An Act

ENROLLED HOUSE
BILL NO. 1282

By: Lawson and Branham of the House

and

Rader of the Senate

An Act relating to children; amending 10A O.S. 2011, Sections 2-3-101, as last amended by Section 2, Chapter 234, O.S.L. 2016 and 2-7-401, as last amended by Section 2, Chapter 67, O.S.L. 2016 (10A O.S. Supp. 2019, Sections 2-3-101 and 2-7-401), which relate to detention of juveniles; allowing placement of certain children in juvenile detention facilities only under specified circumstances; providing for one-hundred-percent reimbursement for operating costs for certain children being held in juvenile detention; and providing an effective date.

SUBJECT: Placement of children

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

SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-3-101, as last amended by Section 2, Chapter 234, O.S.L. 2016 (10A O.S. Supp. 2019, Section 2-3-101), is amended to read as follows:

Section 2-3-101. A. When a child is taken into custody pursuant to the provisions of the Oklahoma Juvenile Code, the child shall be detained only if it is necessary to assure the appearance of the child in court or for the protection of the child or the public.

1. a. <u>No child twelve (12) years of age or younger shall be placed in a juvenile detention facility unless all alternatives have been exhausted and the child is currently charged with a criminal offense that would constitute a felony if committed by an adult and it</u>

has been indicated by a risk-assessment screening that the child requires detention. The detention of any child twelve (12) years of age or younger shall be judicially reviewed pursuant to subparagraph c of this paragraph.

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

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

~~b.~~ d. Whenever the court orders a child to be held in a juvenile detention facility, an order for secure detention shall remain in force and effect for not more than fifteen (15) days after such order. Upon an application of the district attorney and after a hearing on such application, the court, for good and sufficient cause shown, may extend the effective period of such an order for an additional period not to exceed fifteen (15) days after such hearing. The total period of preadjudicatory or predisposition shall not exceed the ninety-day limitation as specified in subparagraph a of this paragraph. The child shall be present at the hearing on the application for extension unless, as authorized and approved by the court, the attorney for the child is present at the hearing and the child is available to participate in the hearing via telephone conference communication. For the purpose of this paragraph, "telephone conference communication" means use of a

telephone device that allows all parties, including the child, to hear and be heard by the other parties at the hearing. After the hearing, the court may order continued detention in a juvenile detention center, may order the child detained in an alternative to secure detention or may order the release of the child from detention.

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

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

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

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

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

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

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

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

b. is on preadjudicatory community supervision, or

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

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

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

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

b. the child is absent from designated placement by the Office of Juvenile Affairs without approval by the Office of Juvenile Affairs,

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

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

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

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

E. 1. Except as otherwise provided in this section, no child shall be placed in secure detention in a jail, adult lockup, or other adult detention facility unless:

a. the child is detained for the commission of a crime that would constitute a felony if committed by an adult, and

b. the child is awaiting an initial court appearance, and

c. the initial court appearance of the child is scheduled within twenty-four (24) hours after being taken into custody, excluding weekends and holidays, and

d. the court of jurisdiction is outside of the Standard Metropolitan Statistical Area as defined by the Bureau of Census, and

e. there is no existing acceptable alternative placement for the child, and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

F. Nothing contained in this section shall in any way reduce or eliminate the liability of a county as otherwise provided by law for

injury or damages resulting from the placement of a child in a jail, adult lockup, or other adult detention facility.

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

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

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

SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-7-401, as last amended by Section 2, Chapter 67, O.S.L. 2016 (10A O.S. Supp. 2019, Section 2-7-401), is amended to read as follows:

Section 2-7-401. A. There is hereby created in the State Treasury a revolving fund for the Office of Juvenile Affairs to be designated the "Juvenile Detention Improvement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies appropriated to the Juvenile Detention Improvement Revolving Fund and monies which may otherwise be available to the Office of Juvenile Affairs for use as provided for in this section.

B. All monies appropriated to the fund shall be budgeted and expended by the Office of Juvenile Affairs for the purpose of providing funds to counties to renovate existing juvenile detention facilities, to construct new juvenile detention facilities, to operate juvenile detention facilities and otherwise provide for secure juvenile detention services and alternatives to secure detention as necessary and appropriate, in accordance with state-approved juvenile detention standards and the State Plan for the

Establishment of Juvenile Detention Services provided for in Section 2-3-103 of this title. The participation of local resources shall be a requirement for the receipt by counties of said funds and the Department shall establish a system of rates for the reimbursement of secure detention costs to counties. The methodology for the establishment of said rates may include, but not be limited to, consideration of detention costs, the size of the facility, services provided and geographic location. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

1. The rate of reimbursement of approved operating cost shall be eighty-five percent (85%) for the Office of Juvenile Affairs and fifteen percent (15%) for the county.

2. The rate of reimbursement of approved operating cost shall be one hundred percent (100%) for the Office of Juvenile Affairs for a child in the custody of the Office of Juvenile Affairs after adjudication and disposition who is held in a juvenile detention facility when the child is pending a placement consistent with the treatment needs of that child as identified by the Office of Juvenile Affairs.

3. The Office of Juvenile Affairs shall approve only those applications for funds to renovate an existing juvenile detention facility or any other existing facility or to construct a new juvenile detention facility which contain proposed plans that are in compliance with state-approved juvenile detention standards.

~~3.~~ 4. The Office of Juvenile Affairs shall approve only those applications or contracts for funds to operate juvenile detention facilities or otherwise provide for secure juvenile detention services and alternatives to secure detention which are in compliance with or which are designed to achieve compliance with the State Plan for the Establishment of Juvenile Detention Services provided for in Section 2-3-103 of this title.

~~4.~~ 5. The Office of Juvenile Affairs shall, from appropriated state monies or from available federal grants, provide for payment pursuant to contract for transportation personnel and vehicle-related costs and reimburse for eligible travel costs for counties utilizing the juvenile detention facilities identified in the "State Plan for the Establishment of Juvenile Detention Services" in

accordance with the provisions of the State Travel Reimbursement Act and in accordance with Section 2-3-103 of this title.

SECTION 3. This act shall become effective November 1, 2020.

Passed the House of Representatives the 9th day of March, 2020.

Presiding Officer of the House
of Representatives

Passed the Senate the 11th day of May, 2020.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 12th

day of May, 20 20, at 12:23 o'clock p. M.

By: Sumer Curry

Approved by the Governor of the State of Oklahoma this 18th

day of May, 20 20, at 8:42 o'clock a. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 18th

day of May, 20 20, at 3:25 o'clock P. M.

By: Nicole Rogers