STATE OF NEW YORK

10717

IN ASSEMBLY

March 27, 2026

Introduced by M. of A. HEVESI -- read once and referred to the Committee on Children and Families

AN ACT to amend the family court act, the criminal procedure law, the executive law and the county law, in relation to non-secure detention facilities for youth charged with acts of juvenile delinquency, juvenile offenses or adolescent offenses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 3 of section 301.2 of the family court act, as amended by chapter 465 of the laws of 1992, is amended to read as follows:

3. "Detention" means the temporary care and maintenance of children away from their own homes, as defined in section five hundred two of the executive law. Detention of a person alleged to be or adjudicated as a juvenile delinquent shall be authorized only in a facility certified by the [~~division for youth~~] **office of children and family services** as a detention facility pursuant to section five hundred three of the executive law.

§ 2. Subdivision 1 of section 304.1 of the family court act, as amended by section 59 of part WWW of chapter 59 of the laws of 2017, is amended to read as follows:

1. A facility certified by the office of children and family services as a juvenile **non-secure or secure** detention facility must be operated in conformity with the regulations of the office of children and family services. **Every county, either individually or acting in collaboration with one or more other counties, shall arrange for, or have access to, sufficient certified juvenile non-secure and secure detention facilities.**

§ 3. Subdivision 1 of section 320.5 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

1. At the initial appearance, the court in its discretion may release the respondent or direct [~~his~~] detention **in a certified juvenile non-secure or secure detention facility**.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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§ 4. Subdivision 1 of section 510.15 of the criminal procedure law, as amended by chapter 813 of the laws of 2021, is amended to read as follows:

1. When a principal who is under the age of sixteen is committed to the custody of the sheriff the court must direct that the principal be taken to and lodged in a place certified by the office of children and family services as a juvenile **non-secure or secure** detention facility for the reception of children. When a principal who (a) commencing October first, two thousand eighteen, is sixteen years of age; or (b) commencing October first, two thousand nineteen, is sixteen or seventeen years of age, is committed to the custody of the sheriff, the court must direct that the principal be taken to and lodged in a place certified by the office of children and family services in conjunction with the state commission of correction as a **non-secure or** specialized secure juvenile detention facility for older youth. Where such a direction is made the sheriff shall deliver the principal in accordance therewith and such person shall although lodged and cared for in a juvenile detention facility continue to be deemed to be in the custody of the sheriff. No principal under the age specified to whom the provisions of this section may apply shall be detained in any prison, jail, lockup, or other place used for adults convicted of a crime or under arrest and charged with the commission of a crime without the approval of the office of children and family services which shall consult with the commission of correction if the principal is sixteen years of age or older in the case of each principal and the statement of its reasons therefor; nor shall a principal under the age specified who is charged solely with a violation as defined in subdivision three of section 10.00 of the penal law be subject to detention. The sheriff shall not be liable for any acts done to or by such principal resulting from negligence in the detention of and care for such principal, when the principal is not in the actual custody of the sheriff.

§ 5. Subdivision 3 of section 502 of the executive law, as amended by section 19 of part K of chapter 56 of the laws of 2019, is amended to read as follows:

3. "Detention" means the temporary care and maintenance of youth held away from their homes pursuant to article three of the family court act, or held pending a hearing for alleged violation of the conditions of release from an office of children and family services facility or authorized agency, or held pending a hearing for alleged violation of the condition of parole as a juvenile offender, youthful offender or adolescent offender or held pending return to a jurisdiction other than the one in which the youth is held, or held pursuant to **or pending issuance of** a securing order of a criminal court if the youth named therein as principal is charged as a juvenile offender, youthful offender or adolescent offender or held pending a hearing on an extension of placement or held pending transfer to a facility upon commitment or placement by a court. Only alleged or convicted juvenile offenders, youthful offenders or adolescent offenders who have not attained their eighteenth or, commencing October first, two thousand eighteen, their twenty-first birthday shall be subject to detention in a detention facility. Commencing October first, two thousand eighteen, a youth who on or after such date committed **or is charged with committing** an offense when the youth was sixteen years of age; or commencing October first, two thousand nineteen, a youth who committed **or is charged with committing** an offense on or after such date when the youth was seventeen years of age held pursuant to **or pending issuance of** a securing order of a criminal court

if the youth is charged as an adolescent offender or held pending a hearing for alleged violation of the condition of parole as an adolescent offender, [~~must~~] shall be held in a non-secure juvenile detention facility certified by the state office of children and family services or a specialized secure juvenile detention facility for older youth certified by the state office of children and family services in conjunction with the state commission of correction. Every county, either individually or acting in collaboration with one or more other counties, shall arrange for, or have access to, sufficient certified juvenile non-secure, secure and specialized secure detention facilities.

