

HB352 ENROLLED



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



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1 Enrolled, An Act,

2 Relating to juvenile courts; to amend Sections
3 12-15-208 and 12-15-215, Code of Alabama 1975, to require the
4 Department of Youth Services to reimburse a county detention
5 facility for housing a child once the child has been ordered
6 to the custody of the Department of Youth Services; and to
7 make nonsubstantive, technical revisions to update the
8 existing code language to current style.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Sections 12-15-208 and 12-15-215, Code of
11 Alabama 1975, are amended to read as follows:

12 "§12-15-208

13 (a) Persons who shall not be detained or confined in
14 secure custody include all of the following:

15 (1) ~~STATUS OFFENDERS. Effective October 1, 2009, A~~
16 ~~status offenders~~offender, as defined in this article, shall
17 ~~not be detained or confined in secure custody, except as~~
18 further provided in this subdivision and subsection (b)~~that a~~
19 ~~status offender who is charged with or who commits a violation~~
20 ~~of a valid court order may be detained in secure custody in a~~
21 ~~juvenile detention facility for up to 72 hours in any~~
22 ~~six-month period, provided that all conditions set forth in~~
23 ~~subdivision (3) of subsection (b) are satisfied.~~

24 a. Short-term secure custody of an accused status
25 ~~offenders~~offender may be necessary, such as detention in a
26 juvenile detention facility, for a brief period, not exceeding
27 24 hours, prior to formal juvenile court action, for
28 investigative purposes, for identification purposes, or for



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29 the purpose of allowing return of a status offender to the
30 parent, legal guardian, or legal custodian.

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

48 (2) ~~FEDERAL WARDS. Federal wards~~ A federal ward who is
49 held beyond 24 hours in secure custody in a state and or local
50 juvenile detention ~~facilities~~ facility pursuant to a written
51 contract or agreement with a federal agency and for the
52 specific purpose of affecting a jurisdictional transfer, ~~or~~
53 appearance as a material witness, or for return to ~~their~~ his or
54 her lawful residence or country of citizenship shall be
55 reported as ~~violations~~ a violation of the
56 deinstitutionalization of status offender requirement.



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57 (3) ~~NONOFFENDERS. Nonoffenders, as defined in this~~
58 ~~article, shall not be detained or confined in secure custody~~A
59 nonoffender.

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

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

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

76 (1) ~~Persons~~ A person who ~~violate~~ violates the federal
77 law, ~~which~~ that prohibits possession of a handgun by a child
78 under ~~the age of 18 years~~ of age, or who ~~violate~~ violates a
79 similar state or municipal law~~7~~. A person under this
80 subdivision may be placed in ~~secure custody in a~~ juvenile
81 ~~detention facilities~~ facility.

82 (2) ~~Persons~~ A person in custody pursuant to the
83 Interstate Compact ~~on~~ for Juveniles, contained in Section
84 ~~44-2-1, et seq.,~~ 44-2-10. A person under this subdivision may



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85 be placed in ~~secure custody in~~ juvenile detention facilities.

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

88 a. A status offender who is charged with or has
89 committed a violation of a valid court order may be detained
90 in secure custody in a juvenile detention facility for up to
91 72 hours in any six-month period.

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

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

99 a.1. The juvenile detention facility shall immediately
100 notify the juvenile court intake or probation officer that the
101 child is being held in secure custody for violating a valid
102 court order. The notice shall include the date and time the
103 child entered the juvenile detention facility.

104 b.2. Within the first 24 hours during which a status
105 offender is held in secure custody ~~for violating a valid court~~
106 ~~order~~, not including weekends or holidays, a juvenile court
107 intake or probation officer, or an authorized representative
108 of the department or agency having custody or supervision of
109 the child, shall interview the child, in person.

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



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

116 ~~2. If~~(ii) if the juvenile court has not yet determined
117 whether the child has~~, in fact,~~ violated the order, the
118 juvenile court shall conduct a hearing to determine whether
119 there is reasonable cause to believe that the child violated
120 the order and the appropriate placement of the child pending
121 disposition of the alleged violation.

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

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

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

132 (3) ~~A person~~ If the child is charged pursuant to
133 Section 12-15-204 ~~may be detained in a jail or lockup for~~
134 ~~adults.~~

135 (d) (1) When a case is transferred to another court for
136 criminal prosecution under subdivision (c) (2), the person
137 shall be transferred to the appropriate officer or jail or
138 lockup in accordance with the law governing the detention of
139 the person charged with the crime. ~~Jails and lockups~~ A jail or
140 lockup used for holding adults shall not hold a status



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141 ~~offenders~~offender in secure custody at any time. An accused
142 status offender may be detained in a nonsecure area of a jail
143 or lockup for processing while waiting transportation to a
144 nonsecure shelter care facility or a juvenile detention
145 facility or while waiting for release to a parent, legal
146 guardian, or legal custodian.

