

HB352 INTRODUCED



1 HB352
2 7RZQ2VE-1
3 By Representative Lee
4 RFD: Ways and Means General Fund
5 First Read: 21-Mar-24



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SYNOPSIS:

Under existing law, a juvenile court may order a child to be transferred to the custody of the Department of Youth Services.

This bill would require the Department of Youth Services to reimburse a county detention facility under certain circumstances for the costs of housing a child once the child has been ordered to be transferred to the custody of the Department of Youth Services.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

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.



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29 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

32 "§12-15-208

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

35 (1) ~~STATUS OFFENDERS. Effective October 1, 2009, A~~
36 status ~~offenders~~offender, ~~as defined in this article, shall~~
37 ~~not be detained or confined in secure custody,~~ except as
38 further provided in this subdivision and subsection (b) ~~that a~~
39 ~~status offender who is charged with or who commits a violation~~
40 ~~of a valid court order may be detained in secure custody in a~~
41 ~~juvenile detention facility for up to 72 hours in any~~
42 ~~six-month period, provided that all conditions set forth in~~
43 ~~subdivision (3) of subsection (b) are satisfied.~~

44 a. Short-term secure custody of an accused status
45 ~~offenders~~offender may be necessary, such as detention in a
46 juvenile detention facility, for a brief period, not exceeding
47 24 hours, prior to formal juvenile court action, for
48 investigative purposes, for identification purposes, or for
49 the purpose of allowing return of a status offender to the
50 parent, legal guardian, or legal custodian.

51 b. Detention for a brief period of time pursuant to
52 juvenile court authority may ~~also~~ be necessary in order to
53 arrange for appropriate shelter care placement. If a petition
54 regarding an alleged status offender is filed in juvenile
55 court and if it is determined that the alleged status offender
56 is at imminent risk of being placed in the legal or physical



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57 custody of the Department of Human Resources, the case shall
58 be referred to the county children's services facilitation
59 team, and the procedures in Article 5 shall be followed. Upon
60 referral to the county children's services facilitation team,
61 the juvenile probation officer shall continue to provide case
62 management to the status offender unless the county children's
63 services facilitation team appoints another person to act as
64 case manager. The juvenile probation officer shall participate
65 in county children's services facilitation team meetings and
66 share records information and reports on the status offender
67 with the county children's services facilitation team.

68 (2) ~~FEDERAL WARDS. Federal wards~~ A federal ward who is
69 held beyond 24 hours in secure custody in state ~~and or~~ local
70 juvenile detention facilities pursuant to a written contract
71 or agreement with a federal agency and for the specific
72 purpose of affecting a jurisdictional transfer, ~~or~~ appearance
73 as a material witness, or for return to ~~their~~ this or her lawful
74 residence or country of citizenship shall be reported as
75 ~~violations~~ a violation of the deinstitutionalization of status
76 offender requirement.

77 (3) ~~NONOFFENDERS. Nonoffenders, as defined in this~~
78 ~~article, shall not be detained or confined in secure custody~~ A
79 nonoffender.

80 (4) ~~CHILDREN 10 YEARS OF AGE AND YOUNGER. Children~~ A
81 child 10 years of age and younger ~~shall not be detained or~~
82 ~~confined in secure custody~~, unless the ~~children are~~ child is
83 charged with ~~offenses~~ an offense causing death or serious
84 bodily injury to ~~persons~~ a person or ~~offenses~~ an offense that



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85 would be classified as a Class A ~~felonies~~ felony if committed
86 by ~~adults~~ an adult.

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

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

96 (1) ~~Persons~~ A person who ~~violate~~ violates the federal
97 law, which prohibits possession of a handgun by a child under
98 ~~the age of~~ 18 years of age, or who ~~violate~~ violates a similar
99 state or municipal law⁷. A person under this subdivision may
100 be placed in ~~secure custody in~~ juvenile detention facilities.

