

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2073

By: Steagall

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5  
6 AS INTRODUCED

7 An Act relating to the Oklahoma Juvenile Code;  
8 amending 10A O.S. 2011, Section 2-3-101, as last  
9 amended by Section 2, Chapter 234, O.S.L. 2016 (10A  
10 O.S. Supp. 2018, Section 2-3-101), which relates to  
11 detention of a child; permitting court to issue  
12 warrant and detain child adjudicated or alleged to be  
13 in need of supervision; providing conditions when  
14 warrant may be issued and child detained; limiting  
15 time for detention; and providing an effective date.

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

17 SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-3-101, as  
18 last amended by Section 2, Chapter 234, O.S.L. 2016 (10A O.S. Supp.  
19 2018, Section 2-3-101), is amended to read as follows:

20 Section 2-3-101. A. When a child is taken into custody  
21 pursuant to the provisions of the Oklahoma Juvenile Code, the child  
22 shall be detained only if it is necessary to assure the appearance  
23 of the child in court or for the protection of the child or the  
24 public.

1. a. No preadjudicatory or predisposition detention or  
custody order shall remain in force and effect for

1 more than thirty (30) days. The court, for good and  
2 sufficient cause shown, may extend the effective  
3 period of such an order for an additional period not  
4 to exceed sixty (60) days. If the child is being  
5 detained for the commission of a murder, the court  
6 may, if it is in the best interests of justice, extend  
7 the effective period of such an order an additional  
8 sixty (60) days.

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

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

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

18 3. Except as otherwise authorized by this section a child who  
19 has been taken into custody as a deprived child, a child in need of  
20 supervision, or who appears to be a minor in need of treatment, may  
21 not be placed in any detention facility pending court proceedings,  
22 but must be placed in shelter care or foster care or, with regard to  
23 a child who appears to be a minor in need of treatment, a behavioral  
24 health treatment facility in accordance with the provisions of the

1 Inpatient Mental Health and Substance Abuse Treatment of Minors Act,  
2 or released to the custody of the parents of the child or some other  
3 responsible party. Provided, this shall not preclude runaway  
4 juveniles from other states, with or without delinquent status, to  
5 be held in a detention facility in accordance with the Interstate  
6 Compact for Juveniles in Sections 2-9-101 through 2-9-116 of this  
7 title and rules promulgated by the Interstate Commission.

8 4. The court may issue a warrant for a child adjudicated or  
9 alleged to be in need of supervision and may place the child in  
10 detention who:

11 a. willfully fails to appear for juvenile court  
12 proceedings, or

13 b. is absent from court-ordered placement, parent-ordered  
14 placement or the custody of his or her parent or  
15 guardian without approval by the court.

16 A child adjudicated or alleged to be in need of supervision detained  
17 pursuant to this paragraph shall not be detained for more than  
18 fifteen (15) days.

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

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

21 2. The child is a fugitive from another jurisdiction with a  
22 warrant on a delinquency charge or confirmation of delinquency  
23 charges by the home jurisdiction;

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1           3. The child is seriously assaultive or destructive towards  
2 others or self;

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

6           a. is on probation or parole on a prior delinquent  
7 offense,

8           b. is on preadjudicatory community supervision, or

9           c. is currently on release status on a prior delinquent  
10 offense;

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

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

15           a. the child is absent from court-ordered placement  
16 without approval by the court,

17           b. the child is absent from designated placement by the  
18 Office of Juvenile Affairs without approval by the  
19 Office of Juvenile Affairs,

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

22           d. the child is subject to an administrative transfer or  
23 parole revocation proceeding.

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

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

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

- 17 a. the child is detained for the commission of a crime  
18 that would constitute a felony if committed by an  
19 adult, and
- 20 b. the child is awaiting an initial court appearance, and
- 21 c. the initial court appearance of the child is scheduled  
22 within twenty-four (24) hours after being taken into  
23 custody, excluding weekends and holidays, and

- 1           d.    the court of jurisdiction is outside of the Standard  
2                    Metropolitan Statistical Area as defined by the Bureau  
3                    of Census, and
- 4           e.    there is no existing acceptable alternative placement  
5                    for the child, and
- 6           f.    the jail, adult lockup or adult detention facility  
7                    provides sight and sound separation for juveniles,  
8                    pursuant to standards required by subsection E of  
9                    Section 2-3-103 of this title, or
- 10          g.    the jail, adult lockup or adult detention facility  
11                    meets the requirements for licensure of juvenile  
12                    detention facilities, as adopted by the Office of  
13                    Juvenile Affairs, is appropriately licensed, and  
14                    provides sight and sound separation for juveniles,  
15                    which includes:
- 16                    (1) total separation between juveniles and adult  
17                            facility spatial areas such that there could be  
18                            no haphazard or accidental contact between  
19                            juvenile and adult residents in the respective  
20                            facilities,
- 21                    (2) total separation in all juvenile and adult  
22                            program activities within the facilities,  
23                            including recreation, education, counseling,
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1 health care, dining, sleeping and general living  
2 activities, and

3 (3) separate juvenile and adult staff, specifically  
4 direct care staff such as recreation, education  
5 and counseling.

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

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

21 a. The time limitations for holding a child in a jail for  
22 the purposes of identification, processing or  
23 arranging transfer established by this section shall  
24 not include the actual travel time required for

1 transporting a child from a jail to a juvenile  
2 detention facility or alternative to secure detention.

3 b. Whenever the time limitations established by this  
4 subsection are exceeded, this circumstance shall not  
5 constitute a defense in a subsequent delinquency or  
6 criminal proceeding.

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

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

21 5. Nothing in this section shall preclude detaining a person,  
22 whose age is not immediately ascertainable and who is being detained  
23 for the commission of a felony, in a jail certified by the State  
24 Department of Health, a police station or similar law enforcement

1 office for up to twenty-four (24) hours for the purpose of  
2 determining whether or not the person is a child, if:

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

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

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

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

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

18 The time limitation provided for in this paragraph shall include the  
19 time the person is detained prior to the issuance of the court  
20 order.

21 The time limitation provided for in this paragraph shall not include  
22 the actual travel time required for transporting the person to the  
23 jail, police station, or similar law enforcement office. If the  
24 time limitation established by this paragraph is exceeded, this

1 circumstance shall not constitute a defense in any subsequent  
2 delinquency or criminal proceeding.

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

7 G. Any juvenile detention facility shall be available for use  
8 by any eligible Indian child as that term is defined by the Oklahoma  
9 Indian Child Welfare Act, providing that the use of the juvenile  
10 detention facility meets the requirements of the Oklahoma Juvenile  
11 Code. The Indian tribe may contract with any juvenile detention  
12 facility for the providing of detention services.

13 H. Each member of the staff of a juvenile detention facility  
14 shall satisfactorily complete a training program provided or  
15 approved by the Office of Juvenile Affairs.

16 I. Whenever a juvenile is placed in any jail, adult lockup, or  
17 other detention facility, the Office of Juvenile Affairs shall have  
18 access to all facilities which detain such juveniles and shall have  
19 access to any data regarding such juveniles. The Office of Juvenile  
20 Affairs shall have access to all jails, adult lockups, or other  
21 adult facilities in this state, including all data maintained by  
22 such facilities, to assure compliance with this section. The Board  
23 of Juvenile Affairs shall promulgate rules as necessary to implement  
24 the provisions of this section.

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SECTION 2. This act shall become effective November 1, 2019.

57-1-7391 EK 01/16/19