

**COMMITTEE AMENDMENT**

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3214 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by  
inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Amendment submitted by: Mark Lawson

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

PROPOSED COMMITTEE  
SUBSTITUTE  
FOR  
HOUSE BILL NO. 3214

By: Lawson

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to children; amending 10A O.S. 2011, Section 2-3-101, as last amended by Section 2, Chapter 234, O.S.L. 2016 (10A O.S. Supp. 2019, Section 2-3-101), which relates to detention of children in adult facilities; prohibiting detainment of children in adult facilities; providing exceptions; requiring hearing and certain findings before confinement of child in adult facility; establishing factors for court to consider; affording certain rights and protections to child; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-3-101, as last amended by Section 2, Chapter 234, O.S.L. 2016 (10A O.S. Supp. 2019, Section 2-3-101), is amended to read as follows:

Section 2-3-101. A. When a child is taken into custody pursuant to the provisions of the Oklahoma Juvenile Code, the child shall be detained only if it is necessary to assure the appearance

1 of the child in court or for the protection of the child or the  
2 public.

3 1. a. No preadjudicatory or predisposition detention or  
4 custody order shall remain in force and effect for  
5 more than thirty (30) days. The court, for good and  
6 sufficient cause shown, may extend the effective  
7 period of such an order for an additional period not  
8 to exceed sixty (60) days. If the child is being  
9 detained for the commission of a murder, the court  
10 may, if it is in the best interests of justice, extend  
11 the effective period of such an order ~~an additional~~  
12 ~~sixty (60) days.~~

13 b. Whenever the court orders a child to be held in a  
14 juvenile detention facility, an order for secure  
15 detention shall remain in force and effect for not  
16 more than fifteen (15) days after such order. Upon an  
17 application of the district attorney and after a  
18 hearing on such application, the court, for good and  
19 sufficient cause shown, may extend the effective  
20 period of such an order for an additional period not  
21 to exceed fifteen (15) days after such hearing. The  
22 total period of preadjudicatory or predisposition  
23 shall not exceed the ninety-day limitation as  
24 specified in subparagraph a of this paragraph. The

1 child shall be present at the hearing on the  
2 application for extension unless, as authorized and  
3 approved by the court, the attorney for the child is  
4 present at the hearing and the child is available to  
5 participate in the hearing via telephone conference  
6 communication. For the purpose of this paragraph,  
7 "telephone conference communication" means use of a  
8 telephone device that allows all parties, including  
9 the child, to hear and be heard by the other parties  
10 at the hearing. After the hearing, the court may  
11 order continued detention in a juvenile detention  
12 center, may order the child detained in an alternative  
13 to secure detention or may order the release of the  
14 child from detention.

15 2. No child alleged or adjudicated to be deprived or in need of  
16 supervision or who is or appears to be a minor in need of treatment  
17 as defined by the Inpatient Mental Health and Substance Abuse  
18 Treatment of Minors Act, shall be confined in any jail, adult  
19 lockup, or adult detention facility. No child shall be transported  
20 or detained in association with criminal, vicious, or dissolute  
21 persons.

22 3. Except as otherwise authorized by this section a child who  
23 has been taken into custody as a deprived child, a child in need of  
24 supervision, or who appears to be a minor in need of treatment, may

1 not be placed in any detention facility pending court proceedings,  
2 but must be placed in shelter care or foster care or, with regard to  
3 a child who appears to be a minor in need of treatment, a behavioral  
4 health treatment facility in accordance with the provisions of the  
5 Inpatient Mental Health and Substance Abuse Treatment of Minors Act,  
6 or released to the custody of the parents of the child or some other  
7 responsible party. Provided, this shall not preclude runaway  
8 juveniles from other states, with or without delinquent status, to  
9 be held in a detention facility in accordance with the Interstate  
10 Compact for Juveniles in Sections 2-9-101 through 2-9-116 of this  
11 title and rules promulgated by the Interstate Commission.

12 B. No child shall be placed in secure detention unless:

13 1. The child is an escapee from any delinquent placement;

14 2. The child is a fugitive from another jurisdiction with a  
15 warrant on a delinquency charge or confirmation of delinquency  
16 charges by the home jurisdiction;

17 3. The child is seriously assaultive or destructive towards  
18 others or self;

19 4. The child is currently charged with any criminal offense  
20 that would constitute a felony if committed by an adult or a  
21 misdemeanor and:

22 a. is on probation or parole on a prior delinquent  
23 offense,

24 b. is on preadjudicatory community supervision, or

1           c.    is currently on release status on a prior delinquent  
2               offense;

3           5.   The child has willfully failed or there is reason to believe  
4 that the child will willfully fail to appear for juvenile court  
5 proceedings;

6           6.   A warrant for the child has been issued on the basis that:

7           a.   the child is absent from court-ordered placement  
8               without approval by the court,

9           b.   the child is absent from designated placement by the  
10           Office of Juvenile Affairs without approval by the  
11           Office of Juvenile Affairs,

12           c.   there is reason to believe the child will not remain  
13               at said placement, or

14           d.   the child is subject to an administrative transfer or  
15               parole revocation proceeding.

