

HB199 INTRODUCED



1 HB199
2 TNNJ559-1
3 By Representative Hendrix
4 RFD: Public Safety and Homeland Security
5 First Read: 05-Feb-25

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SYNOPSIS:

Under existing law, a judge or a juvenile intake officer may impose restrictions on an allegedly delinquent child released from custody. These restrictions may include electronic monitoring.

This bill would authorize the Board of Pardons and Paroles or any other state agency to provide electronic monitoring services for an allegedly delinquent child released subject to electronic monitoring.

Under existing law, a status offender is an individual charged with or adjudicated for conduct that would not be a crime if committed by an adult such as truancy, violating curfew, running away from home, or general ungovernability.

This bill would repeal an existing requirement under which status offenders who violate a valid court order may not be detained in a juvenile facility for more than 72 hours within a six-month period.

A BILL
TO BE ENTITLED
AN ACT

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29 Relating to juveniles; to amend Sections 12-15-128 and
30 12-15-208, Code of Alabama 1975; to authorize the Board of
31 Pardons and Paroles or other state agency to provide
32 electronic monitoring to children released from custody in
33 certain circumstances; and to repeal an existing requirement
34 under which status offenders who violate a valid court order
35 may be detained in a juvenile facility for up to 72 hours
36 within a six-month period.

37 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

38 Section 1. Section 12-15-128, Code of Alabama 1975, is
39 amended to read as follows:

40 "§12-15-128

41 (a) An allegedly delinquent child, dependent child, or
42 child in need of supervision lawfully taken into custody shall
43 immediately be released, upon the ascertainment of the
44 necessary facts, to the care, custody, and control of the
45 parent, legal guardian, or legal custodian of the child or
46 other suitable ~~person~~ individual able to provide supervision
47 and care for the child, unless the juvenile court or juvenile
48 court intake officer, subject to the limitations in Section
49 12-15-208, finds any of the following:

50 (1) The child has no parent, legal guardian, legal
51 custodian, or other suitable ~~person~~ individual able to provide
52 supervision and care for the child.

53 (2) The release of the child would present a clear and
54 substantial threat of a serious nature to the person or
55 property of others and where the child is alleged to be
56 delinquent.

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57 (3) The release of the child would present a serious
58 threat of substantial harm to the child.

59 (4) The child has a history of failing to appear for
60 hearings before the juvenile court.

61 (5) The child is alleged to be delinquent for
62 possessing a pistol, short-barreled rifle, or short-barreled
63 shotgun, in which case the child may be detained in a juvenile
64 detention facility until the hearing required by Section
65 12-15-207. Pistol as used in this section shall be as defined
66 ~~in subdivision (1) of~~ Section 13A-11-70. Short-barreled rifle
67 and short-barreled shotgun as used in this section shall be as
68 defined in Section 13A-11-62.

69 (b) The criteria for continuing the allegedly
70 delinquent child or child in need of supervision in detention
71 or shelter or other care, or for continuing the allegedly
72 dependent child in shelter or other care, as ~~set forth~~
73 provided in subsection (a) shall govern the decisions of all
74 persons involved in determining whether the continued
75 detention or shelter care is warranted pending juvenile court
76 disposition and those criteria shall be supported by clear and
77 convincing evidence in support of the decision not to release
78 the child.

79 (c) (1) In releasing a child, a juvenile court or the
80 juvenile court intake officer may impose restrictions on the
81 travel, association, or place of abode of the child or place
82 the child under the supervision of a department, agency, or
83 organization agreeing to supervise him or her, and may place
84 the child under supervision such as electronic or telephone

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85 monitoring, if available. A child, once placed in detention,
86 may also be released pursuant to the same conditions should
87 there be a need to release the child from a juvenile detention
88 facility because of an overcrowded population.

89 (2) The Board of Pardons and Paroles or any other state
90 agency may provide electronic monitoring services as provided
91 in subdivision (1)."

92 Section 2. Section 12-15-208, Code of Alabama 1975, is
93 amended to read as follows:

94 "§12-15-208

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

97 (1) A status offender, except as further provided in
98 this subdivision and subsection (b).

99 a. Short-term secure custody of an accused status
100 offender may be necessary, such as detention in a juvenile
101 detention facility, for a brief period not exceeding 24 hours,
102 prior to formal juvenile court action, for investigative
103 purposes, for identification purposes, or for the purpose of
104 allowing return of a status offender to the parent, legal
105 guardian, or legal custodian.

106 b. Detention for a brief period of time pursuant to
107 juvenile court authority may be necessary in order to arrange
108 for appropriate shelter care placement. If a petition
109 regarding an alleged status offender is filed in juvenile
110 court and if it is determined that the alleged status offender
111 is at imminent risk of being placed in the legal or physical
112 custody of the Department of Human Resources, the case shall

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113 be referred to the county children's services facilitation
114 team, and the procedures in Article 5 shall be followed. Upon
115 referral to the county children's services facilitation team,
116 the juvenile probation officer shall continue to provide case
117 management to the status offender unless the county children's
118 services facilitation team appoints another person to act as
119 case manager. The juvenile probation officer shall participate
120 in county children's services facilitation team meetings and
121 share records information and reports on the status offender
122 with the county children's services facilitation team.

123 (2) A federal ward who is held beyond 24 hours in
124 secure custody in a state or local juvenile detention facility
125 pursuant to a written contract or agreement with a federal
126 agency and for the specific purpose of affecting a
127 jurisdictional transfer, for appearance as a material witness,
128 or for return to his or her lawful residence or country of
129 citizenship shall be reported as a violation of the
130 deinstitutionalization of status offender requirement.

131 (3) A nonoffender.

