

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 1282

By: Lawson

COMMITTEE SUBSTITUTE

An Act relating to children; amending 10A O.S. 2011, Sections 2-3-101, as last amended by Section 2, Chapter 234, O.S.L. 2016 and 2-7-401, as last amended by Section 2, Chapter 67, O.S.L. 2016 (10A O.S. Supp. 2019, Sections 2-3-101 and 2-7-401), which relate to detention of juveniles; allowing placement of children under fourteen years of age in juvenile detention facilities only under certain circumstances; providing for one-hundred-percent reimbursement for operating costs for certain children being held in juvenile detention; 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 of the child in court or for the protection of the child or the public.

1. a. No child under twelve (12) years of age shall be placed in a juvenile detention facility unless all alternatives have been exhausted and the child is currently charged with a criminal offense that would constitute a felony if committed by an adult and it has been indicated by a risk assessment screening that the child requires detention. The detention of any child under twelve (12) years of age shall be judicially reviewed pursuant to subparagraph c of this paragraph.
- b. Any child who is thirteen (13) or fourteen (14) years of age may be admitted to a juvenile detention facility only after all alternatives have been exhausted and the child is currently charged with a criminal offense that would constitute a felony if committed by an adult and it has been indicated by a risk assessment screening that the child requires detention.
- c. No preadjudicatory or predisposition detention or custody order shall remain in force and effect for more than thirty (30) days. The court, for good and sufficient cause shown, may extend the effective period of such an order for an additional period not to exceed sixty (60) days. If the child is being

1 detained for the commission of a murder, the court
2 may, if it is in the best interests of justice, extend
3 the effective period of such an order an additional
4 sixty (60) days.

5 ~~b.~~ d. Whenever the court orders a child to be held in a
6 juvenile detention facility, an order for secure
7 detention shall remain in force and effect for not
8 more than fifteen (15) days after such order. Upon an
9 application of the district attorney and after a
10 hearing on such application, the court, for good and
11 sufficient cause shown, may extend the effective
12 period of such an order for an additional period not
13 to exceed fifteen (15) days after such hearing. The
14 total period of preadjudicatory or predisposition
15 shall not exceed the ninety-day limitation as
16 specified in subparagraph a of this paragraph. The
17 child shall be present at the hearing on the
18 application for extension unless, as authorized and
19 approved by the court, the attorney for the child is
20 present at the hearing and the child is available to
21 participate in the hearing via telephone conference
22 communication. For the purpose of this paragraph,
23 "telephone conference communication" means use of a
24 telephone device that allows all parties, including

1 the child, to hear and be heard by the other parties
2 at the hearing. After the hearing, the court may
3 order continued detention in a juvenile detention
4 center, may order the child detained in an alternative
5 to secure detention or may order the release of the
6 child from detention.

7 2. No child alleged or adjudicated to be deprived or in need of
8 supervision or who is or appears to be a minor in need of treatment
9 as defined by the Inpatient Mental Health and Substance Abuse
10 Treatment of Minors Act, shall be confined in any jail, adult
11 lockup, or adult detention facility. No child shall be transported
12 or detained in association with criminal, vicious, or dissolute
13 persons.

14 3. Except as otherwise authorized by this section a child who
15 has been taken into custody as a deprived child, a child in need of
16 supervision, or who appears to be a minor in need of treatment, may
17 not be placed in any detention facility pending court proceedings,
18 but must be placed in shelter care or foster care or, with regard to
19 a child who appears to be a minor in need of treatment, a behavioral
20 health treatment facility in accordance with the provisions of the
21 Inpatient Mental Health and Substance Abuse Treatment of Minors Act,
22 or released to the custody of the parents of the child or some other
23 responsible party. Provided, this shall not preclude runaway
24 juveniles from other states, with or without delinquent status, to

1 be held in a detention facility in accordance with the Interstate
2 Compact for Juveniles in Sections 2-9-101 through 2-9-116 of this
3 title and rules promulgated by the Interstate Commission.

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

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

6 2. The child is a fugitive from another jurisdiction with a
7 warrant on a delinquency charge or confirmation of delinquency
8 charges by the home jurisdiction;

9 3. The child is seriously assaultive or destructive towards
10 others or self;

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

14 a. is on probation or parole on a prior delinquent
15 offense,

16 b. is on preadjudicatory community supervision, or

17 c. is currently on release status on a prior delinquent
18 offense;

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

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

23 a. the child is absent from court-ordered placement
24 without approval by the court,

1 b. the child is absent from designated placement by the
2 Office of Juvenile Affairs without approval by the
3 Office of Juvenile Affairs,

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

6 d. the child is subject to an administrative transfer or
7 parole revocation proceeding.

8 C. A child who has violated a court order and has had the order
9 revoked or modified pursuant to Section 2-2-503 of this title may be
10 placed into an Office-of-Juvenile-Affairs-designated sanction
11 detention bed or an Office-of-Juvenile-Affairs-approved sanction
12 program.

13 D. Priority shall be given to the use of juvenile detention
14 facilities for the detention of juvenile offenders through
15 provisions requiring the removal from detention of a juvenile with a
16 lower priority status if an empty detention bed is not available at
17 the time of referral of a juvenile with a higher priority status and
18 if the juvenile with a higher priority status would be more of a
19 danger to the public than the juvenile with the lower priority
20 status.

