

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

November 15, 2022

Opinion No. 22-13

Responsibility for Transporting Children in Court-ordered Pre-adjudication Detention

Question

Once a judge decides to place a child in detention before the adjudication of a delinquency petition, who or what entity is responsible for the transportation of the child to and from court?

Opinion

Once a court orders a child to be placed in pre-adjudication detention, the person who took the child into custody is responsible for transporting the child from the court to the court-ordered detention facility. Once the child has been placed in a court-ordered detention facility, the detention facility is responsible for transporting the child to and from court, but law enforcement shares that transportation responsibility.

ANALYSIS

Under certain circumstances, a juvenile court may order that a child taken into custody and brought before the court on a delinquency petition under title 37, ch. 1, part 1 of the Tennessee Code be detained or placed in shelter care pending the hearing and adjudication on the petition. Tenn. Code Ann. §§ 37-1-114; -116(a)(3); Tenn. R. Juv. P. 203(b)-(d); Tenn. Comp. R. & Regs. 0250-04-08-.02(9)(b), (c). When the court determines that pre-adjudication detention is appropriate, the child must be placed in a detention or care facility that is “specifically licensed” by Department of Children’s Services (“DCS”). Tenn. Comp. R. & Regs. 0250-04-08-.02(2); *see also* Tenn. Code Ann. §§ 37-5-109(1), -501(b)(10)(B), -502(a). And the “person taking a child into custody shall . . . deliver such child to a detention or shelter care facility designated by the court.” Tenn. Code Ann. § 37-1-115(a)(2).

Thus, the person who took the child into custody is responsible for transporting the child to the court-ordered detention facility. For example, if a law enforcement officer took the child into custody, then the law enforcement officer “shall deliver” the child to the court-ordered detention facility. As the Court of Criminal Appeals noted, “[i]n essence, [§ 37-1-115(a)] provides that within a reasonable time of taking a child into custody, the police must either release the child to his parents’ custody, bring the child before the court, *or place the child in an appropriate detention facility for juveniles, thereby triggering procedural protections relating to the detention of juveniles.*” *State v. Carroll*, 36 S.W. 3d 854, 863 (Tenn. Crim. App. 1999) (emphasis in original).

Once the child is in the court-ordered detention facility, those procedural protections are triggered, including the applicable rules promulgated by DCS. Tenn. Code Ann. § 37-5-105(3); *see also* § 37-5-106(a)(1); -502(a); Tenn. Comp. R. & Regs. 0250-04-08. And Tenn. Comp. R. & Regs. 0250-04-08-.12(1) deals *specifically* with *transportation* of a child in detention. Under that DCS rule, the responsibility to transport the child rests with both the staff of the detention facility and with law enforcement: “All transportation,” which would include transportation of a child between the detention center and the court, “*shall be provided by approved facility staff or law enforcement.*” *Id.* (emphasis added).

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