

HB352 ENGROSSED



1 HB352
2 TJ3E959-2
3 By Representative Lee
4 RFD: Ways and Means General Fund
5 First Read: 21-Mar-24



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A BILL
TO BE ENTITLED
AN ACT

Relating to juvenile courts; to amend Sections 12-15-208 and 12-15-215, Code of Alabama 1975, to require the Department of Youth Services to reimburse a county detention facility for housing a child once the child has been ordered to the custody of the Department of Youth Services; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 12-15-208 and 12-15-215, Code of Alabama 1975, are 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) ~~STATUS OFFENDERS. Effective October 1, 2009, A~~
~~status offenders~~offender, ~~as defined in this article, shall~~
~~not be detained or confined in secure custody,~~ except as
further provided in this subdivision and subsection (b) ~~that a~~
~~status offender who is charged with or who commits a violation~~
~~of a valid court order may be detained in secure custody in a~~



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29 ~~juvenile detention facility for up to 72 hours in any~~
30 ~~six-month period, provided that all conditions set forth in~~
31 ~~subdivision (3) of subsection (b) are satisfied.~~

32 a. Short-term secure custody of an accused status
33 ~~offenders~~ offender may be necessary, such as detention in a
34 juvenile detention facility, for a brief period, not exceeding
35 24 hours, prior to formal juvenile court action, for
36 investigative purposes, for identification purposes, or for
37 the purpose of allowing return of a status offender to the
38 parent, legal guardian, or legal custodian.

39 b. Detention for a brief period of time pursuant to
40 juvenile court authority may ~~also~~ be necessary in order to
41 arrange for appropriate shelter care placement. If a petition
42 regarding an alleged status offender is filed in juvenile
43 court and if it is determined that the alleged status offender
44 is at imminent risk of being placed in the legal or physical
45 custody of the Department of Human Resources, the case shall
46 be referred to the county children's services facilitation
47 team, and the procedures in Article 5 shall be followed. Upon
48 referral to the county children's services facilitation team,
49 the juvenile probation officer shall continue to provide case
50 management to the status offender unless the county children's
51 services facilitation team appoints another person to act as
52 case manager. The juvenile probation officer shall participate
53 in county children's services facilitation team meetings and
54 share records information and reports on the status offender
55 with the county children's services facilitation team.

56 (2) ~~FEDERAL WARDS. Federal wards~~ A federal ward who is



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57 held beyond 24 hours in secure custody in state ~~and or~~ local
58 juvenile detention facilities pursuant to a written contract
59 or agreement with a federal agency and for the specific
60 purpose of affecting a jurisdictional transfer, ~~or~~ appearance
61 as a material witness, or for return to ~~their~~his or her lawful
62 residence or country of citizenship shall be reported as
63 ~~violations~~ a violation of the deinstitutionalization of status
64 offender requirement.

65 (3) ~~NONOFFENDERS. Nonoffenders, as defined in this~~
66 ~~article, shall not be detained or confined in secure custody~~A
67 nonoffender.

68 (4) ~~CHILDREN 10 YEARS OF AGE AND YOUNGER. Children~~A
69 child 10 years of age and younger ~~shall not be detained or~~
70 ~~confined in secure custody~~, unless the ~~children are~~ child is
71 charged with ~~offenses~~ an offense causing death or serious
72 bodily injury to ~~persons~~ a person or ~~offenses~~ an offense that
73 would be classified as a Class A ~~felonies~~ felony if committed
74 by ~~adults~~ an adult.

75 ~~Children~~ (5) A child 11 or 12 years of age ~~may only be~~
76 ~~detained or confined in secure custody by orders of juvenile~~
77 ~~courts~~, unless: (i) the ~~children are~~ child is charged with
78 ~~offenses~~ an offense causing death or serious bodily injury to
79 ~~persons~~ a person or ~~offenses~~ an offense that would be
80 classified as a Class A ~~felonies~~ felony if committed by
81 ~~adults~~ an adult; or (ii) by order of a juvenile court.