101 (2) ~~Persons~~ A person in custody pursuant to the
102 Interstate Compact ~~on~~ for Juveniles, contained in Section
103 ~~44-2-1, et seq.,~~ 44-2-10. A person under this subdivision may
104 be placed in ~~secure custody in~~ juvenile detention facilities.

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

107 a. A status offender who is charged with or has
108 committed a violation of a valid court order may be detained
109 in secure custody in a juvenile detention facility for up to
110 72 hours in any six-month period.

111 b. ~~Status offenders~~ A status offender who ~~violate~~
112 violates a valid court ~~orders~~ order shall not be committed to



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113 the Department of Youth Services, nor ~~shall they be~~ held in
114 ~~jails~~ a jail or ~~lockups~~ lockup for adult offenders.

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

118 a.1. The juvenile detention facility shall immediately
119 notify the juvenile court intake or probation officer that the
120 child is being held in secure custody for violating a valid
121 court order. The notice shall include the date and time the
122 child entered the juvenile detention facility.

123 b.2. Within the first 24 hours during which a status
124 offender is held in secure custody ~~for violating a valid court~~
125 ~~order~~, not including weekends or holidays, a juvenile court
126 intake or probation officer, or an authorized representative
127 of the department or agency having custody or supervision of
128 the child, shall interview the child, in person.

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

132 1. The (i) the individual who interviewed the child
133 shall submit a written assessment report to the juvenile court
134 regarding the immediate needs of the child; and

135 2. If (ii) if the juvenile court has not yet determined
136 whether the child has ~~in fact~~, violated the order, the
137 juvenile court shall conduct a hearing to determine whether
138 there is reasonable cause to believe that the child violated
139 the order and the appropriate placement of the child pending
140 disposition of the alleged violation.



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

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

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

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

154 (d) (1) When a case is transferred to another court for
155 criminal prosecution under subdivision (c) (2), the person
156 shall be transferred to the appropriate officer or jail or
157 lockup in accordance with the law governing the detention of
158 the person charged with the crime. ~~Jails and lockups~~ A jail or
159 lockup used for holding adults shall not hold a status
160 ~~offenders~~ offender in secure custody at any time. An accused
161 status offender may be detained in a nonsecure area of a jail
162 or lockup for processing while waiting transportation to a
163 nonsecure shelter care facility or a juvenile detention
164 facility or while waiting for release to a parent, legal
165 guardian, or legal custodian.

166 (2) Nothing in this ~~subsection~~ section shall prohibit a
167 circuit court judge exercising criminal jurisdiction from
168 ~~recommending~~ ordering that a child described in subdivision



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169 (c) (2) or (3) should be placed in a juvenile detention center
170 instead of an adult jail or lockup.

171 ~~(d) Compliance with separation. Accused~~ (e) (1) An
172 accused or adjudicated delinquent ~~children~~ child or a status
173 ~~offenders~~ offender shall not have contact with adult inmates,
174 including ~~trusties~~ trustees. "Contact" is defined ~~to include as~~
175 any physical or sustained sight and sound contact. "Sight
176 contact" is defined as clear visual contact between adult
177 inmates and an accused or adjudicated delinquent ~~children~~
178 child or a status ~~offenders~~ offender within close proximity to
179 each other. "Sound contact" is defined as direct verbal
180 communication between adult inmates and an accused or
181 adjudicated delinquent ~~children~~ child or a status
182 ~~offenders~~ offender.

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

188 ~~(e)~~ (f) Except as provided ~~above~~ in this section, in
189 providing detention and shelter or other care for ~~children~~ a
190 child referred to or coming under the jurisdiction of the
191 juvenile court, the juvenile court shall ~~utilize only those~~
192 ~~facilities~~ utilize a facility as have ~~that has~~ been
193 established, licensed, or approved by the Department of Youth
194 Services or Department of Human Resources for those purposes.

