



Dennis M. Papp

Final Analysis
Legislative Service Commission

Sub. H.B. 180

124th General Assembly
(As Passed by the General Assembly)

Reps. Young, Callender, Latell, Willamowski, Latta, Seitz, Reidelbach, Flowers, Niehaus, Grendell, Hagan, Clancy, Manning, Carmichael, G. Smith, Collier, Roman, Setzer, Coates, Schneider, Damschroder, Lendrum, Gilb, Schaffer, Schmidt, Faber, Womer Benjamin

Sens. Oelslager, Amstutz, Spada, Hottinger, Robert Gardner

Effective date: *

ACT SUMMARY

- Expands the reasons for which a child taken into custody may be confined in a place of juvenile detention or placed in shelter care prior to the implementation of the court's final order of disposition to also permit the detention or shelter care if it is required because the child is a danger or threat to one or more other persons and the child is charged with violating a section of the Revised Code that may be violated by an adult.
- Extends the time period in which an adjudicatory hearing for a child must be held from not later than ten days after a complaint is filed against the child to not later than 15 days after the filing of the complaint if the child is in detention and is charged with violating a section of the Revised Code that may be violated by an adult and provides that the hearing may be continued and detention extended for good cause.
- Requests the Supreme Court to modify the Juvenile Rules consistent with the changes made by the act.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

CONTENT AND OPERATION

Places in which a child may and may not be held

Formerly

The preexisting Juvenile Code, unchanged by the act specifies a number of ways in which a child may be taken into custody. It specifies that, in general, a child taken into custody may not be held in any state correctional institution, county, multicounty, or municipal jail or workhouse, or any other place where any adult convicted of crime, under arrest, or charged with crime is held. The preexisting Juvenile Code also provides that a child taken into custody generally may not be confined in a place of juvenile detention or placed in shelter care prior to the implementation of the court's final order of disposition, unless detention or shelter care is required pursuant to any of a list of specified reasons. Formerly, the reasons specified in the list were: (1) to protect the child from immediate or threatened physical or emotional harm, (2) because the child may abscond or be removed from the jurisdiction of the court, (3) because the child has no parents, guardian, or custodian or other person able to provide supervision and care for the child and return the child to the court when required, or (4) because an order for placement of the child in detention or shelter care has been made by the court pursuant to the Juvenile Code. (R.C. 2151.31(A), (B)(2), and (C).) Preexisting Juvenile Rule 7(A) also contains provisions regarding a child taken into custody being placed in detention or shelter care; the provisions are similar to the list of reasons formerly specified in R.C. 2151.31 except that they also permit a child taken into custody to be placed in detention or shelter care prior to disposition if: (1) it is required to protect the person or property of others from immediate or threatened physical or emotional harm, or (2) confinement is authorized by statute.

Operation of the act

The act expands the list of specified reasons for which a child taken into custody may be confined in a place of juvenile detention or placed in shelter care prior to the implementation of the court's final order of disposition. Under the act, in addition to the list of reasons formerly specified, that type of detention or shelter care also is permitted if it is required because the child is a danger or threat to one or more other persons and is charged with violating a section of the Revised Code that may be violated by an adult. Related to this change, in the act, the General Assembly requests the Supreme Court to promptly modify Juvenile Rule 7 pursuant to its authority under the Ohio Constitution to make that rule consistent with this amendment to R.C. 2151.31. (R.C. 2151.31(C)(1); Section 3.)

Time in which adjudicatory hearing must be held

Formerly

The preexisting Juvenile Code, unchanged by the act, specifies that, no later than 72 hours after a juvenile complaint is filed, the juvenile court must fix a time for an adjudicatory hearing. The preexisting Juvenile Code also provides that the court must conduct the adjudicatory hearing within a statutorily specified period of time. Formerly, if the complaint alleged that the child violated certain juvenile smoking prohibitions or was a delinquent or unruly child or a juvenile traffic offender, the adjudicatory hearing had to be held and could be continued in accordance with the Juvenile Rules. (R.C. 2151.28(A)(1).) Preexisting Juvenile Rule 29(A) requires the date for the adjudicatory hearing to be set when the complaint is filed or as soon thereafter as is practicable. That Rule also specifies that, if the child who is the subject of the complaint is in detention or shelter care and the complaint does not request a serious youthful offender dispositional sentence, the hearing must be held not later than ten days after the filing of the complaint, except that, upon a showing of good cause, the adjudicatory hearing may be continued and detention or shelter care extended. The Juvenile Code, unchanged by the act, specifies that the adjudicatory hearing generally must be held no later than 30 days after a complaint is filed alleging that a child is an abused, neglected, or dependent child (R.C. 2151.28(A)(2)).

Operation of the act

The act revises the time period in which the adjudicatory hearing must be held if the child who is the subject of the complaint is in detention and is charged with violating a section of the Revised Code that may be violated by an adult. In such a situation, the act requires that the hearing be held not later than 15 days after the filing of the complaint. Upon a showing of good cause, the adjudicatory hearing may be continued and detention extended. Related to this change, in the act, the General Assembly requests the Supreme Court to promptly modify Juvenile Rule 29 pursuant to its authority under the Ohio Constitution to make that rule consistent with this amendment to R.C. 2151.28. (R.C. 2151.28(A)(1) and (3); Section 3.)

COMMENT

This act raises questions regarding Section 5(B) of Article IV of the Ohio Constitution. That provision requires the Supreme Court to prescribe rules governing practice and procedure in all Ohio courts, which rules cannot abridge, enlarge, or modify any substantive right. All laws in conflict with these rules are of no further force or effect after the rules have taken effect. In *Rockey v. 84*

Lumber Co. (1993), 66 Ohio St.3d 221 (paragraph two of the syllabus), the Supreme Court held that such promulgated rules control over subsequently enacted inconsistent statutes purporting to govern procedural matters.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-22-01	p. 255
Reported, H. Criminal Justice	06-20-01	p. 702
Passed House (89-7)	09-19-01	pp. 837-838
Reported, S. Judiciary on Criminal Justice	01-09-02	pp. 1291-1292
Passed Senate (27-3)	01-09-02	pp. 1293-1294
House concurred in Senate amendments (94-5)	01-15-02	pp. 1227-1228

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