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

84 (1) ~~Persons~~ A person who ~~violate~~ violates the federal



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85 law, which prohibits possession of a handgun by a child under
86 ~~the age of~~ 18 years of age, or who ~~violate~~ violates a similar
87 state or municipal law⁷. A person under this subdivision may
88 be placed in ~~secure custody in~~ juvenile detention facilities.

89 (2) ~~Persons~~ A person in custody pursuant to the
90 Interstate Compact ~~on~~ for Juveniles, contained in Section
91 ~~44-2-1, et seq.,~~ 44-2-10. A person under this subdivision may
92 be placed in ~~secure custody in~~ juvenile detention facilities.

93 (3) ~~Status offenders~~ A status offender who ~~violate~~
94 violates a valid court order.

95 a. A status offender who is charged with or has
96 committed a violation of a valid court order may be detained
97 in secure custody in a juvenile detention facility for up to
98 72 hours in any six-month period.

99 b. ~~Status offenders~~ A status offender who ~~violate~~
100 violates a valid court ~~orders~~ order shall not be committed to
101 the Department of Youth Services, nor ~~shall they be held in~~
102 ~~jails~~ a jail or ~~lockups~~ lockup for adult offenders.

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

106 ~~a.~~ 1. The juvenile detention facility shall immediately
107 notify the juvenile court intake or probation officer that the
108 child is being held in secure custody for violating a valid
109 court order. The notice shall include the date and time the
110 child entered the juvenile detention facility.

111 ~~b.~~ 2. Within the first 24 hours during which a status
112 offender is held in secure custody ~~for violating a valid court~~



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113 ~~order~~, not including weekends or holidays, a juvenile court
114 intake or probation officer, or an authorized representative
115 of the department or agency having custody or supervision of
116 the child, shall interview the child~~,~~ in person.

117 ~~e.3.~~ Within 48 hours of the admission of the status
118 offender to secure custody ~~for violating a valid court order~~,
119 not including weekends or holidays:

120 ~~1. The~~ (i) the individual who interviewed the child
121 shall submit a written assessment report to the juvenile court
122 regarding the immediate needs of the child; and

123 ~~2. If~~ (ii) if the juvenile court has not yet determined
124 whether the child has~~, in fact,~~ violated the order, the
125 juvenile court shall conduct a hearing to determine whether
126 there is reasonable cause to believe that the child violated
127 the order and the appropriate placement of the child pending
128 disposition of the alleged violation.

129 (c) ~~Compliance with jail removal.~~ No person under ~~the~~
130 ~~age of 18 years~~ of age shall be detained or confined in any
131 jail or lockup for adults except ~~for the following~~
132 ~~exceptions~~ as follows:

133 (1) ~~A child may be detained in a jail or lockup for~~
134 ~~adults for~~ For up to six hours while processing the case of
135 the child.

136 (2) ~~A~~ If the child is transferred for criminal
137 prosecution pursuant to Section 12-15-203 ~~may be detained in a~~
138 ~~jail or lockup for adults.~~

139 (3) ~~A person~~ If the child is charged pursuant to
140 Section 12-15-204 ~~may be detained in a jail or lockup for~~

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141 ~~adults.~~

142 (d) (1) When a case is transferred to another court for
143 criminal prosecution under subdivision (c) (2), the person
144 shall be transferred to the appropriate officer or jail or
145 lockup in accordance with the law governing the detention of
146 the person charged with the crime. ~~Jails and lockups~~ A jail or
147 lockup used for holding adults shall not hold a status
148 ~~offenders~~ offender in secure custody at any time. An accused
149 status offender may be detained in a nonsecure area of a jail
150 or lockup for processing while waiting transportation to a
151 nonsecure shelter care facility or a juvenile detention
152 facility or while waiting for release to a parent, legal
153 guardian, or legal custodian.

