

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1282

By: Haste

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5
6 AS INTRODUCED

7 An Act relating to the Oklahoma Juvenile Code;
8 amending 10A O.S. 2021, Section 2-3-101, which
9 relates to detention of a child; requiring Office of
10 Juvenile Affairs approval of certain screening tool;
11 conforming language; and providing an effective date.

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

13 SECTION 1. AMENDATORY 10A O.S. 2021, Section 2-3-101, is
14 amended to read as follows:

15 Section 2-3-101. A. When a child is taken into custody
16 pursuant to the provisions of the Oklahoma Juvenile Code, a risk-
17 assessment screening tool approved by the Office of Juvenile Affairs
18 (OJA) shall be utilized, and the child shall be detained only if it
19 is necessary to assure the appearance of the child in court or for
20 the protection of the child or the public.

- 21 1. a. No child twelve (12) years of age or younger shall be
22 placed in a juvenile detention facility unless all
23 alternatives have been exhausted and the child is
24 currently charged with a criminal offense that would

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

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

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

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

1 to secure detention or may order the release of the
2 child from detention.

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

10 3. Except as otherwise authorized by this section, a child who
11 has been taken into custody as a deprived child, a child in need of
12 supervision, or who appears to be a minor in need of treatment, may
13 not be placed in any detention facility pending court proceedings,
14 but must be placed in shelter care or foster care or, with regard to
15 a child who appears to be a minor in need of treatment, a behavioral
16 health treatment facility in accordance with the provisions of the
17 Inpatient Mental Health and Substance Abuse Treatment of Minors Act,
18 or released to the custody of the parents of the child or some other
19 responsible party. Provided, this shall not preclude runaway
20 juveniles from other states, with or without delinquent status, to
21 be held in a detention facility in accordance with the Interstate
22 Compact for Juveniles in Sections 2-9-101 through 2-9-116 of this
23 title and rules promulgated by the Interstate Commission.

24 B. No child shall be placed in secure detention unless:
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- 1 1. The child is an escapee from any delinquent placement;
- 2 2. The child is a fugitive from another jurisdiction with a
3 warrant on a delinquency charge or confirmation of delinquency
4 charges by the home jurisdiction;
- 5 3. The child is seriously assaultive or destructive towards
6 others or self;
- 7 4. The child is currently charged with any criminal offense
8 that would constitute a felony if committed by an adult or a
9 misdemeanor and:
 - 10 a. is on probation or parole on a prior delinquent
11 offense,
 - 12 b. is on preadjudicatory community supervision, or
13 c. is currently on release status on a prior delinquent
14 offense;
- 15 5. The child has willfully failed or there is reason to believe
16 that the child will willfully fail to appear for juvenile court
17 proceedings;
- 18 6. A warrant for the child has been issued on the basis that:
 - 19 a. the child is absent from court-ordered placement
20 without approval by the court,
 - 21 b. the child is absent from designated placement by the
22 Office of Juvenile Affairs without approval by the
23 Office of Juvenile Affairs,

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

3 d. the child is subject to an administrative transfer or
4 parole revocation proceeding.

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

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

18 E. Juvenile detention facilities shall be the initial placement
19 for all persons under eighteen (18) years of age. No child shall be
20 placed in secure detention in an adult jail, adult lockup, adult
21 detention facility or other adult facility except as provided in
22 this section.

23 1. Any child who is at least fifteen (15) years of age who is
24 charged with murder in the first degree may be detained in an adult

1 jail, adult lockup, adult detention facility or other adult facility
2 only after a hearing in which the child is provided representation
3 and the court makes a written finding that it is in the interest of
4 justice that the child be placed in an adult jail, adult lockup,
5 adult detention facility or other adult facility.

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

- 11 a. the age of the child,
 - 12 b. the physical and mental maturity of the child,
 - 13 c. the present mental state of the child, including
14 whether the child presents an imminent risk of harm to
15 the child,
 - 16 d. the nature and circumstances of the alleged offense,
 - 17 e. the child's history of prior delinquent acts,
 - 18 f. the relative ability of the available adult and
19 juvenile detention facilities to not only meet the
20 specific needs of the child but also to protect the
21 safety of the public as well as other detained youth,
22 and
 - 23 g. any other relevant factors.
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1 3. If a court determines that it is in the interest of justice
2 that the child be placed in an adult jail, adult lockup, adult
3 detention facility or other adult facility:

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

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

20 F. When a child is placed in an adult jail, adult lockup, adult
21 detention facility or other adult facility, he or she shall be
22 afforded the following rights and protections in order to address
23 the child's health and safety:

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

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

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

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

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

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

3 (2) total separation in all juvenile and adult
4 program activities within the facilities, ~~r~~
5 including recreation, education, counseling,
6 health care, dining, sleeping and general living
7 activities, and

8 (3) separate juvenile and adult staff, specifically
9 direct care staff such as recreation, education
10 and counseling.

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

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

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

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

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

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

1 the person is detained in a facility meeting the requirements of
2 Section 2-3-103 of this title.

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

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

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

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

16 d. there is no juvenile detention facility that has space
17 available for the person and that is within thirty
18 (30) miles of the jail, police station, or law
19 enforcement office in which the person is to be
20 detained, and

21 e. during the time of detention the person is detained in
22 a facility meeting the requirements of subparagraph b
23 of paragraph 1 of this subsection.

1 The time limitation provided for in this paragraph shall include the
2 time the person is detained prior to the issuance of the court
3 order.

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

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

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

21 J. Each member of the staff of a juvenile detention facility
22 shall satisfactorily complete a training program provided or
23 approved by the Office of Juvenile Affairs.

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

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

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