195 ~~(f) After October 1, 1991, the Department of Youth~~
196 ~~Services shall accept all children committed to it within~~



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197 ~~seven days of notice of disposition.~~

198 (g) Except as provided ~~above~~in this section, the
199 official in charge of a jail or lockup for the detention of
200 adult offenders or persons charged with crimes shall inform
201 the juvenile court immediately when a child, who is or appears
202 to be a child as defined by this chapter, is received at the
203 jail or lockup. Upon request, the official shall deliver the
204 child to the juvenile court or transfer him or her to a
205 juvenile detention facility designated by the juvenile court.

206 (h) The Department of Youth Services shall continue to
207 develop and implement a statewide system of juvenile detention
208 facilities ~~which~~that shall be licensed by the Department of
209 Youth Services for the detention of children.

210 (i) The Department of Youth Services shall subsidize
211 the detention of children in the juvenile detention facilities
212 in an amount up to one half the average cost of detention,
213 ~~which term is defined in this article, the~~. The amount
214 ~~depending of the subsidy shall depend~~ on the ~~provision of~~
215 funds appropriated by the Legislature to the Department of
216 Youth Services. Juvenile detention facilities may contract
217 with the Department of Youth Services or other counties for
218 the detention of children.

219 ~~(j) When a case is transferred to another court for~~
220 ~~criminal prosecution, the child shall be transferred to the~~
221 ~~appropriate officer or jail or lockup in accordance with the~~
222 ~~law governing the detention of the person charged with~~
223 ~~criminal offenses.~~

224 ~~(k)~~ (j) Any law enforcement officer, at the direction of



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225 the juvenile court, shall provide security and transportation
226 services for the juvenile court in transporting children to
227 and from juvenile detention facilities and the Department of
228 Youth Services."

229 "§12-15-215

230 (a) If the juvenile court finds on proof beyond a
231 reasonable doubt, based upon competent, material, and relevant
232 evidence, that a child committed the acts by reason of which
233 the child is alleged to be delinquent or in need of
234 supervision, ~~it the court~~ may proceed immediately to hear
235 evidence as to whether the child is in need of care or
236 rehabilitation and ~~to file record~~ its findings ~~thereon~~. In the
237 absence of evidence to the contrary, a finding that the child
238 has committed ~~an act which constitutes~~ a felony is sufficient
239 to sustain a finding that the child is in need of care or
240 rehabilitation.

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

245 (c) If the juvenile court finds that the child is in
246 need of care or rehabilitation, it may ~~make order~~ any of the
247 following ~~orders or dispositions~~, subject to the limitations
248 and prohibitions on secure custody contained in Section
249 12-15-208:

250 (1) ~~Permit the~~ That the child ~~to shall~~ remain with the
251 parent, legal guardian, or ~~other~~ legal custodian ~~of the child~~,
252 subject to the conditions and limitations prescribed by the



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253 juvenile court ~~may prescribe~~.

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

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

259 a. ~~The~~ In the case of a delinquent child, the
260 Department of Youth Services, with or without an order to a
261 specific institution.

262 b. In the case of a child in need of supervision, ~~the~~
263 ~~Department of Youth Services, or~~ the Department of Human
264 Resources; ~~provided however 1. that prior to any transfer of~~
265 ~~custody to the Department of Human Resources, the case shall~~
266 ~~first be referred to the county children's services~~
267 ~~facilitation team, which must proceed according to Article 5;~~
268 ~~and 2. that the child's commission of one or more status~~
269 ~~offenses shall not constitute a sufficient basis for transfer~~
270 ~~of legal or physical custody to the Department of Human~~
271 ~~Resources. Upon referral to the county children's services~~
272 ~~facilitation team, the juvenile probation officer shall~~
273 ~~continue to provide case management to the status offender~~
274 ~~unless the county children's services facilitation team~~
275 ~~appoints another person to act as case manager. The juvenile~~
276 ~~probation officer shall participate in county children's~~
277 ~~services facilitation team meetings and share records~~
278 ~~information and reports on the status offender with the county~~
279 ~~children's services facilitation team. When the juvenile court~~
280 ~~transfers legal and physical custody to the Department of~~