154 (2) Nothing in this ~~subsection~~ section shall prohibit a
155 circuit court judge exercising criminal jurisdiction from
156 ~~recommending~~ ordering that a child described in subdivision
157 (c) (2) or (3) should be placed in a juvenile detention center
158 instead of an adult jail or lockup.

159 ~~(d) Compliance with separation. Accused~~ (e) (1) An
160 accused or adjudicated delinquent ~~children~~ child or a status
161 ~~offenders~~ offender shall not have contact with adult inmates,
162 including ~~trusties~~ trustees. "Contact" is defined ~~to include as~~
163 any physical or sustained sight and sound contact. "Sight
164 contact" is defined as clear visual contact between adult
165 inmates and an accused or adjudicated delinquent ~~children~~
166 child or a status ~~offenders~~ offender within close proximity to
167 each other. "Sound contact" is defined as direct verbal
168 communication between adult inmates and an accused or



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169 adjudicated delinquent ~~children~~child or a status
170 ~~offenders~~offender.

171 (2) No child shall enter pursuant to public authority,
172 for any amount of time, in secure custody in a secure section
173 of a jail, lockup, or correctional facility for adults as a
174 disposition of an offense or as a means of modifying his or
175 her behavior ~~(e.g., Shock Incarceration or Scared Straight)~~.

176 ~~(e)~~ (f) Except as provided ~~above~~in this section, in
177 providing detention and shelter or other care for ~~children~~ a
178 child referred to or coming under the jurisdiction of the
179 juvenile court, the juvenile court shall ~~utilize only those~~
180 ~~facilities~~ utilize a facility as have that has been
181 established, licensed, or approved by the Department of Youth
182 Services or Department of Human Resources for those purposes.

183 ~~(f) After October 1, 1991, the Department of Youth~~
184 ~~Services shall accept all children committed to it within~~
185 ~~seven days of notice of disposition.~~

186 (g) Except as provided ~~above~~in this section, the
187 official in charge of a jail or lockup for the detention of
188 adult offenders or persons charged with crimes shall inform
189 the juvenile court immediately when a child, who is or appears
190 to be a child as defined by this chapter, is received at the
191 jail or lockup. Upon request, the official shall deliver the
192 child to the juvenile court or transfer him or her to a
193 juvenile detention facility designated by the juvenile court.

194 (h) The Department of Youth Services shall continue to
195 develop and implement a statewide system of juvenile detention
196 facilities ~~which~~ that shall be licensed by the Department of



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197 Youth Services for the detention of children.

198 (i) The Department of Youth Services shall subsidize
199 the detention of children in the juvenile detention facilities
200 in an amount up to one half the average cost of detention,
201 ~~which term is defined in this article, the~~. The amount
202 ~~depending of the subsidy shall depend~~ on the ~~provision of~~
203 funds appropriated by the Legislature to the Department of
204 Youth Services. Juvenile detention facilities may contract
205 with the Department of Youth Services or other counties for
206 the detention of children.

207 ~~(j) When a case is transferred to another court for~~
208 ~~criminal prosecution, the child shall be transferred to the~~
209 ~~appropriate officer or jail or lockup in accordance with the~~
210 ~~law governing the detention of the person charged with~~
211 ~~criminal offenses.~~

212 ~~(k)~~ (j) Any law enforcement officer, at the direction of
213 the juvenile court, shall provide security and transportation
214 services for the juvenile court in transporting children to
215 and from juvenile detention facilities and the Department of
216 Youth Services."

217 "§12-15-215

218 (a) If the juvenile court finds on proof beyond a
219 reasonable doubt, based upon competent, material, and relevant
220 evidence, that a child committed the acts by reason of which
221 the child is alleged to be delinquent or in need of
222 supervision, ~~it~~ the court may proceed immediately to hear
223 evidence as to whether the child is in need of care or
224 rehabilitation and ~~to file~~ record its findings ~~thereon~~. In the



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225 absence of evidence to the contrary, a finding that the child
226 has committed ~~an act which constitutes~~ a felony is sufficient
227 to sustain a finding that the child is in need of care or
228 rehabilitation.

