



## **Sub. H.B. 180**

124th General Assembly  
(As Passed by the House)

**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**

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### **BILL SUMMARY**

- Expands the circumstances in 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 must be held after a complaint is filed against a child 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 from not later than ten days after the filing of the complaint to not later than 15 days after the filing of the complaint.
- Requests the Supreme Court to modify the Juvenile Rules consistent with the changes made by the bill.

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### **CONTENT AND OPERATION**

#### **Places in which a child may and may not be held**

##### **Existing law**

Existing law specifies a number of ways in which a child may be taken into custody (see **'Background--circumstances under which a child may be taken into custody,'** below). Generally, 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. Also 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: (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).) Juvenile Rule 7(A) contains similar prohibitions regarding a child taken into custody being placed in detention or shelter care.

### **Operation of the bill**

The bill expands the circumstances in 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 that type of detention or shelter care 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. The bill also 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); Section 4.)

### **Time in which adjudicatory hearing must be held**

#### **Existing law**

Under existing law, no later than 72 hours after a juvenile complaint is filed, the juvenile court must fix a time for an adjudicatory hearing. The court must conduct the adjudicatory hearing within a statutorily specified period of time. If the complaint alleged that the child violated certain juvenile smoking prohibitions or is a delinquent or unruly child or a juvenile traffic offender, the adjudicatory hearing must be held and may be continued in accordance with the Juvenile Rules. (R.C. 2151.28(A)(1).) Existing 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. If the child who is the subject of the complaint is in detention or shelter care, the hearing must be held not later than ten days after the filing of the complaint. Upon a showing of good cause, the Juvenile Rules permit the adjudicatory hearing to be continued and detention or shelter care extended. 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 bill**

The bill 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 bill 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. The bill also 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 4.)

### **Effective date**

The bill as described above takes effect on January 1, 2002 (Section 3).

### **Background--circumstances under which a child may be taken into custody**

Under the existing Juvenile Code, a child may be taken into custody in any of the following ways (R.C. 2151.31(A)):

(1) Pursuant to an order of the court under the Juvenile Code or pursuant to an order of the court upon a motion filed pursuant to R.C. 2930.05(B);

(2) Pursuant to the laws of arrest;

(3) By a law enforcement officer or duly authorized officer of the court when certain conditions are present;

(4) By an appropriate enforcement official under the Unlawful Employment of Minors Laws;

(5) By a law enforcement officer or duly authorized officer of the court when there are reasonable grounds to believe that the child has run away from the child's parents, guardian, or other custodian;

(6) By a law enforcement officer or duly authorized officer of the court when there are reasonable grounds to believe that the conduct, conditions, or surroundings of the child are endangering the health, welfare, or safety of the child; a juvenile complaint has been filed with respect to the child and there are reasonable grounds to believe that the child may abscond or be removed from the jurisdiction of the court; or the child is required to appear in court and there are

reasonable grounds to believe that the child will not be brought before the court when required.

### **Definitions**

#### **Detention**

As used in the Juvenile Code, "detention" means the temporary care of children pending court adjudication or disposition, or execution of a court order, in a public or private facility designed to physically restrict the movement and activities of children (R.C. 2151.011(B)(13)--not in the bill).

#### **Shelter care**

As used in the Juvenile Code, "shelter" means the temporary care of children in physically unrestricted facilities pending court adjudication or disposition (R.C. 2151.011(B)(50)--not in the bill).

As used in the Juvenile Rules, "shelter care" means the temporary care of children in physically unrestricted facilities, pending court adjudication or disposition (Juvenile Rule 2(II)).

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## **COMMENT**

This bill raises questions regarding Section 5(B) of Article IV of the Ohio Constitution. That provision authorizes the Supreme Court to prescribe rules governing practice and procedure in all Ohio courts, which 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.

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## **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

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