

SB 337 Juvenile Provisions

Placement of Youth in Jails: Fact Sheet

On September 28, 2012, the provisions of SB 337 go into effect. This fact sheet covers the provisions in the law regarding changes to when youth under the age of 21 can be placed in adult jails under ORC § 2152.26.

What was the prior law on youth in adult jails?: Under prior Ohio law, two categories of youth could be kept in adult jails:

- 1) *Youth aged 18-21 who were under the jurisdiction of the juvenile court:* Because juvenile court jurisdiction ends at age 21, youth between the ages of 18-21 under juvenile court jurisdiction could be placed in adult jails. This placement would not be because the youth had committed a new offense, but because they violated the terms of their juvenile court disposition, including conditions of probation or parole; and
- 2) *Youth bound over to adult court:* After the juvenile court made a decision to bind a youth over to adult court, the juvenile court was permitted, but not required, to move the youth from the detention facility to the adult jail. This move could happen after the probable cause hearing for mandatory bindovers and after the probable cause and amenability hearings for discretionary bindovers.

How does SB 337 change when youth can be placed in adult jails?: SB 337 creates a presumption that youth in the two categories above are placed in juvenile detention facilities. These youth can only be transferred to an adult jail after holding a hearing and making written findings under the standards described below. ORC § 2152.26(D)-(F)

Which court has jurisdiction over these youth?: For youth over 18 under jurisdiction of the juvenile court, the juvenile court retains both substantive and housing jurisdiction. For bound over youth, SB 337 specifically gives the juvenile court jurisdiction over youth in adult court solely to determine where the youth is housed. ORC § 2152.02(C)(7). Therefore, a youth is still considered a “child” under Ohio law until they are convicted or plead guilty in adult court. ORC § 2152.02(C)(5)

It is important to note that SB 337 requires adult jails, workhouses, or other facilities to notify the juvenile court when a juvenile court youth under the age of 21 arrives at the jail and to deliver that youth to a detention facility. ORC § 2152.02(E)

What is the process by which a youth can be moved from juvenile detention to adult jail?: Before a youth is moved from juvenile detention to jail, the juvenile court must give notice to the youth and hold a hearing as follows (ORC § 2152.26(F)(4)):

- *Motion:* To move a youth to an adult jail, the court, upon its own motion, or the prosecutor must make a motion that the youth is a threat to the safety and security of the juvenile facility. After the filing of the motion, the court has 5 days to hold a hearing. ORC § 2152.26 (F)(4)(a)
- *Standard – Threat to the Safety and Security of the Detention Facility:* After a motion is made to move the youth to the jail, the court must determine, by a preponderance of the evidence, and make written findings that the youth is a threat to the safety and security of the juvenile detention facility.

Evidence that a youth is a threat to the safety and security of the juvenile detention facility can include, but is not limited to, whether the youth 1) injured or created an imminent danger to the life or health of another youth or staff member by violent behavior, 2) escaped more than once, or 3) developed a pattern of disruptive behavior as verified by a written record that is not conducive to the facility's policies or procedures. ORC § 2152.26 (F)(4)(a)(i-iii)

- *Standard – Most Appropriate Placement:* The court must also consider whether the jail or the juvenile detention center is the most appropriate placement for the youth and make written findings based on the factors listed in ORC § 2152.26 (F)(4)(b), which are:
 - The youth's *age*;
 - Whether placing the youth in the jail would result in the youth being *deprived of contact with other people* or not given access to recreation or education (isolation);
 - The youth's *emotional state, intelligence, and developmental maturity* (including any past physical or emotional trauma), which can be shown through mental health or psychological assessments or screenings;
 - Whether the youth's placement in the juvenile facility can adequately *protect the community*;
 - The relative ability of the detention center and jail to *meet the youth's needs*, including age-appropriate mental health and education services delivered by individuals specifically trained to deal with youth;
 - Whether the youth presents an *imminent risk of harm to self or others* in the juvenile detention facility, and
 - Any other factors.

What if a youth is transferred to a jail?: If a juvenile court sends a youth to an adult jail, the youth must 1) be kept sight and sound separated from adults and 2) be supervised at all times. ORC § 2152.26 (F)(4)(e).

In addition, a youth can petition the court to be moved back to the juvenile detention facility either under emergency or non-emergency circumstances. For emergency circumstances (the youth is facing an imminent danger from others or themselves in the jail), a petition may be filed at any time. For non-emergency circumstances, a youth may petition the court 30 days after being placed in the jail and every 30 days thereafter. If either an emergency or non-emergency petition is filed, the juvenile court may set the matter for review if the youth has alleged facts or circumstances that, if true, would warrant reconsideration of the youth's placement and conduct a review hearing based on the factors listed in (4)(b). ORC § 2152.26 (F)(4)(c).

SB 337 Juvenile Provisions Placement of Youth in Jails: Case Examples

Case Examples:

Case #1: A youth is arrested and taken in to the juvenile detention center. The youth is charged with a discretionary bindover offense and, after a probable cause and an amenability hearing, the judge binds the youth over to adult court.

Placement under prior law: The youth could have been moved immediately to the jail upon the court binding over the youth and finding probable cause and that the youth is not amenable to rehabilitation.

Placement under SB 337: The youth can be moved to the jail after the bindover, but only after the court or prosecutor make a motion and a hearing is held to determine whether the youth is a threat to the safety and security of the juvenile detention facility and that the jail is the most appropriate placement for that youth.

Case #2: Facts: A 17-year -old youth receives a juvenile delinquency disposition and serves 2 years in DYS, during which she turns 19. After her release from DYS, the youth is put on parole for 8 months. During her parole period, the youth violates parole and is sentenced to 30 days by the juvenile court for the parole violation.

Placement under prior law: Because the youth had turned 19, she could have been placed directly into the jail to serve her 30 day sentence even though she was under the jurisdiction of the juvenile court.

Placement under SB 337: The youth must serve the 30 day sentence in the juvenile detention facility unless the court or prosecutor make a motion and a hearing is held where a judge finds she is a threat to the safety and security of the juvenile detention facility and that the jail is the most appropriate placement for her.

Case #3: A youth is arrested and taken to the juvenile detention center. The youth is charged with a mandatory bindover offense and, after a probable cause hearing, the judge finds probable cause that the youth committed the offense. The judge also finds that the youth is a threat to the safety and security of the juvenile detention facility and that the jail is the most appropriate placement for that youth. The youth is moved to the jail, but after being moved there the youth is put into isolation and cannot access mental health care. In the first month of confinement, the youth's mental health begins to deteriorate and the youth loses 10 pounds.

Placement under prior law: The youth would have remained in the jail despite any change in the youth's condition.

Placement under SB 337: The youth can be moved back to the juvenile detention center if the judge agrees to hear a petition or emergency petition from the youth and determines that the youth has alleged facts or circumstances that would warrant reconsideration of whether the jail is the most appropriate placement for the youth.