

**SB265 INTRODUCED**



1 SB265  
2 U5I9DGX-1  
3 By Senator Coleman-Madison  
4 RFD: Finance and Taxation General Fund  
5 First Read: 02-Apr-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. Relating to juvenile



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29 courts; to amend Sections 12-15-208 and 12-15-215, Code of  
30 Alabama 1975, to require the Department of Youth Services to  
31 reimburse a county detention facility for housing a child once  
32 the child has been ordered to the custody of the Department of  
33 Youth Services; and to make nonsubstantive, technical  
34 revisions to update the existing code language to current  
35 style.

36 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

39 "§12-15-208

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

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

51 a. Short-term secure custody of an accused status  
52 ~~offenders~~offender may be necessary, such as detention in a  
53 juvenile detention facility, for a brief period, not exceeding  
54 24 hours, prior to formal juvenile court action, for  
55 investigative purposes, for identification purposes, or for  
56 the purpose of allowing return of a status offender to the



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57 parent, legal guardian, or legal custodian.

58 b. Detention for a brief period of time pursuant to  
59 juvenile court authority may ~~also~~ be necessary in order to  
60 arrange for appropriate shelter care placement. If a petition  
61 regarding an alleged status offender is filed in juvenile  
62 court and if it is determined that the alleged status offender  
63 is at imminent risk of being placed in the legal or physical  
64 custody of the Department of Human Resources, the case shall  
65 be referred to the county children's services facilitation  
66 team, and the procedures in Article 5 shall be followed. Upon  
67 referral to the county children's services facilitation team,  
68 the juvenile probation officer shall continue to provide case  
69 management to the status offender unless the county children's  
70 services facilitation team appoints another person to act as  
71 case manager. The juvenile probation officer shall participate  
72 in county children's services facilitation team meetings and  
73 share records information and reports on the status offender  
74 with the county children's services facilitation team.

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

84 (3) ~~NONOFFENDERS. Nonoffenders, as defined in this~~



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85 ~~article, shall not be detained or confined in secure custody~~A  
86 nonoffender.

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

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

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

103 (1) ~~Persons~~ A person who ~~violate~~ violates the federal  
104 law, which prohibits possession of a handgun by a child under  
105 ~~the age of~~ 18 years of age, or who ~~violate~~ violates a similar  
106 state or municipal law~~7~~. A person under this subdivision may  
107 be placed in ~~secure custody in~~ juvenile detention facilities.

108 (2) ~~Persons~~ A person in custody pursuant to the  
109 Interstate Compact ~~on~~ for Juveniles, contained in Section  
110 ~~44-2-1, et seq.,~~ 44-2-10. A person under this subdivision may  
111 be placed in ~~secure custody in~~ juvenile detention facilities.

112 (3) ~~Status offenders~~ A status offender who ~~violate~~



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113 violates a valid court order.

114 a. A status offender who is charged with or has  
115 committed a violation of a valid court order may be detained  
116 in secure custody in a juvenile detention facility for up to  
117 72 hours in any six-month period.

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

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

125 ~~a.~~ 1. The juvenile detention facility shall immediately  
126 notify the juvenile court intake or probation officer that the  
127 child is being held in secure custody for violating a valid  
128 court order. The notice shall include the date and time the  
129 child entered the juvenile detention facility.

130 ~~b.~~ 2. Within the first 24 hours during which a status  
131 offender is held in secure custody ~~for violating a valid court~~  
132 ~~order~~, not including weekends or holidays, a juvenile court  
133 intake or probation officer, or an authorized representative  
134 of the department or agency having custody or supervision of  
135 the child, shall interview the child, in person.

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

139 ~~1. The~~ (i) the individual who interviewed the child  
140 shall submit a written assessment report to the juvenile court



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141 regarding the immediate needs of the child; and

142 ~~2. If~~ (ii) if the juvenile court has not yet determined  
143 whether the child has ~~, in fact,~~ violated the order, the  
144 juvenile court shall conduct a hearing to determine whether  
145 there is reasonable cause to believe that the child violated  
146 the order and the appropriate placement of the child pending  
147 disposition of the alleged violation.

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

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

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

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

161 (d) (1) When a case is transferred to another court for  
162 criminal prosecution under subdivision (c) (2), the person  
163 shall be transferred to the appropriate officer or jail or  
164 lockup in accordance with the law governing the detention of  
165 the person charged with the crime. ~~Jails and lockups~~ A jail or  
166 lockup used for holding adults shall not hold a status  
167 ~~offenders~~ offender in secure custody at any time. An accused  
168 status offender may be detained in a nonsecure area of a jail



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169 or lockup for processing while waiting transportation to a  
170 nonsecure shelter care facility or a juvenile detention  
171 facility or while waiting for release to a parent, legal  
172 guardian, or legal custodian.

