

1 alternatives have been exhausted and the child is
2 currently charged with a criminal offense that would
3 constitute a felony if committed by an adult and it
4 has been indicated by ~~a~~ an OJA-approved risk-
5 assessment screening that the child requires
6 detention. The detention of any child twelve (12)
7 years of age or younger shall be judicially reviewed
8 pursuant to subparagraph c of this paragraph.

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

17 c. No preadjudicatory or predisposition detention or
18 custody order shall remain in force and effect for
19 more than thirty (30) days. The court, for good and
20 sufficient cause shown, may extend the effective
21 period of such an order for an additional period not
22 to exceed sixty (60) days. If the child is being
23 detained for the commission of a murder, the court
24 may, if it is in the best interests of justice, extend

1 the effective period of such an order an additional
2 sixty (60) days.

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

1 order continued detention in a juvenile detention
2 center, may order the child detained in an alternative
3 to secure detention or may order the release of the
4 child from detention.

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

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

1 Compact for Juveniles in Sections 2-9-101 through 2-9-116 of this
2 title and rules promulgated by the Interstate Commission.

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

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

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

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

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

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

15 b. is on preadjudicatory community supervision, or

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

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

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

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

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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~~ OJA-designated
11 sanction detention bed or an ~~Office of Juvenile Affairs-approved~~
12 OJA-approved sanction 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. Juvenile detention facilities shall be the initial placement
22 for all persons under eighteen (18) years of age. No child shall be
23 placed in secure detention in an adult jail, adult lockup, adult
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1 detention facility or other adult facility except as provided in
2 this section.

3 1. Any child who is at least fifteen (15) years of age who is
4 charged with murder in the first degree may be detained in an adult
5 jail, adult lockup, adult detention facility or other adult facility
6 only after a hearing in which the child is provided representation
7 and the court makes a written finding that it is in the interest of
8 justice that the child be placed in an adult jail, adult lockup,
9 adult detention facility or other adult facility.

10 2. In determining whether it is in the interest of justice that
11 a child who is at least fifteen (15) years of age and who is charged
12 with murder in the first degree be placed in an adult jail, adult
13 lockup, adult detention facility or other adult facility, the court
14 shall consider:

- 15 a. the age of the child,
- 16 b. the physical and mental maturity of the child,
- 17 c. the present mental state of the child, including
18 whether the child presents an imminent risk of harm to
19 the child,
- 20 d. the nature and circumstances of the alleged offense,
- 21 e. the child's history of prior delinquent acts,
- 22 f. the relative ability of the available adult and
23 juvenile detention facilities to not only meet the
24 specific needs of the child but also to protect the

1 safety of the public as well as other detained youth,
2 and

3 g. any other relevant factors.

4 3. If a court determines that it is in the interest of justice
5 that the child be placed in an adult jail, adult lockup, adult
6 detention facility or other adult facility:

7 a. the court shall hold a hearing not less frequently
8 than once every thirty (30) days, or in the case of a
9 rural jurisdiction, which is any jurisdiction not
10 located in a metropolitan statistical area as defined
11 by the United States Office of Management and Budget,
12 not less frequently than once every forty-five (45)
13 days, to review whether it is still in the interest of
14 justice to permit the juvenile to be so held or have
15 such sight and sound contact, and

16 b. the child shall not be held in any adult jail or
17 lockup for adults or be permitted to have sight or
18 sound contact with adult inmates for more than one
19 hundred eighty (180) days, unless the court, in
20 writing, determines there is good cause for an
21 extension or the child expressly waives this
22 limitation.

23 F. When a child is placed in an adult jail, adult lockup, adult
24 detention facility or other adult facility, he or she shall be

1 afforded the following rights and protections in order to address
2 the child's health and safety:

3 1. A copy of the child's most current mental health or suicide
4 screening instrument approved by the Office of Juvenile Affairs
5 shall be provided to the adult jail, adult lockup or adult detention
6 facility at the time of the child's transfer; and

7 2. Adult jails, adult lockups, adult detention facilities or
8 other adult facilities shall process requests for visits and allow
9 approved visitors contact visits with the child within five (5)
10 business days of the request.

11 G. 1. Except as otherwise provided in this section, no child
12 shall be placed in secure detention in an adult jail, adult lockup,
13 adult detention facility or other adult facility unless:

14 a. the adult jail, adult lockup or adult detention
15 facility provides sight and sound separation for
16 juveniles, pursuant to standards required by
17 subsection E of Section 2-3-103 of this title, and

18 b. the adult jail, adult lockup or adult detention
19 facility meets the requirements for licensure of
20 juvenile detention facilities, as adopted by the
21 Office of Juvenile Affairs, is appropriately licensed,
22 and provides sight and sound separation for juveniles,
23 which includes:

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

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

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

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

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

1 to six (6) hours for purposes of identification, processing or
2 arranging for transfer to a secure detention or alternative to
3 secure detention. Such holding shall be limited to the absolute
4 minimum time necessary to complete these actions.

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

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

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

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

1 of the individual that the person is a person provided for in
2 Section 2-3-102 of this title and if, during the time of detention,
3 the person is detained in a facility meeting the requirements of
4 Section 2-3-103 of this title.

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

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

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

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

18 d. there is no juvenile detention facility that has space
19 available for the person and that is within thirty
20 (30) miles of the jail, police station, or law
21 enforcement office in which the person is to be
22 detained, and
23
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1 e. during the time of detention the person is detained in
2 a facility meeting the requirements of subparagraph b
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 H. 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 an
16 adult jail, adult lockup, adult detention facility or other adult
17 facility.

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

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

14 SECTION 2. This act shall become effective November 1, 2022.

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16 COMMITTEE REPORT BY: COMMITTEE ON CHILDREN, YOUTH AND FAMILY
17 SERVICES, dated 04/05/2022 - DO PASS.
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