

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1282

By: Lawson

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to children; amending 10A O.S. 2011,
10 Sections 2-3-101, as last amended by Section 2,
11 Chapter 234, O.S.L. 2016 and 2-7-401, as last amended
12 by Section 2, Chapter 67, O.S.L. 2016 (10A O.S. Supp.
13 2019, Sections 2-3-101 and 2-7-401), which relate to
14 detention of juveniles; allowing placement of
15 children under fourteen years of age in juvenile
16 detention facilities only under certain
17 circumstances; providing for one-hundred-percent
18 reimbursement for operating costs for certain
19 children being held in juvenile detention; and
20 providing an effective date.

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

22 SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-3-101, as
23 last amended by Section 2, Chapter 234, O.S.L. 2016 (10A O.S. Supp.
24 2019, Section 2-3-101), is amended to read as follows:

25 Section 2-3-101. A. When a child is taken into custody
26 pursuant to the provisions of the Oklahoma Juvenile Code, the child
27 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 child under twelve (12) years of age shall be
4 placed in a juvenile detention facility unless all
5 alternatives have been exhausted and the child is
6 currently charged with a criminal offense that would
7 constitute a felony if committed by an adult and it
8 has been indicated by a risk assessment screening that
9 the child requires detention. The detention of any
10 child under twelve (12) years of age shall be
11 judicially reviewed pursuant to subparagraph c of this
12 paragraph.

13 b. Any child who is thirteen (13) or fourteen (14) years
14 of age may be admitted to a juvenile detention
15 facility only after all alternatives have been
16 exhausted and the child is currently charged with a
17 criminal offense that would constitute a felony if
18 committed by an adult and it has been indicated by a
19 risk assessment screening that the child requires
20 detention.

21 c. No preadjudicatory or predisposition detention or
22 custody order shall remain in force and effect for
23 more than thirty (30) days. The court, for good and
24 sufficient cause shown, may extend the effective

1 period of such an order for an additional period not
2 to exceed sixty (60) days. If the child is being
3 detained for the commission of a murder, the court
4 may, if it is in the best interests of justice, extend
5 the effective period of such an order an additional
6 sixty (60) days.

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

1 "telephone conference communication" means use of a
2 telephone device that allows all parties, including
3 the child, to hear and be heard by the other parties
4 at the hearing. After the hearing, the court may
5 order continued detention in a juvenile detention
6 center, may order the child detained in an alternative
7 to secure detention or may order the release of the
8 child from detention.

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

16 3. Except as otherwise authorized by this section a child who
17 has been taken into custody as a deprived child, a child in need of
18 supervision, or who appears to be a minor in need of treatment, may
19 not be placed in any detention facility pending court proceedings,
20 but must be placed in shelter care or foster care or, with regard to
21 a child who appears to be a minor in need of treatment, a behavioral
22 health treatment facility in accordance with the provisions of the
23 Inpatient Mental Health and Substance Abuse Treatment of Minors Act,
24 or released to the custody of the parents of the child or some other

1 responsible party. Provided, this shall not preclude runaway
2 juveniles from other states, with or without delinquent status, to
3 be held in a detention facility in accordance with the Interstate
4 Compact for Juveniles in Sections 2-9-101 through 2-9-116 of this
5 title and rules promulgated by the Interstate Commission.

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

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

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

11 3. The child is seriously assaultive or destructive towards
12 others or self;

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

16 a. is on probation or parole on a prior delinquent
17 offense,

18 b. is on preadjudicatory community supervision, or

19 c. is currently on release status on a prior delinquent
20 offense;

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

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

- a. the child is absent from court-ordered placement without approval by the court,
- b. the child is absent from designated placement by the Office of Juvenile Affairs without approval by the Office of Juvenile Affairs,
- c. there is reason to believe the child will not remain at said placement, or
- d. the child is subject to an administrative transfer or parole revocation proceeding.

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

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

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

- 4 a. the child is detained for the commission of a crime
5 that would constitute a felony if committed by an
6 adult, and
- 7 b. the child is awaiting an initial court appearance, and
- 8 c. the initial court appearance of the child is scheduled
9 within twenty-four (24) hours after being taken into
10 custody, excluding weekends and holidays, and
- 11 d. the court of jurisdiction is outside of the Standard
12 Metropolitan Statistical Area as defined by the Bureau
13 of Census, and
- 14 e. there is no existing acceptable alternative placement
15 for the child, and
- 16 f. the jail, adult lockup or adult detention facility
17 provides sight and sound separation for juveniles,
18 pursuant to standards required by subsection E of
19 Section 2-3-103 of this title, or
- 20 g. the jail, adult lockup or adult detention facility
21 meets the requirements for licensure of juvenile
22 detention facilities, as adopted by the Office of
23 Juvenile Affairs, is appropriately licensed, and
24

1 provides sight and sound separation for juveniles,
2 which includes:

3 (1) total separation between juveniles and adult
4 facility spatial areas such that there could be
5 no haphazard or accidental contact between
6 juvenile and adult residents in the respective
7 facilities,

8 (2) total separation in all juvenile and adult
9 program activities within the facilities,
10 including recreation, education, counseling,
11 health care, dining, sleeping and general living
12 activities, and

13 (3) separate juvenile and adult staff, specifically
14 direct care staff such as recreation, education
15 and counseling.