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

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

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



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169 ~~(e)~~ (f) Except as provided ~~above~~ in this section, in
170 providing detention and shelter or other care for ~~children~~ a
171 child referred to or coming under the jurisdiction of the
172 juvenile court, the juvenile court shall ~~utilize only those~~
173 ~~facilities~~ utilize a facility as have that has been
174 established, licensed, or approved by the Department of Youth
175 Services or Department of Human Resources for those purposes.

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

179 (g) Except as provided ~~above~~ in this section, the
180 official in charge of a jail or lockup for the detention of
181 adult offenders or persons charged with crimes shall inform
182 the juvenile court immediately when a child, who is or appears
183 to be a child as defined by this chapter, is received at the
184 jail or lockup. Upon request, the official shall deliver the
185 child to the juvenile court or transfer him or her to a
186 juvenile detention facility designated by the juvenile court.

187 (h) The Department of Youth Services shall continue to
188 develop and implement a statewide system of juvenile detention
189 facilities ~~which~~ that shall be licensed by the Department of
190 Youth Services for the detention of children.

191 (i) The Department of Youth Services shall subsidize
192 the detention of children in the juvenile detention facilities
193 in an amount up to one half the average cost of detention,
194 ~~which term is defined in this article, the~~ . The amount
195 ~~depending of the subsidy shall depend on the provision of~~
196 funds appropriated by the Legislature to the Department of



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197 Youth Services. Juvenile detention facilities may contract
198 with the Department of Youth Services or other counties for
199 the detention of children.

200 ~~(j) When a case is transferred to another court for~~
201 ~~criminal prosecution, the child shall be transferred to the~~
202 ~~appropriate officer or jail or lockup in accordance with the~~
203 ~~law governing the detention of the person charged with~~
204 ~~criminal offenses.~~

205 ~~(k)~~ (j) Any law enforcement officer, at the direction of
206 the juvenile court, shall provide security and transportation
207 services for the juvenile court in transporting children to
208 and from juvenile detention facilities and the Department of
209 Youth Services."

210 "§12-15-215

211 (a) If the juvenile court finds on proof beyond a
212 reasonable doubt, based upon competent, material, and relevant
213 evidence, that a child committed the acts by reason of which
214 the child is alleged to be delinquent or in need of
215 supervision, ~~it~~ the court may proceed immediately to hear
216 evidence as to whether the child is in need of care or
217 rehabilitation and ~~to file record its findings thereon~~. In the
218 absence of evidence to the contrary, a finding that the child
219 has committed ~~an act which constitutes~~ a felony is sufficient
220 to sustain a finding that the child is in need of care or
221 rehabilitation.

222 (b) If the juvenile court finds that the child is not
223 in need of care or rehabilitation, it shall dismiss the
224 proceedings and discharge the child from any detention or



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225 other temporary care theretofore ordered.

226 (c) If the juvenile court finds that the child is in
227 need of care or rehabilitation, it may ~~make order~~ order any of the
228 following ~~orders or dispositions~~, subject to the limitations
229 and prohibitions on secure custody contained in Section
230 12-15-208:

231 (1) ~~Permit the~~ That the child to ~~shall~~ remain with the
232 parent, legal guardian, or ~~other~~ legal custodian ~~of the child~~,
233 subject to the conditions and limitations prescribed by the
234 juvenile court ~~may prescribe~~.

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

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

240 a. ~~The~~ In the case of a delinquent child, the
241 Department of Youth Services, with or without an order to a
242 specific institution.

243 b. In the case of a child in need of supervision, the
244 Department of Youth Services, or the Department of Human
245 Resources; ~~provided however 1. that prior to any transfer of~~
246 ~~custody to the Department of Human Resources, the case shall~~
247 ~~first be referred to the county children's services~~
248 ~~facilitation team, which must proceed according to Article 5;~~
249 ~~and 2. that the child's commission of one or more status~~
250 ~~offenses shall not constitute a sufficient basis for transfer~~
251 ~~of legal or physical custody to the Department of Human~~
252 ~~Resources. Upon referral to the county children's services~~



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

269 1. Prior to any transfer of custody to the Department
270 of Human Resources, the case shall first be referred to the
271 county children's services facilitation team, which must
272 proceed according to Article 5.

273 2. Upon referral to the county children's services
274 facilitation team pursuant to subparagraph 1., the juvenile
275 probation officer shall continue to provide case management to
276 the status offender unless the county children's services
277 facilitation team appoints another person to act as case
278 manager.

279 3. The juvenile probation officer shall participate in
280 county children's services facilitation team meetings and



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281 share records, information, and reports on the status offender
282 with the county children's services facilitation team.

283 c. A local, public, or private agency, organization, or
284 facility that is licensed or otherwise authorized by law to
285 receive and provide care for children and willing and able to
286 assume the education, care, and maintenance of the child ~~and~~
287 ~~which is licensed or otherwise authorized by law to receive~~
288 ~~and provide care for children.~~

289 d. ~~During the term of supervision, a~~ A relative or
290 other individual who is found by the juvenile court to be
291 qualified to receive and care for the child during the term of
292 supervision.