229 (b) If the juvenile court finds that the child is not
230 in need of care or rehabilitation, it shall dismiss the
231 proceedings and discharge the child from any detention or
232 other temporary care theretofore ordered.

233 (c) If the juvenile court finds that the child is in
234 need of care or rehabilitation, it may ~~make order~~ any of the
235 following ~~orders or dispositions~~, subject to the limitations
236 and prohibitions on secure custody contained in Section
237 12-15-208:

238 (1) ~~Permit the~~ That the child ~~to~~ shall remain with the
239 parent, legal guardian, or ~~other~~ legal custodian ~~of the child~~,
240 subject to the conditions and limitations prescribed by the
241 juvenile court ~~may prescribe~~.

242 (2) ~~Place the~~ That the child shall be placed on
243 probation pursuant to conditions and limitations prescribed by
244 the juvenile court ~~may prescribe~~.

245 (3) ~~Transfer legal~~ That the legal and physical custody
246 ~~to~~ of the child shall be transferred to any of the following:

247 a. ~~The~~ In the case of a delinquent child, the
248 Department of Youth Services, with or without an order to a
249 specific institution.

250 b. In the case of a child in need of supervision, the
251 Department of Youth Services, or the Department of Human
252 Resources; ~~provided however 1. that prior to any transfer of~~



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253 ~~custody to the Department of Human Resources, the case shall~~
254 ~~first be referred to the county children's services~~
255 ~~facilitation team, which must proceed according to Article 5;~~
256 ~~and 2. that the child's commission of one or more status~~
257 ~~offenses shall not constitute a sufficient basis for transfer~~
258 ~~of legal or physical custody to the Department of Human~~
259 ~~Resources. Upon referral to the county children's services~~
260 ~~facilitation team, the juvenile probation officer shall~~
261 ~~continue to provide case management to the status offender~~
262 ~~unless the county children's services facilitation team~~
263 ~~appoints another person to act as case manager. The juvenile~~
264 ~~probation officer shall participate in county children's~~
265 ~~services facilitation team meetings and share records~~
266 ~~information and reports on the status offender with the county~~
267 ~~children's services facilitation team. When the juvenile court~~
268 ~~transfers legal and physical custody to the Department of~~
269 ~~Human Resources, all requirements which shall be met for a~~
270 ~~child to be eligible for federal funding shall apply,~~
271 ~~including, but not limited to, the requirements set out in~~
272 ~~Sections 12-15-312, 12-15-315, and 12-15-317. The child's~~
273 ~~commission of one or more status offenses shall not constitute~~
274 ~~a sufficient basis for transfer of legal or physical custody~~
275 ~~to the Department of Human Resources.~~

276 1. Prior to any transfer of custody to the Department
277 of Human Resources, the case shall first be referred to the
278 county children's services facilitation team, which must
279 proceed according to Article 5.

280 2. Upon referral to the county children's services



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281 facilitation team pursuant to subparagraph 1., the juvenile
282 probation officer shall continue to provide case management to
283 the status offender unless the county children's services
284 facilitation team appoints another person to act as case
285 manager.

286 3. The juvenile probation officer shall participate in
287 county children's services facilitation team meetings and
288 share records, information, and reports on the status offender
289 with the county children's services facilitation team.

290 c. A local, public, or private agency, organization, or
291 facility that is licensed or otherwise authorized by law to
292 receive and provide care for children and willing and able to
293 assume the education, care, and maintenance of the child ~~and~~
294 ~~which is licensed or otherwise authorized by law to receive~~
295 ~~and provide care for children.~~

296 d. ~~During the term of supervision, a~~ A relative or
297 other individual who is found by the juvenile court to be
298 qualified to receive and care for the child during the term of
299 supervision.

300 (4) The parent, legal guardian, or legal custodian of
301 the child perform reasonable acts as are deemed necessary to
302 promote the best interests of the child.

