

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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A BILL
TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§12-15-128

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



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

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

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

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

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

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



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the child.

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

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

Section 2. Section 12-15-208, Code of Alabama 1975, is 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) A status offender, except as further provided in this subdivision and subsection (b).

a. Short-term secure custody of an accused status 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.



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b. Detention for a brief period of time pursuant to juvenile court authority may 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) A federal ward who is held beyond 24 hours in secure custody in a state or local juvenile detention facility pursuant to a written contract or agreement with a federal agency and for the specific purpose of affecting a jurisdictional transfer, for appearance as a material witness, or for return to his or her lawful residence or country of citizenship shall be reported as a violation of the deinstitutionalization of status offender requirement.

(3) A nonoffender.

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



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

(5) A child 11 or 12 years of age, unless: (i) the child is charged with an offense causing death or serious bodily injury to a person or an offense that would be classified as a Class A felony if committed by 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) A person who violates the federal law that prohibits possession of a handgun by a child under 18 years of age or who violates a similar state or municipal law. A person under this subdivision may be placed in a juvenile detention facility.

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

(3) A status offender who 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~~ for a first violation and up to seven days for a second or subsequent violation upon issuance of a written detention order that complies with 34 U.S.C. § 11133(a)(23)(C)(iii).

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



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held in a jail or lockup for adult offenders.

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

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.

2. Within the first 24 hours during which a status offender is held in secure custody, 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.

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

(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

(ii) If the juvenile court has not yet determined whether the child has 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) No person under 18 years of age shall be detained



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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



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

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

(g) Except as provided 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 that shall be licensed by the Department of Youth



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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

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256 Nays 0
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259
260 John Treadwell
261 Clerk
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