§ 6. Section 218-a of the county law, as amended by chapter 880 of the laws of 1976, the opening paragraph of subdivision A as amended by chapter 465 of the laws of 1992, paragraphs 1, 2, 3 and 4 of subdivision A as amended by chapter 555 of the laws of 1978, paragraph 6 of subdivision A as added by section 82-b of part WWW of chapter 59 of the laws of 2017, subdivision B as amended by chapter 419 of the laws of 1987 and subdivision C as added by section 12 of part E of chapter 57 of the laws of 2005, is amended to read as follows:

§ 218-a. County detention facilities for juvenile delinquents and [~~persons in need of supervision~~] juvenile and adolescent offenders. A. [~~To~~] The office of children and family services shall promulgate regulations to assure that suitable and conveniently accessible accommodations and proper and adequate detention in secure, specialized secure and non-secure detention facilities, as defined in section five hundred two of the executive law and the regulations of the [~~division for youth~~] office of children and family services, will be available when required for the temporary care, maintenance and security of alleged and convicted juvenile offenders, alleged and adjudicated juvenile delinquents and alleged and [~~adjudicated persons in need of supervision~~] convicted adolescent offenders. Such regulations shall not require any county to provide temporary care in a secure detention facility for residents of any other county except upon a space available basis, provided, however, that to the extent practicable, counties may collaborate in accordance with paragraph three or four of this subdivision to jointly provide for or arrange access to sufficient certified juvenile non-secure, secure and specialized secure detention facilities certified by the office of children and family services. The county executive, if there be one, otherwise the board of supervisors shall designate the agency of county government responsible for the administration of the county juvenile detention program and shall so advise the New York state [~~division for youth~~] office of children and family services, and may make provisions therefor as follows:

1. Provide for the continued operation of the county's established detention facility, so long as it complies with regulations of the [~~division for youth~~] office of children and family services, and is certified by [~~that division~~] such office.

2. Authorize a contract between its county and one or more other counties, which is or are operating a conveniently accessible detention facility certified by the [~~division for youth~~] office of children and family services and in compliance with regulations of [~~the division for youth~~] such office, providing for the reception, temporary accommodation and care in such facility of alleged or adjudicated juvenile delinquents and pre-dispositional placements for alleged persons in need of supervision held for or at the direction of its family court, for and in consideration of the payments to be made therefor, on a per capita basis, pursuant to the terms of such contract.

3. Authorize a contract between its county and one or more other counties providing for the joint operation and maintenance by them of an already established county detention facility certified by the state [~~division for youth~~] **office of children and family services** and operated and maintained in compliance with the regulations of [~~the division for youth~~] **such office**, which is conveniently accessible to the counties concerned. Such authorization and contract may include provisions for remodeling or enlarging the building of such facility.

4. Authorize a contract between its county and one or more other counties providing for the joint establishment, operation and maintenance by such counties of a new joint county detention facility which shall be located on a site conveniently accessible to the counties concerned and which shall be certified by the state [~~division for youth~~] **office of children and family services** and which shall be established, operated and maintained in compliance with the regulations of [~~the division for youth~~] **such office**.

5. The resolution providing for joint action under **paragraph** three or four [~~above~~] **of this subdivision** shall be adopted by the board of supervisors of each of the several counties affected, and a committee composed of at least one member of each of such boards shall be created to acquire the necessary real property in the name of the counties affected, and as the joint agent of such counties such committee shall have charge of the construction, equipment, maintenance and operation of such joint county detention facility and, with the advice of an advisory committee consisting of the judge of the family court and the commissioner of social services of each of said counties, shall supervise and control the maintenance and operation of such joint county detention facility. The said resolution may specify the matters as to which the action of such committee shall require the joint approval of the boards of supervisors of all the counties affected and shall prescribe the proportions to be borne by each of the several counties affected of the costs of acquisition of the site and of construction of a new joint county detention facility and the proportions to be borne by each of the several counties affected of the costs of operation of such joint county detention facility, whether established by new joint acquisition and construction or by utilization of an existing county detention facility. The moneys to pay the share to be borne by each county affected shall be provided by appropriation in such amounts and at such times as may be agreed upon.

6. Notwithstanding any other provision of law, commencing October first, two thousand eighteen, a county [~~must~~] **shall** provide for adequate detention of alleged or convicted adolescent offenders in a **juvenile non-secure detention facility or a** specialized secure detention facility for older youth who are alleged or convicted of committing an offense when they were sixteen years of age and commencing October first, two thousand nineteen, a county [~~must~~] **shall** provide for adequate detention of alleged or convicted adolescent offenders in a **juvenile non-secure detention facility or a** specialized secure detention facility for older youth who are alleged or convicted of committing an offense when they were sixteen or seventeen years of age. [~~Such~~] **A specialized secure detention** facility **for older youth** shall be certified and regulated by the office of children and family services in conjunction with the state commission of correction[~~. Such facility~~] **and** shall: (i) have enhanced security features and specially trained staff; and (ii) be jointly administered by the agency of county government designated in accordance with **this** subdivision [~~A of this section~~] and the applicable county

sheriff, which both shall have the power to perform all acts necessary to carry out their duties. The county sheriff shall be subject to the same laws that apply to the designated county agency regarding the protection and confidentiality of the information about the youth in such facility and shall prevent access thereto by, or the distribution thereof to, persons not authorized by law.

B. Notwithstanding any other provision of law, each board of supervisors shall provide or assure the availability of conveniently accessible and adequate non-secure detention facilities, certified by the state [~~division for youth~~] **office of children and family services**, as resources for the family court in the county pursuant to [~~articles seven and~~] **article** three of the family court act **and for the youth part in the superior court in the county**, to be operated in compliance with the regulations of the [~~division for youth~~] **office of children and family services** for the temporary care and maintenance of alleged and adjudicated juvenile delinquents [~~and persons in need of supervision~~] held for or at the direction of a family court **and for the detention of alleged and convicted juvenile and adolescent offenders held by or pending issuance of a securing order**.

C. Each county shall offer diversion services to children who are at risk of being the subject of a petition under [~~article~~] **articles three and** seven of the family court act. Such services shall be designed to provide an immediate response to families in crisis and to identify and utilize appropriate alternatives to juvenile detention.

§ 7. This act shall take effect on the ninetieth day after it shall have become a law.