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

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

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

195 ~~(e)~~ (f) Except as provided ~~above~~ in this section, in  
196 providing detention and shelter or other care for ~~children~~ a





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197 child referred to or coming under the jurisdiction of the  
198 juvenile court, the juvenile court shall ~~utilize only those~~  
199 ~~facilities~~ utilize a facility as have that has been  
200 established, licensed, or approved by the Department of Youth  
201 Services or Department of Human Resources for those purposes.

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

205 (g) Except as provided ~~above~~ in this section, the  
206 official in charge of a jail or lockup for the detention of  
207 adult offenders or persons charged with crimes shall inform  
208 the juvenile court immediately when a child, who is or appears  
209 to be a child as defined by this chapter, is received at the  
210 jail or lockup. Upon request, the official shall deliver the  
211 child to the juvenile court or transfer him or her to a  
212 juvenile detention facility designated by the juvenile court.

213 (h) The Department of Youth Services shall continue to  
214 develop and implement a statewide system of juvenile detention  
215 facilities ~~which that~~ shall be licensed by the Department of  
216 Youth Services for the detention of children.

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



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225 the detention of children.

226 ~~(j) When a case is transferred to another court for~~  
227 ~~criminal prosecution, the child shall be transferred to the~~  
228 ~~appropriate officer or jail or lockup in accordance with the~~  
229 ~~law governing the detention of the person charged with~~  
230 ~~criminal offenses.~~

231 ~~(k)~~ (j) Any law enforcement officer, at the direction of  
232 the juvenile court, shall provide security and transportation  
233 services for the juvenile court in transporting children to  
234 and from juvenile detention facilities and the Department of  
235 Youth Services."

236 "§12-15-215

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

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

252 (c) If the juvenile court finds that the child is in



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253 need of care or rehabilitation, it may ~~make order~~ any of the  
254 following ~~orders or dispositions~~, subject to the limitations  
255 and prohibitions on secure custody contained in Section  
256 12-15-208:

257 (1) ~~Permit the~~ That the child ~~to~~ shall remain with the  
258 parent, legal guardian, or ~~other~~ legal custodian ~~of the child~~,  
259 subject to the conditions and limitations prescribed by the  
260 juvenile court ~~may prescribe~~.

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

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

266 a. ~~The~~ In the case of a delinquent child, the  
267 Department of Youth Services, with or without an order to a  
268 specific institution.

269 b. In the case of a child in need of supervision, ~~the~~  
270 ~~Department of Youth Services, or~~ the Department of Human  
271 Resources; ~~provided however 1. that prior to any transfer of~~  
272 ~~custody to the Department of Human Resources, the case shall~~  
273 ~~first be referred to the county children's services~~  
274 ~~facilitation team, which must proceed according to Article 5;~~  
275 ~~and 2. that the child's commission of one or more status~~  
276 ~~offenses shall not constitute a sufficient basis for transfer~~  
277 ~~of legal or physical custody to the Department of Human~~  
278 ~~Resources. Upon referral to the county children's services~~  
279 ~~facilitation team, the juvenile probation officer shall~~  
280 ~~continue to provide case management to the status offender~~



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281 ~~unless the county children's services facilitation team~~  
282 ~~appoints another person to act as case manager. The juvenile~~  
283 ~~probation officer shall participate in county children's~~  
284 ~~services facilitation team meetings and share records~~  
285 ~~information and reports on the status offender with the county~~  
286 ~~children's services facilitation team. When the juvenile court~~  
287 ~~transfers legal and physical custody to the Department of~~  
288 ~~Human Resources, all requirements which shall be met for a~~  
289 ~~child to be eligible for federal funding shall apply,~~  
290 ~~including, but not limited to, the requirements set out in~~  
291 ~~Sections 12-15-312, 12-15-315, and 12-15-317. The child's~~  
292 commission of one or more status offenses shall not constitute  
293 a sufficient basis for transfer of legal or physical custody  
294 to the Department of Human Resources.

295 1. Prior to any transfer of custody to the Department  
296 of Human Resources, the case shall first be referred to the  
297 county children's services facilitation team, which must  
298 proceed according to Article 5.

299 2. Upon referral to the county children's services  
300 facilitation team pursuant to subparagraph 1., the juvenile  
301 probation officer shall continue to provide case management to  
302 the status offender unless the county children's services  
303 facilitation team appoints another person to act as case  
304 manager.

305 3. The juvenile probation officer shall participate in  
306 county children's services facilitation team meetings and  
307 share records, information, and reports on the status offender  
308 with the county children's services facilitation team.



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309 c. A local, public, or private agency, organization, or  
310 facility that is licensed or otherwise authorized by law to  
311 receive and provide care for children and willing and able to  
312 assume the education, care, and maintenance of the child ~~and~~  
313 ~~which is licensed or otherwise authorized by law to receive~~  
314 ~~and provide care for children.~~

315 d. ~~During the term of supervision, a~~ A relative or  
316 other individual who is found by the juvenile court to be  
317 qualified to receive and care for the child during the term of  
318 supervision.