303 (5) ~~Make any~~ Any other order ~~as~~ the juvenile court ~~in~~
304 ~~its discretion shall deem~~ determines to be appropriate for
305 the welfare and best interests of the child, including random
306 drug screens, assessment of fines not to exceed two hundred
307 fifty dollars (\$250), and restitution against the parent,
308 legal guardian, legal custodian, or child, ~~as the juvenile~~



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309 ~~court deems appropriate~~. Costs for juvenile court-ordered drug
310 screening may be ordered paid for by the state out of
311 ~~moneys~~monies appropriated as "court costs not otherwise
312 provided for." Restitution against the parent, legal guardian,
313 or legal custodian, ~~or child~~ shall be governed by the same
314 principles applicable in the Restitution to Victims of Crime
315 Act, commencing with Section 15-18-65. Restitution against the
316 child shall be governed by the same principles applicable in
317 Rule 26.11 of the Alabama Rules of Criminal Procedure.

318 ~~(5) Direct the parent, legal guardian, or legal~~
319 ~~custodian of the child to perform reasonable acts as are~~
320 ~~deemed necessary to promote the best interests of the child.~~

321 ~~(6)~~ (d) In any case where a child is adjudicated
322 delinquent for possessing a pistol, short-barreled rifle, or
323 short-barreled shotgun, ~~any~~ the pistol, short-barreled rifle,
324 or short-barreled shotgun possessed by that child ~~is~~ shall be
325 forfeited and ~~shall be ordered to be destroyed by~~ the juvenile
326 court shall order its destruction.

327 (e) When the juvenile court transfers legal and
328 physical custody of a child to the Department of Human
329 Resources as provided by paragraph (c)(3)b., all requirements
330 that shall be met for a child to be eligible for federal
331 funding shall apply, including, but not limited to, the
332 requirements set out in Sections 12-15-312, 12-15-315, and
333 12-15-317.

334 ~~(b)~~ (f) No child by virtue of a disposition pursuant to
335 this section shall be committed or transferred to a penal
336 institution or other facility used for the execution of



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337 sentences of persons convicted of a crime.

338 ~~(e)~~ (g) No child in need of supervision, unless also a
339 delinquent child, shall be ordered to be placed in an
340 institution or facility established for the care and
341 rehabilitation of delinquent children unless the juvenile
342 probation officer submits a written recommendation and the
343 juvenile court ~~finds~~, upon a further hearing, finds that the
344 child is not amenable to treatment or rehabilitation pursuant
345 to any prior disposition. In ~~determining if a child is not~~
346 ~~amenable to treatment or rehabilitation~~ making its
347 determination, the juvenile court shall consider evidence of
348 the following and other relevant factors~~+~~, which shall be
349 included in the written recommendations of the juvenile
350 probation officer:

351 (1) Prior treatment efforts, ~~such as~~ including, but not
352 limited to~~+~~, any mental health counseling, individualized
353 service plans, individualized education plans, and other
354 education records.

355 ~~a. Mental health counseling, if any.~~

356 ~~b. Individualized educational plans, if any.~~

357 ~~c. Other educational records.~~

358 ~~d. Individualized service plans, if any.~~

359 (2) The age of the child.

360 (3) The history of the ~~child being involved~~ child's
361 involvement with the juvenile court, including, but not
362 limited to, informal adjustments, consent decrees,
363 adjudications, prior diversion programs, and prior placements.

364 (4) Other factors contributing to the behavioral



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365 difficulties of the child.