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281 ~~Human Resources, all requirements which shall be met for a~~
282 ~~child to be eligible for federal funding shall apply,~~
283 ~~including, but not limited to, the requirements set out in~~
284 ~~Sections 12-15-312, 12-15-315, and 12-15-317.~~ The child's
285 commission of one or more status offenses shall not constitute
286 a sufficient basis for transfer of legal or physical custody
287 to the Department of Human Resources.

288 1. Prior to any transfer of custody to the Department
289 of Human Resources, the case shall first be referred to the
290 county children's services facilitation team, which must
291 proceed according to Article 5.

292 2. Upon referral to the county children's services
293 facilitation team pursuant to subparagraph 1., the juvenile
294 probation officer shall continue to provide case management to
295 the status offender unless the county children's services
296 facilitation team appoints another person to act as case
297 manager.

298 3. The juvenile probation officer shall participate in
299 county children's services facilitation team meetings and
300 share records, information, and reports on the status offender
301 with the county children's services facilitation team.

302 c. A local, public, or private agency, organization, or
303 facility that is licensed or otherwise authorized by law to
304 receive and provide care for children and willing and able to
305 assume the education, care, and maintenance of the child ~~and~~
306 ~~which is licensed or otherwise authorized by law to receive~~
307 ~~and provide care for children.~~

308 d. ~~During the term of supervision, a~~ A relative or



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309 other individual who is found by the juvenile court to be
310 qualified to receive and care for the child during the term of
311 supervision.

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

315 (5) ~~Make any~~ Any other order ~~as~~ the juvenile court ~~in~~
316 ~~its discretion shall deem~~ determines to be appropriate for
317 the welfare and best interests of the child, including random
318 drug screens, assessment of fines not to exceed two hundred
319 fifty dollars (\$250), and restitution against the parent,
320 legal guardian, legal custodian, or child, ~~as the juvenile~~
321 ~~court deems appropriate~~. Costs for juvenile court-ordered drug
322 screening may be ordered paid for by the state out of
323 ~~moneys~~ monies appropriated as "court costs not otherwise
324 provided for." Restitution against the parent, legal guardian,
325 or legal custodian, ~~or child~~ shall be governed by the same
326 principles applicable in the Restitution to Victims of Crime
327 Act, commencing with Section 15-18-65. Restitution against the
328 child shall be governed by the same principles applicable in
329 Rule 26.11 of the Alabama Rules of Criminal Procedure.

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

333 ~~(6)~~ (d) In any case where a child is adjudicated
334 delinquent for possessing a pistol, short-barreled rifle, or
335 short-barreled shotgun, ~~any~~ the pistol, short-barreled rifle,
336 or short-barreled shotgun possessed by that child ~~is~~ shall be



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337 forfeited and ~~shall be ordered to be destroyed by~~ the juvenile
338 court shall order its destruction.

339 (e) When the juvenile court transfers legal and
340 physical custody of a child to the Department of Human
341 Resources as provided by paragraph (c)(3)b., all requirements
342 that shall be met for a child to be eligible for federal
343 funding shall apply, including, but not limited to, the
344 requirements set out in Sections 12-15-312, 12-15-315, and
345 12-15-317.

