

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

712A.15 Detention of child pending hearing; detention screening tool; release of child; petition; limitation on custody of child pending hearing; detention in secure facility, cell, or other secure area designed to incarcerate adults; exception.

Sec. 15.

(1) In the case of a juvenile concerning whom a complaint has been made or a petition has been filed under this chapter, the court may order the juvenile, pending hearing, detained in a facility as the court designates. The court may release the juvenile, pending hearing, into the custody of a parent, guardian, or custodian, to be brought before the court at the time designated. As used in this subsection, "petition" includes all of the following:

- (a) Petition.
- (b) Supplemental petition.
- (c) Petition for revocation of probation.
- (d) Supplemental petition alleging a violation of a personal protection order.
- (e) A petition or supplemental petition alleging that a juvenile violated a court order under section 2(a)(2) to (4) of this chapter.

(2) Custody, pending hearing, is subject to subsection (3) and limited to the following children:

- (a) Those whose home conditions make immediate removal necessary.
- (b) Those who have a record of unexcused failures to appear at juvenile court proceedings.
- (c) Those who have failed to remain in a detention or nonsecure facility or placement in violation of a court order.
- (d) Those whose offenses are so serious that release would endanger public safety.
- (e) Those who have allegedly violated a personal protection order and for whom it appears there is a substantial likelihood of retaliation or continued violation.
- (f) Those who have allegedly violated a court order under section 2(a)(2) to (4) of this chapter.

(3) Before a juvenile may be detained in a secure facility pending hearing, an individual or agency designated by the court shall use a detention screening tool on the juvenile. Before detaining a juvenile, the court shall consult the results of the detention screening tool and follow any rules regarding its use that are promulgated by the supreme court. The court shall share the results of the detention screening tool with all parties before a juvenile's detention hearing. The state court administrative office, under the supervision and direction of the supreme court and in collaboration with local courts, shall determine the appropriate detention screening tool. Any statement, admission, confession, or incriminating evidence obtained from a juvenile in the course of a screening under this section is not admissible as evidence in an adjudicatory hearing in which the juvenile is accused, is not subject to subpoena, and may not be used in any other court proceeding or for any other purpose.

(4) If a juvenile is taken into custody for violating a court order under section 2(a)(2) to (4) of this chapter and is detained in a secure facility, the petitioner shall ensure that an appropriately trained, licensed, or certified mental health or substance abuse professional interviews the juvenile in person within 24 hours to assess the immediate mental health and substance abuse needs of the juvenile. The assessment may alternatively be done upon filing the petition, before an order for placement in a secure facility. Within 48 hours of the placement in the secure facility, the petitioner shall submit the assessment to the court and the court shall conduct a hearing to determine both of the following:

- (a) If there is reasonable cause to believe that the juvenile violated the court order.
- (b) The appropriate placement of the juvenile pending the disposition of the alleged violation, including if the juvenile should be placed in a secure facility.

(5) A juvenile taken into custody under section 2(b) of this chapter or subsection (2)(a) must not be detained in a secure facility or in a cell or other secure area of a secure facility designed to incarcerate adults.

(6) A juvenile taken into custody under section 2(a)(2) to (4) of this chapter must not be detained in a cell or other secure area of a secure facility designed to incarcerate adults unless either of the following applies:

(a) The juvenile is under the jurisdiction of the court under section 2(a)(1) of this chapter for an offense which, if committed by an adult, would be a felony.

(b) Until September 30, 2021, the juvenile is not less than 17 years of age and is under the jurisdiction of the court under a supplemental petition under section 2(h) of this chapter. Beginning October 1, 2021, the juvenile is not less than 18 years of age and is under the jurisdiction of the court under a supplemental petition under section 2(h) of this chapter.

History: Add. 1944, 1st Ex. Sess., Act 54, Imd. Eff. Mar. 6, 1944 ;-- CL 1948, 712A.15 ;-- Am. 1972, Act 175, Imd. Eff. June 16, 1972 ;-- Am. 1987, Act 72, Eff. Sept. 1, 1987 ;-- Am. 1998, Act 474, Eff. Mar. 1, 1999 ;-- Am. 2019, Act 111, Eff. Oct. 1, 2021 ;-- Am. 2020, Act 389, Eff. Apr. 4, 2021 ;-- Am. 2023, Act 290, Eff. Oct. 1, 2024

Compiler's Notes: Section 2 of Act 72 of 1987 provides: "If this amendatory act requires any increase in the level of any activity or service currently required by this act or requires a new activity or service by a local unit of government, the state shall reimburse the local unit of government for any new or increased costs."

Former Law: See section 18 of Ch. XII of Act 288 of 1939; section 5 of Act 6 of 1907, Ex. Sess.; Act 310 of 1909; Act 164 of 1911; Act 262 of 1911; Act 363 of 1913; Act 308 of 1915; CL 1915, § 2015; Act 24 of 1921, 1st Ex. Sess.; Act 105 of 1923; Act 127 of 1927; and CL 1929, § 12838.

Popular Name: Probate Code

Popular Name: Juvenile Code