366 ~~The written recommendations of the juvenile probation~~
367 ~~officer shall include evidence of the foregoing and other~~
368 ~~relevant factors.~~

369 ~~(d)~~ (h) When a delinquent child ~~may be~~ meets the
370 criteria for commitment ~~committable~~ to the Department of
371 Mental Health, the juvenile court shall proceed as provided in
372 Article 4, ~~commencing with Section 12-15-401.~~

373 ~~(e) Whenever~~ (i) When the juvenile court ~~vests issues~~
374 an order transferring legal custody ~~in an agency or~~
375 ~~department, it~~ of a child to the Department of Youth Services,
376 within 10 business days of the date the order is input into
377 the State Judicial Information System pursuant to Rule 58(c)
378 of the Alabama Rules of Civil Procedure, a juvenile probation
379 officer shall ~~transmit with~~ send a copy of the order and
380 ~~copies of the clinical reports, predisposition study, and~~
381 ~~other information it has pertinent to~~ the information required
382 by Rule 950-2-2-.01 of the Alabama Administrative Code
383 regarding the care and treatment of the child. Upon receipt of
384 the order and information provided by the juvenile probation
385 officer, if the child is detained in a juvenile detention
386 facility, the Department of Youth Services shall notify the
387 county commission responsible for the cost of the detention of
388 the child that legal custody of the child has been transferred
389 to the Department of Youth Services.

390 ~~(f)~~ (j) When a child is placed in the legal custody of a
391 department, agency, organization, entity, or person as
392 provided in this section, ~~when~~ and the parent, legal guardian,



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393 or legal custodian of the child has resources for child
394 support, the juvenile court shall order child support in
395 conformity with the child support guidelines as set out in
396 Rule 32, Alabama Rules of Judicial Administration. The child
397 support shall be paid to the department, agency, organization,
398 entity, or person in whose legal custody the child is placed
399 and may be expended for those matters that are necessary for
400 the welfare and well-being of ~~those children placed in the~~
401 ~~departments, agencies, organizations, entities, or persons~~ the
402 child. In these cases, the juvenile court shall issue income
403 withholding orders subject to state law.

404 ~~(g) Whenever~~ (k) (1) When the juvenile court ~~commits a~~
405 ~~child to a state or local department or agency or orders a~~
406 ~~state or local department or agency to provide services or~~
407 ~~treatment for a child~~ issues an order transferring legal
408 custody to the Department of Youth Services, ~~that department~~
409 ~~or agency~~ the Department of Youth Services shall accept the
410 child for commitment, ~~ordered services, or treatment~~ within
411 ~~seven~~ 12 business days of ~~the order of the juvenile~~
412 ~~court~~ receipt of the order and the information required by Rule
413 950-2-2-.01 of the Alabama Administrative Code.

414 (2) Notwithstanding ~~the foregoing~~ subdivisions (1) and
415 (4), if compliance with the order of the juvenile court ~~within~~
416 ~~seven days~~ would place ~~a department or agency~~ the Department
417 of Youth Services in violation of ~~either~~ a state or federal
418 statute or standard, ~~then compliance is not required~~ the
419 department may choose not to accept the child.

420 (3) If the Department of Youth Services does not accept



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421 the child within the prescribed number of days as provided in
422 subdivision (1) or (4), the Department of Youth Services shall
423 reimburse the county commission responsible for the cost of
424 the detention of the child for expenses incurred by the county
425 each day after the day the Department of Youth Services is
426 required to accept the child for commitment, including, but
427 not limited to, medical, dental, and mental health costs.

428 (4) Notwithstanding subdivisions (1) through (3),
429 between October 1, 2024, and September 30, 2025, when the
430 juvenile court issues an order transferring legal custody to
431 the Department of Youth Services, the Department of Youth
432 Services shall accept a child for commitment within 16
433 business days of receipt of the order and information required
434 by Rule 950-2-2-.01 of the Alabama Administrative Code
435 regarding the care and treatment of the child."

436 Section 2. This act shall become effective on October
437 1, 2024.



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House of Representatives

Read for the first time and referred21-Mar-24
to the House of Representatives
committee on Ways and Means General
Fund
Read for the second time and placed04-Apr-24
on the calendar:
1 amendment
Read for the third time and passed09-Apr-24
as amended
Yeas 101
Nays 0
Abstains 0

John Treadwell
Clerk