21 E. 1. Except as otherwise provided in this section, no child
22 shall be placed in secure detention in a jail, adult lockup, or
23 other adult detention facility unless:
24

- a. the child is detained for the commission of a crime that would constitute a felony if committed by an adult, and
- b. the child is awaiting an initial court appearance, and
- c. the initial court appearance of the child is scheduled within twenty-four (24) hours after being taken into custody, excluding weekends and holidays, and
- d. the court of jurisdiction is outside of the Standard Metropolitan Statistical Area as defined by the Bureau of Census, and
- e. there is no existing acceptable alternative placement for the child, and
- f. the jail, adult lockup or adult detention facility provides sight and sound separation for juveniles, pursuant to standards required by subsection E of Section 2-3-103 of this title, or
- g. the jail, adult lockup or adult detention facility meets the requirements for licensure of juvenile detention facilities, as adopted by the Office of Juvenile Affairs, is appropriately licensed, and provides sight and sound separation for juveniles, which includes:
 - (1) total separation between juveniles and adult facility spatial areas such that there could be

1 no haphazard or accidental contact between
2 juvenile and adult residents in the respective
3 facilities,

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

9 (3) separate juvenile and adult staff, specifically
10 direct care staff such as recreation, education
11 and counseling.

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

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

1 secure detention. Such holding shall be limited to the absolute
2 minimum time necessary to complete these actions.

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

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

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

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

1 the person is detained in a facility meeting the requirements of
2 Section 2-3-103 of this title.

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

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

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

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

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

21 e. during the time of detention the person is detained in
22 a facility meeting the requirements of subparagraph g
23 of paragraph 1 of this subsection.
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1 The time limitation provided for in this paragraph shall include the
2 time the person is detained prior to the issuance of the court
3 order.

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

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

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

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

23 I. Whenever a juvenile is placed in any jail, adult lockup, or
24 other detention facility, the Office of Juvenile Affairs shall have

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

8 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-7-401, as
9 last amended by Section 2, Chapter 67, O.S.L. 2016 (10A O.S. Supp.
10 2019, Section 2-7-401), is amended to read as follows:

11 Section 2-7-401. A. There is hereby created in the State
12 Treasury a revolving fund for the Office of Juvenile Affairs to be
13 designated the "Juvenile Detention Improvement Revolving Fund". The
14 fund shall be a continuing fund, not subject to fiscal year
15 limitations, and shall consist of all monies appropriated to the
16 Juvenile Detention Improvement Revolving Fund and monies which may
17 otherwise be available to the Office of Juvenile Affairs for use as
18 provided for in this section.

19 B. All monies appropriated to the fund shall be budgeted and
20 expended by the Office of Juvenile Affairs for the purpose of
21 providing funds to counties to renovate existing juvenile detention
22 facilities, to construct new juvenile detention facilities, to
23 operate juvenile detention facilities and otherwise provide for
24 secure juvenile detention services and alternatives to secure

1 detention as necessary and appropriate, in accordance with state-
2 approved juvenile detention standards and the State Plan for the
3 Establishment of Juvenile Detention Services provided for in Section
4 2-3-103 of this title. The participation of local resources shall
5 be a requirement for the receipt by counties of said funds and the
6 Department shall establish a system of rates for the reimbursement
7 of secure detention costs to counties. The methodology for the
8 establishment of said rates may include, but not be limited to,
9 consideration of detention costs, the size of the facility, services
10 provided and geographic location. Expenditures from said fund shall
11 be made upon warrants issued by the State Treasurer against claims
12 filed as prescribed by law with the Director of the Office of
13 Management and Enterprise Services for approval and payment.

14 1. The rate of reimbursement of approved operating cost shall
15 be eighty-five percent (85%) for the Office of Juvenile Affairs and
16 fifteen percent (15%) for the county.

17 2. The rate of reimbursement of approved operating cost shall
18 be one hundred percent (100%) for the Office of Juvenile Affairs for
19 a child in the custody of the Office of Juvenile Affairs after
20 adjudication and disposition who is held in a juvenile detention
21 facility when the child is pending a placement consistent with the
22 treatment needs of that child as identified by the Office of
23 Juvenile Affairs.

1 3. The Office of Juvenile Affairs shall approve only those
2 applications for funds to renovate an existing juvenile detention
3 facility or any other existing facility or to construct a new
4 juvenile detention facility which contain proposed plans that are in
5 compliance with state-approved juvenile detention standards.

6 ~~3.~~ 4. The Office of Juvenile Affairs shall approve only those
7 applications or contracts for funds to operate juvenile detention
8 facilities or otherwise provide for secure juvenile detention
9 services and alternatives to secure detention which are in
10 compliance with or which are designed to achieve compliance with the
11 State Plan for the Establishment of Juvenile Detention Services
12 provided for in Section 2-3-103 of this title.

13 ~~4.~~ 5. The Office of Juvenile Affairs shall, from appropriated
14 state monies or from available federal grants, provide for payment
15 pursuant to contract for transportation personnel and vehicle-
16 related costs and reimburse for eligible travel costs for counties
17 utilizing the juvenile detention facilities identified in the "State
18 Plan for the Establishment of Juvenile Detention Services" in
19 accordance with the provisions of the State Travel Reimbursement Act
20 and in accordance with Section 2-3-103 of this title.

21 SECTION 3. This act shall become effective November 1, 2020.

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