16           C.   A child who has violated a court order and has had the order  
17 revoked or modified pursuant to Section 2-2-503 of this title may be  
18 placed into an Office-of-Juvenile-Affairs-designated sanction  
19 detention bed or an Office-of-Juvenile-Affairs-approved sanction  
20 program.

21           D.   Priority shall be given to the use of juvenile detention  
22 facilities for the detention of juvenile offenders through  
23 provisions requiring the removal from detention of a juvenile with a  
24 lower priority status if an empty detention bed is not available at

1 the time of referral of a juvenile with a higher priority status and  
2 if the juvenile with a higher priority status would be more of a  
3 danger to the public than the juvenile with the lower priority  
4 status.

5 E. Juvenile detention facilities shall be the default placement  
6 for all persons under seventeen (17) years of age. No child shall  
7 be placed in secure detention in an adult jail, adult lockup, adult  
8 detention or other adult facility except as provided in this  
9 section.

10 1. Any child who is at least fifteen (15) years of age who is  
11 charged with murder in the first degree may be detained in an adult  
12 jail, adult lockup, adult detention or other adult facility only  
13 after a hearing in which the child is provided representation and a  
14 written court order stating that it is in the interest of justice  
15 that the child be placed in an adult jail, adult lockup, adult  
16 detention or other adult facility and if that facility is licensed  
17 by the Office of Juvenile Affairs to detain children under eighteen  
18 (18) years of age.

19 2. In determining whether it is in the interest of justice that  
20 a child who is at least fifteen (15) years of age and who is charged  
21 with murder in the first degree be placed in an adult jail, adult  
22 lockup, adult detention or other adult facility, the court shall  
23 consider:

24 a. the age of the child,

- b. the physical and mental maturity of the child,
- c. the present mental state of the child, including  
whether the child presents an imminent risk of harm to  
himself or herself,
- d. the nature and circumstances of the alleged offense,
- e. the child's history of prior delinquent acts,
- f. the relative ability of the available adult and  
juvenile detention facilities to not only meet the  
specific needs of the child but also to protect the  
safety of the public as well as other detained youth,  
and
- g. any other relevant factors.

3. If a court determines that it is in the interest of justice  
that the child be placed in an adult jail, adult lockup, adult  
detention or other adult facility:

- a. the court shall hold a hearing not less frequently  
than once every thirty (30) days, or in the case of a  
rural jurisdiction, which is any jurisdiction not  
located in a metropolitan statistical area, as defined  
by the United States Office of Management and Budget,  
not less frequently than once every forty-five (45)  
days, to review whether it is still in the interest of  
justice to permit the juvenile to be so held, and



1        b. the child shall not be held in any adult jail or  
2        lockup for adults for more than one hundred eighty  
3        (180) days, unless the court, in writing, determines  
4        there is good cause for an extension or the child  
5        expressly waives this limitation.

6        F. When a child is placed in an adult jail, adult lockup, adult  
7        detention or other adult facility, he or she shall be afforded the  
8        following rights and protections in order to address the child's  
9        health and safety:

10       1. A copy of the child's most current mental health or suicide  
11       screening instrument approved by the Office of Juvenile Affairs  
12       shall be provided to the adult jail, adult lockup or adult detention  
13       facility at the time of the child's transfer; and

14       2. Adult jails, adult lockups, adult detentions or other adult  
15       facilities shall process requests for visits and allow approved  
16       visitors contact visits with the child within five (5) business days  
17       of the request.

18       G. 1. Except as otherwise provided in this section, no child  
19       shall be placed in secure detention in a an adult jail, adult  
20       lockup, or other adult detention or other adult facility unless:

21       a. the child is detained for the commission of a crime  
22       that would constitute a felony if committed by an  
23       adult, and

24       b. the child is awaiting an initial court appearance, and

1       ~~e. the initial court appearance of the child is scheduled~~  
2       ~~within twenty-four (24) hours after being taken into~~  
3       ~~custody, excluding weekends and holidays, and~~

4       ~~d. the court of jurisdiction is outside of the Standard~~  
5       ~~Metropolitan Statistical Area as defined by the Bureau~~  
6       ~~of Census, and~~

7       ~~e. there is no existing acceptable alternative placement~~  
8       ~~for the child, and~~

9       ~~f.~~ the adult jail, adult lockup or adult detention  
10       facility provides sight and sound separation for  
11       juveniles, pursuant to standards required by  
12       subsection E of Section 2-3-103 of this title, ~~or~~ and

13       ~~g.~~ b. the adult jail, adult lockup or adult detention  
14       facility meets the requirements for licensure of  
15       juvenile detention facilities, as adopted by the  
16       Office of Juvenile Affairs, is appropriately licensed,  
17       and provides sight and sound separation for juveniles,  
18       which includes:

19               (1) total separation between juveniles and adult  
20               facility spatial areas such that there could be  
21               no haphazard or accidental contact between  
22               juvenile and adult residents in the respective  
23               facilities,

1 (2) total separation in all juvenile and adult  
2 program activities within the facilities,  
3 including recreation, education, counseling,  
4 health care, dining, sleeping and general living  
5 activities, and

6 (3) separate juvenile and adult staff, specifically  
7 direct care staff such as recreation, education  
8 and counseling.