132 (4) A child 10 years of age or younger, unless the
133 child is charged with an offense causing death or serious
134 bodily injury to a person or an offense that would be
135 classified as a Class A felony if committed by an adult.

136 (5) A child 11 or 12 years of age, unless: (i) the
137 child is charged with an offense causing death or serious
138 bodily injury to a person or an offense that would be
139 classified as a Class A felony if committed by an adult; or
140 (ii) by order of a juvenile court.

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

143 (1) A person who violates the federal law that
144 prohibits possession of a handgun by a child under 18 years of
145 age or who violates a similar state or municipal law. A person
146 under this subdivision may be placed in a juvenile detention
147 facility.

148 (2) A person in custody pursuant to the Interstate
149 Compact for Juveniles, contained in Section 44-2-10. A person
150 under this subdivision may be placed in juvenile detention
151 facilities.

152 (3) A status offender who violates a valid court order.

153 ~~a. A status offender who is charged with or has~~
154 ~~committed a violation of a valid court order may be detained~~
155 ~~in secure custody in a juvenile detention facility for up to~~
156 ~~72 hours in any six-month period.~~

157 ~~b.~~a. A status offender who violates a valid court order
158 shall not be committed to the Department of Youth Services nor
159 held in a jail or lockup for adult offenders.

160 ~~e.~~b. For this valid court order exception to apply, the
161 following actions must occur when a status offender is taken
162 into custody for violating a valid court order:

163 1. The juvenile detention facility shall immediately
164 notify the juvenile court intake or probation officer that the
165 child is being held in secure custody for violating a valid
166 court order. The notice shall include the date and time the
167 child entered the juvenile detention facility.

168 2. Within the first 24 hours during which a status

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169 offender is held in secure custody, not including weekends or
170 holidays, a juvenile court intake or probation officer, or an
171 authorized representative of the department or agency having
172 custody or supervision of the child, shall interview the child
173 in person.

174 3. Within 48 hours of the admission of the status
175 offender to secure custody, not including weekends or
176 holidays:

177 (i) The individual who interviewed the child shall
178 submit a written assessment report to the juvenile court
179 regarding the immediate needs of the child; and

180 (ii) If the juvenile court has not yet determined
181 whether the child has violated the order, the juvenile court
182 shall conduct a hearing to determine whether there is
183 reasonable cause to believe that the child violated the order
184 and the appropriate placement of the child pending disposition
185 of the alleged violation.

186 (c) No person under 18 years of age shall be detained
187 or confined in any jail or lockup for adults except as
188 follows:

189 (1) For up to six hours while processing the case of
190 the child.

191 (2) If the child is transferred for criminal
192 prosecution pursuant to Section 12-15-203.

193 (3) If the child is charged pursuant to Section
194 12-15-204.

195 (d) (1) When a case is transferred to another court for
196 criminal prosecution under subdivision (c) (2), the person

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197 shall be transferred to the appropriate officer or jail or
198 lockup in accordance with the law governing the detention of
199 the person charged with the crime. A jail or lockup used for
200 holding adults shall not hold a status offender in secure
201 custody at any time. An accused status offender may be
202 detained in a nonsecure area of a jail or lockup for
203 processing while waiting transportation to a nonsecure shelter
204 care facility or a juvenile detention facility or while
205 waiting for release to a parent, legal guardian, or legal
206 custodian.

207 (2) Nothing in this section shall prohibit a circuit
208 court judge exercising criminal jurisdiction from ordering
209 that a child described in subdivision (c)(2) or (3) should be
210 placed in a juvenile detention center instead of an adult jail
211 or lockup.

212 (e)(1) An accused or adjudicated delinquent child or a
213 status offender shall not have contact with adult inmates,
214 including trustees. "Contact" is defined as any physical or
215 sustained sight and sound contact. "Sight contact" is defined
216 as clear visual contact between adult inmates and an accused
217 or adjudicated delinquent child or a status offender within
218 close proximity to each other. "Sound contact" is defined as
219 direct verbal communication between adult inmates and an
220 accused or adjudicated delinquent child or a status offender.

221 (2) No child shall enter pursuant to public authority,
222 for any amount of time, in secure custody in a secure section
223 of a jail, lockup, or correctional facility for adults as a
224 disposition of an offense or as a means of modifying his or

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225 her behavior.

226 (f) Except as provided in this section, in providing
227 detention and shelter or other care for a child referred to or
228 coming under the jurisdiction of the juvenile court, the
229 juvenile court shall only use a facility that has been
230 established, licensed, or approved by the Department of Youth
231 Services or Department of Human Resources for those purposes.

232 (g) Except as provided in this section, the official in
233 charge of a jail or lockup for the detention of adult
234 offenders or persons charged with crimes shall inform the
235 juvenile court immediately when a child, who is or appears to
236 be a child as defined by this chapter, is received at the jail
237 or lockup. Upon request, the official shall deliver the child
238 to the juvenile court or transfer him or her to a juvenile
239 detention facility designated by the juvenile court.

240 (h) The Department of Youth Services shall continue to
241 develop and implement a statewide system of juvenile detention
242 facilities that shall be licensed by the Department of Youth
243 Services for the detention of children.

244 (i) The Department of Youth Services shall subsidize
245 the detention of children in the juvenile detention facilities
246 in an amount up to one half the average cost of detention. The
247 amount of the subsidy shall depend on the funds appropriated
248 by the Legislature to the Department of Youth Services.
249 Juvenile detention facilities may contract with the Department
250 of Youth Services or other counties for the detention of
251 children.

252 (j) Any law enforcement officer, at the direction of

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253 the juvenile court, shall provide security and transportation
254 services for the juvenile court in transporting children to
255 and from juvenile detention facilities and the Department of
256 Youth Services."

257 Section 3. This act shall become effective on October
258 1, 2025.