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

296 (5) ~~Make any~~ Any other order ~~as the juvenile court in~~
297 ~~its discretion shall deem~~ determines to be appropriate for
298 the welfare and best interests of the child, including random
299 drug screens, assessment of fines not to exceed two hundred
300 fifty dollars (\$250), and restitution against the parent,
301 legal guardian, legal custodian, or child, ~~as the juvenile~~
302 ~~court deems appropriate.~~ Costs for juvenile court-ordered drug
303 screening may be ordered to be paid for by the state out of
304 ~~monies~~ monies appropriated as "court costs not otherwise
305 provided for." Restitution against the parent, legal guardian,
306 or legal custodian, ~~or child~~ shall be governed by the same
307 principles applicable in the Restitution to Victims of Crime
308 Act, commencing with Section 15-18-65. Restitution against the



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309 child shall be governed by the same principles applicable in
310 Rule 26.11 of the Alabama Rules of Criminal Procedure.

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

314 ~~(6)~~ (d) In any case where a child is adjudicated
315 delinquent for possessing a pistol, short-barreled rifle, or
316 short-barreled shotgun, ~~any~~ the pistol, short-barreled rifle,
317 or short-barreled shotgun possessed by that child ~~is~~ shall be
318 ~~forfeited and shall be ordered to be destroyed by the juvenile~~
319 ~~court shall order its destruction.~~

320 (e) When the juvenile court transfers legal and
321 physical custody of a child to the Department of Human
322 Resources as provided by paragraph (c) (3)b., all requirements
323 that shall be met for a child to be eligible for federal
324 funding shall apply, including, but not limited to, the
325 requirements set out in Sections 12-15-312, 12-15-315, and
326 12-15-317.

327 ~~(b)~~ (f) No child by virtue of a disposition pursuant to
328 this section shall be committed or transferred to a penal
329 institution or other facility used for the execution of
330 sentences of persons convicted of a crime.

331 ~~(e)~~ (g) No child in need of supervision, unless also a
332 delinquent child, shall be ordered to be placed in an
333 institution or facility established for the care and
334 rehabilitation of delinquent children unless the juvenile
335 probation officer submits a written recommendation and the
336 juvenile court ~~finds~~, upon a further hearing, finds that the



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337 child is not amenable to treatment or rehabilitation pursuant
338 to any prior disposition. In ~~determining if a child is not~~
339 ~~amenable to treatment or rehabilitation~~ making its
340 determination, the juvenile court shall consider evidence of
341 the following and other relevant factors~~;~~, which shall be
342 included in the written recommendations of the juvenile
343 probation officer:

344 (1) Prior treatment efforts, ~~such as~~ including, but not
345 limited to~~;~~, any mental health counseling, individualized
346 service plans, individualized education plans, and other
347 education records.

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

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

350 c. ~~Other educational records.~~

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

352 (2) The age of the child.

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

357 (4) Other factors contributing to the behavioral
358 difficulties of the child.

359 ~~The written recommendations of the juvenile probation~~
360 ~~officer shall include evidence of the foregoing and other~~
361 ~~relevant factors.~~

362 ~~(d)~~ (h) When a delinquent child ~~may be~~ meets the
363 criteria for commitment ~~committable~~ to the Department of
364 Mental Health, the juvenile court shall proceed as provided in



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365 Article 4, ~~commencing with Section 12-15-401.~~

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

383 ~~(f)~~ (j) When a child is placed in the legal custody of a
384 department, agency, organization, entity, or person as
385 provided in this section, ~~when and~~ the parent, legal guardian,
386 or legal custodian of the child has resources for child
387 support, the juvenile court shall order child support in
388 conformity with the child support guidelines as set out in
389 Rule 32, Alabama Rules of Judicial Administration. The child
390 support shall be paid to the department, agency, organization,
391 entity, or person in whose legal custody the child is placed
392 and may be expended for those matters that are necessary for



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393 the welfare and well-being of ~~those children placed in the~~
394 ~~departments, agencies, organizations, entities, or persons~~ the
395 child. In these cases, the juvenile court shall issue income
396 withholding orders subject to state law.

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

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

413 (3) If the Department of Youth Services does not accept
414 the child within the prescribed number of days as provided in
415 subdivision (1) or (4), the Department of Youth Services shall
416 reimburse the county commission responsible for the cost of
417 the detention of the child for expenses incurred by the county
418 each day after the day the Department of Youth Services is
419 required to accept the child for commitment, including, but
420 not limited to, medical, dental, and mental health costs.



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

429 Section 2. This act shall become effective on October
430 1, 2024.



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 09-Apr-24, as amended.

John Treadwell
Clerk

Senate

25-Apr-24

Amended and Passed

House

02-May-24

Concurred in Senate
Amendment