9 Specialized services staff, such as cooks,  
10 bookkeepers, and medical professionals who are not  
11 normally in contact with detainees or whose infrequent  
12 contacts occur under conditions of separation of  
13 juveniles and adults can serve both.

14 2. Nothing in this section shall preclude a child who is  
15 detained for the commission of a crime that would constitute a  
16 felony if committed by an adult, or a child who is an escapee from a  
17 juvenile secure facility or from an Office of Juvenile Affairs group  
18 home from being held in any jail certified by the State Department  
19 of Health, police station or similar law enforcement offices for up  
20 to six (6) hours for purposes of identification, processing or  
21 arranging for transfer to a secure detention or alternative to  
22 secure detention. Such holding shall be limited to the absolute  
23 minimum time necessary to complete these actions.

1           a.    The time limitations for holding a child in a jail for  
2                the purposes of identification, processing or  
3                arranging transfer established by this section shall  
4                not include the actual travel time required for  
5                transporting a child from a jail to a juvenile  
6                detention facility or alternative to secure detention.

7           b.    Whenever the time limitations established by this  
8                subsection are exceeded, this circumstance shall not  
9                constitute a defense in a subsequent delinquency or  
10               criminal proceeding.

11        3.    Nothing in this section shall preclude detaining in a county  
12   jail or other adult detention facility an eighteen-year-old charged  
13   in a juvenile petition for whom certification to stand trial as an  
14   adult is prayed.  However, if no certification motion is filed, the  
15   eighteen-year-old may remain in a juvenile detention facility as  
16   long as secure detention is required.

17        4.    Nothing in this section shall preclude detaining in a county  
18   jail or other adult detention facility a person provided for in  
19   Section 2-3-102 of this title if written or electronically  
20   transmitted confirmation is received from the state seeking return  
21   of the individual that the person is a person provided for in  
22   Section 2-3-102 of this title and if, during the time of detention,  
23   the person is detained in a facility meeting the requirements of  
24   Section 2-3-103 of this title.

1        5. Nothing in this section shall preclude detaining a person,  
2 whose age is not immediately ascertainable and who is being detained  
3 for the commission of a felony, in a jail certified by the State  
4 Department of Health, a police station or similar law enforcement  
5 office for up to twenty-four (24) hours for the purpose of  
6 determining whether or not the person is a child, if:

7            a. there is a reasonable belief that the person is  
8                eighteen (18) years of age or older,

9            b. there is a reasonable belief that a felony has been  
10               committed by the person,

11           c. a court order for such detention is obtained from a  
12               judge of the district court within six (6) hours of  
13               initially detaining the person,

14           d. there is no juvenile detention facility that has space  
15               available for the person and that is within thirty  
16               (30) miles of the jail, police station, or law  
17               enforcement office in which the person is to be  
18               detained, and

19           e. during the time of detention the person is detained in  
20               a facility meeting the requirements of subparagraph g  
21               of paragraph 1 of this subsection.

22 The time limitation provided for in this paragraph shall include the  
23 time the person is detained prior to the issuance of the court  
24 order.

1 The time limitation provided for in this paragraph shall not include  
2 the actual travel time required for transporting the person to the  
3 jail, police station, or similar law enforcement office. If the  
4 time limitation established by this paragraph is exceeded, this  
5 circumstance shall not constitute a defense in any subsequent  
6 delinquency or criminal proceeding.

7 ~~F.~~ H. Nothing contained in this section shall in any way reduce  
8 or eliminate the liability of a county as otherwise provided by law  
9 for injury or damages resulting from the placement of a child in ~~a~~  
10 an adult jail, adult lockup, ~~or other~~ adult detention or other adult  
11 facility.

12 ~~G.~~ I. Any juvenile detention facility shall be available for  
13 use by any eligible Indian child as that term is defined by the  
14 Oklahoma Indian Child Welfare Act, providing that the use of the  
15 juvenile detention facility meets the requirements of the Oklahoma  
16 Juvenile Code. The Indian tribe may contract with any juvenile  
17 detention facility for the providing of detention services.

18 ~~H.~~ J. Each member of the staff of a juvenile detention facility  
19 shall satisfactorily complete a training program provided or  
20 approved by the Office of Juvenile Affairs.

21 ~~I.~~ K. Whenever a juvenile is placed in any adult jail, adult  
22 lockup, ~~or other~~ adult detention or other adult facility, the Office  
23 of Juvenile Affairs shall have access to all facilities which detain  
24 such juveniles and shall have access to any data regarding such

1 juveniles. The Office of Juvenile Affairs shall have access to all  
2 adult jails, adult lockups, adult detentions or other adult  
3 facilities in this state, including all data maintained by such  
4 facilities, to assure compliance with this section. The Board of  
5 Juvenile Affairs shall promulgate rules as necessary to implement  
6 the provisions of this section.

7 SECTION 2. This act shall become effective November 1, 2020.

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9 57-2-10815 JW 01/30/20  
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