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

350 ~~(e)~~ (g) No child in need of supervision, unless also a
351 delinquent child, shall be ordered to be placed in an
352 institution or facility established for the care and
353 rehabilitation of delinquent children unless the juvenile
354 probation officer submits a written recommendation and the
355 juvenile court ~~finds~~, upon a further hearing, finds that the
356 child is not amenable to treatment or rehabilitation pursuant
357 to any prior disposition. In ~~determining if a child is not~~
358 ~~amenable to treatment or rehabilitation~~ making its
359 determination, the juvenile court shall consider evidence of
360 the following and other relevant factors: , which shall be
361 included in the written recommendations of the juvenile
362 probation officer:

363 (1) Prior treatment efforts, ~~such as~~ including, but not
364 limited to: , any mental health counseling, individualized



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365 service plans, individualized education plans, and other
366 education records.

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

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

369 ~~c. Other educational records.~~

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

371 (2) The age of the child.

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

376 (4) Other factors contributing to the behavioral
377 difficulties of the child.

378 ~~The written recommendations of the juvenile probation~~
379 ~~officer shall include evidence of the foregoing and other~~
380 ~~relevant factors.~~

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

385 ~~(e) Whenever~~ (i) When the juvenile court ~~vests~~ issues
386 an order transferring legal custody ~~in an agency or~~
387 ~~department, it~~ of a child to the Department of Youth Services,
388 within 10 business days of the date the order is input into
389 the State Judicial Information System pursuant to Rule 58(c)
390 of the Alabama Rules of Civil Procedure, a juvenile probation
391 officer shall ~~transmit with~~ send a copy of the order and
392 ~~copies of the clinical reports, predisposition study, and~~



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393 ~~other information it has pertinent to~~ the information required
394 by Rule 950-2-2-.01 of the Alabama Administrative Code
395 regarding the care and treatment of the child. Upon receipt of
396 the order and information provided by the juvenile probation
397 officer, if the child is detained in a juvenile detention
398 facility, the Department of Youth Services shall notify the
399 county commission responsible for the cost of the detention of
400 the child that legal custody of the child has been transferred
401 to the Department of Youth Services.

402 ~~(f)~~ (j) When a child is placed in the legal custody of a
403 department, agency, organization, entity, or person as
404 provided in this section, ~~when and~~ the parent, legal guardian,
405 or legal custodian of the child has resources for child
406 support, the juvenile court shall order child support in
407 conformity with the child support guidelines as set out in
408 Rule 32, Alabama Rules of Judicial Administration. The child
409 support shall be paid to the department, agency, organization,
410 entity, or person in whose legal custody the child is placed
411 and may be expended for those matters that are necessary for
412 the welfare and well-being of ~~those children placed in the~~
413 ~~departments, agencies, organizations, entities, or persons~~ the
414 child. In these cases, the juvenile court shall issue income
415 withholding orders subject to state law.

416 ~~(g) Whenever~~ (k) (1) When the juvenile court ~~commits a~~
417 ~~child to a state or local department or agency or orders a~~
418 ~~state or local department or agency to provide services or~~
419 ~~treatment for a child~~ issues an order transferring legal
420 custody to the Department of Youth Services, ~~that department~~



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421 ~~or agency~~ the Department of Youth Services shall accept the
422 child for commitment, ~~ordered services, or treatment~~ within
423 ~~seven~~ 12 business days of ~~the order of the juvenile~~
424 ~~court~~ receipt of the order and the information required by Rule
425 950-2-2-.01 of the Alabama Administrative Code.

426 (2) Notwithstanding ~~the foregoing~~ subdivision (1), if
427 compliance with the order of the juvenile court within ~~seven~~ 12
428 business days would place ~~a department or agency~~ the
429 Department of Youth Services in violation of ~~either~~ a state or
430 federal statute or standard, ~~then compliance is not~~
431 ~~required~~ the department may choose not to accept the child.

432 (3) If the Department of Youth Services does not accept
433 the child by the 12th business day as provided in subdivision
434 (1), the Department of Youth Services shall reimburse the
435 county commission responsible for the cost of the detention of
436 the child for expenses incurred by the county each day after
437 the 12th business day, including, but not limited to, medical,
438 dental, and mental health costs."

439 Section 2. This act shall become effective on October
440 1, 2024.