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

21 2. Nothing in this section shall preclude a child who is
22 detained for the commission of a crime that would constitute a
23 felony if committed by an adult, or a child who is an escapee from a
24 juvenile secure facility or from an Office of Juvenile Affairs group

1 home from being held in any jail certified by the State Department
2 of Health, police station or similar law enforcement offices for up
3 to six (6) hours for purposes of identification, processing or
4 arranging for transfer to a secure detention or alternative to
5 secure detention. Such holding shall be limited to the absolute
6 minimum time necessary to complete these actions.

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

13 b. Whenever the time limitations established by this
14 subsection are exceeded, this circumstance shall not
15 constitute a defense in a subsequent delinquency or
16 criminal proceeding.

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

23 4. Nothing in this section shall preclude detaining in a county
24 jail or other adult detention facility a person provided for in

1 Section 2-3-102 of this title if written or electronically
2 transmitted confirmation is received from the state seeking return
3 of the individual that the person is a person provided for in
4 Section 2-3-102 of this title and if, during the time of detention,
5 the person is detained in a facility meeting the requirements of
6 Section 2-3-103 of this title.

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

- 13 a. there is a reasonable belief that the person is
14 eighteen (18) years of age or older,
- 15 b. there is a reasonable belief that a felony has been
16 committed by the person,
- 17 c. a court order for such detention is obtained from a
18 judge of the district court within six (6) hours of
19 initially detaining the person,
- 20 d. there is no juvenile detention facility that has space
21 available for the person and that is within thirty
22 (30) miles of the jail, police station, or law
23 enforcement office in which the person is to be
24 detained, and

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

4 The time limitation provided for in this paragraph shall include the
5 time the person is detained prior to the issuance of the court
6 order.

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

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

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

1 H. Each member of the staff of a juvenile detention facility
2 shall satisfactorily complete a training program provided or
3 approved by the Office of Juvenile Affairs.

4 I. Whenever a juvenile is placed in any jail, adult lockup, or
5 other detention facility, the Office of Juvenile Affairs shall have
6 access to all facilities which detain such juveniles and shall have
7 access to any data regarding such juveniles. The Office of Juvenile
8 Affairs shall have access to all jails, adult lockups, or other
9 adult facilities in this state, including all data maintained by
10 such facilities, to assure compliance with this section. The Board
11 of Juvenile Affairs shall promulgate rules as necessary to implement
12 the provisions of this section.

13 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-7-401, as
14 last amended by Section 2, Chapter 67, O.S.L. 2016 (10A O.S. Supp.
15 2019, Section 2-7-401), is amended to read as follows:

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

1 B. All monies appropriated to the fund shall be budgeted and
2 expended by the Office of Juvenile Affairs for the purpose of
3 providing funds to counties to renovate existing juvenile detention
4 facilities, to construct new juvenile detention facilities, to
5 operate juvenile detention facilities and otherwise provide for
6 secure juvenile detention services and alternatives to secure
7 detention as necessary and appropriate, in accordance with state-
8 approved juvenile detention standards and the State Plan for the
9 Establishment of Juvenile Detention Services provided for in Section
10 2-3-103 of this title. The participation of local resources shall
11 be a requirement for the receipt by counties of said funds and the
12 Department shall establish a system of rates for the reimbursement
13 of secure detention costs to counties. The methodology for the
14 establishment of said rates may include, but not be limited to,
15 consideration of detention costs, the size of the facility, services
16 provided and geographic location. Expenditures from said fund shall
17 be made upon warrants issued by the State Treasurer against claims
18 filed as prescribed by law with the Director of the Office of
19 Management and Enterprise Services for approval and payment.

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

23 2. The rate of reimbursement of approved operating cost shall
24 be one hundred percent (100%) for the Office of Juvenile Affairs for

1 a child in the custody of the Office of Juvenile Affairs after
2 adjudication and disposition who is held in a juvenile detention
3 facility when the child is pending a placement consistent with the
4 treatment needs of that child as identified by the Office of
5 Juvenile Affairs.

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

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

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

3 SECTION 3. This act shall become effective November 1, 2020.
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5 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/02/2020 - DO PASS,
6 As Amended.
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