the detention of children.

226 (i) The Department of Youth Services shall subsidize
227 the detention of children in the juvenile detention facilities
228 in an amount up to one half the average cost of detention. The
229 amount of the subsidy shall depend on the funds appropriated
230 by the Legislature to the Department of Youth Services.

231 Juvenile detention facilities may contract with the Department
232 of Youth Services or other counties for the detention of
233 children.

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

239 Section 3. This act shall become effective on October
240 1, 2025.



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House of Representatives

244 Read for the first time and referred 05-Feb-25
245 to the House of Representatives
246 committee on Public Safety and
247 Homeland Security
248
249 Read for the second time and placed 12-Feb-25
250 on the calendar:
251 0 amendments
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254 as amended
255 Yeas 101
256 Nays 0
257 Abstains 0
258
259
260 John Treadwell
261 Clerk
262