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

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



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

340 ~~(6)~~ (d) In any case where a child is adjudicated  
341 delinquent for possessing a pistol, short-barreled rifle, or  
342 short-barreled shotgun, ~~any~~ the pistol, short-barreled rifle,  
343 or short-barreled shotgun possessed by that child ~~is~~ shall be  
344 forfeited and ~~shall be ordered to be destroyed by~~ the juvenile  
345 court shall order its destruction.

346 (e) When the juvenile court transfers legal and  
347 physical custody of a child to the Department of Human  
348 Resources as provided by paragraph (c) (3)b., all requirements  
349 that shall be met for a child to be eligible for federal  
350 funding shall apply, including, but not limited to, the  
351 requirements set out in Sections 12-15-312, 12-15-315, and  
352 12-15-317.

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

357 ~~(e)~~ (g) No child in need of supervision, unless also a  
358 delinquent child, shall be ordered to be placed in an  
359 institution or facility established for the care and  
360 rehabilitation of delinquent children unless the juvenile  
361 probation officer submits a written recommendation and the  
362 juvenile court ~~finds~~, upon a further hearing, finds that the  
363 child is not amenable to treatment or rehabilitation pursuant  
364 to any prior disposition. In ~~determining if a child is not~~



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365 ~~amenable to treatment or rehabilitation~~ making its  
366 determination, the juvenile court shall consider evidence of  
367 the following and other relevant factors~~;~~, which shall be  
368 included in the written recommendations of the juvenile  
369 probation officer:

370 (1) Prior treatment efforts, ~~such as~~ including, but not  
371 limited to~~;~~, any mental health counseling, individualized  
372 service plans, individualized education plans, and other  
373 education records.

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

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

376 ~~c. Other educational records.~~

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

378 (2) The age of the child.

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

383 (4) Other factors contributing to the behavioral  
384 difficulties of the child.

385 ~~The written recommendations of the juvenile probation~~  
386 ~~officer shall include evidence of the foregoing and other~~  
387 ~~relevant factors.~~

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

392 ~~(e) Whenever~~ (i) When the juvenile court ~~vests~~ issues



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393 an order transferring legal custody ~~in an agency or~~  
394 ~~department, it~~ of a child to the Department of Youth Services,  
395 within 10 business days of the date the order is input into  
396 the State Judicial Information System pursuant to Rule 58(c)  
397 of the Alabama Rules of Civil Procedure, a juvenile probation  
398 officer shall ~~transmit with~~ send a copy of the order and  
399 ~~copies of the clinical reports, predisposition study, and~~  
400 ~~other information it has pertinent to~~ the information required  
401 by Rule 950-2-2-.01 of the Alabama Administrative Code  
402 regarding the care and treatment of the child. Upon receipt of  
403 the order and information provided by the juvenile probation  
404 officer, if the child is detained in a juvenile detention  
405 facility, the Department of Youth Services shall notify the  
406 county commission responsible for the cost of the detention of  
407 the child that legal custody of the child has been transferred  
408 to the Department of Youth Services.

409 ~~(f)~~ (j) When a child is placed in the legal custody of a  
410 department, agency, organization, entity, or person as  
411 provided in this section, ~~when and~~ the parent, legal guardian,  
412 or legal custodian of the child has resources for child  
413 support, the juvenile court shall order child support in  
414 conformity with the child support guidelines as set out in  
415 Rule 32, Alabama Rules of Judicial Administration. The child  
416 support shall be paid to the department, agency, organization,  
417 entity, or person in whose legal custody the child is placed  
418 and may be expended for those matters that are necessary for  
419 the welfare and well-being of ~~those children placed in the~~  
420 ~~departments, agencies, organizations, entities, or persons~~ the





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421 child. In these cases, the juvenile court shall issue income  
422 withholding orders subject to state law.

423 ~~(g) Whenever~~ (k) (1) When the juvenile court ~~commits a~~  
424 ~~child to a state or local department or agency or orders a~~  
425 ~~state or local department or agency to provide services or~~  
426 ~~treatment for a child~~ issues an order transferring legal  
427 custody to the Department of Youth Services, ~~that department~~  
428 ~~or agency~~ the Department of Youth Services shall accept the  
429 child for commitment, ~~ordered services, or treatment~~ within  
430 ~~seven~~ 12 business days of ~~the order of the juvenile~~  
431 ~~court~~ receipt of the order and the information required by Rule  
432 950-2-2-.01 of the Alabama Administrative Code.

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

439 (3) If the Department of Youth Services does not accept  
440 the child by the 12th business day as provided in subdivision  
441 (1), the Department of Youth Services shall reimburse the  
442 county commission responsible for the cost of the detention of  
443 the child for expenses incurred by the county each day after  
444 the 12th business day, including, but not limited to, medical,  
445 dental, and mental health costs."

446 Section 2. This act shall become effective on October  
447 1, 2024.