

ing with critical stages of the proceedings. Counsel shall be assigned to represent a juvenile when the juvenile and his parents, guardian, or custodian are financially unable to obtain adequate representation. In cases where the juvenile and his parents, guardian, or custodian are financially able to obtain adequate representation but have not retained counsel, the magistrate judge may assign counsel and order the payment of reasonable attorney's fees or may direct the juvenile, his parents, guardian, or custodian to retain private counsel within a specified period of time.

The magistrate judge may appoint a guardian ad litem if a parent or guardian of the juvenile is not present, or if the magistrate judge has reason to believe that the parents or guardian will not cooperate with the juvenile in preparing for trial, or that the interests of the parents or guardian and those of the juvenile are adverse.

If the juvenile has not been discharged before his initial appearance before the magistrate judge, the magistrate judge shall release the juvenile to his parents, guardian, custodian, or other responsible party (including, but not limited to, the director of a shelter-care facility) upon their promise to bring such juvenile before the appropriate court when requested by such court unless the magistrate judge determines, after hearing, at which the juvenile is represented by counsel, that the detention of such juvenile is required to secure his timely appearance before the appropriate court or to insure his safety or that of others.

(June 25, 1948, ch. 645, 62 Stat. 858; Pub. L. 87-428, Mar. 31, 1962, 76 Stat. 52; Pub. L. 93-415, title V, § 504, Sept. 7, 1974, 88 Stat. 1135; Pub. L. 100-690, title VII, § 7045, Nov. 18, 1988, 102 Stat. 4400; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 924 (June 16, 1938, ch. 486, § 4, 52 Stat. 765).

The words "foster homes" were inserted to remove any doubt as to the authority to commit to such foster homes in accordance with past and present administrative practice.

The reference to particular sections dealing with probation was omitted as unnecessary.

Changes were made in phraseology and arrangement.

#### CODIFICATION

Another section 504 of title V of Pub. L. 93-415, as added by Pub. L. 107-273, div. C, title II, § 12222(a), Nov. 2, 2002, 116 Stat. 1895, is classified to section 5783 of Title 42, The Public Health and Welfare.

Another section 504 of title V of Pub. L. 93-415, as added by Pub. L. 102-586, § 5(a), Nov. 4, 1992, 106 Stat. 5027, was classified to section 5783 of Title 42, The Public Health and Welfare, prior to the general amendment of that title V by Pub. L. 107-273.

#### AMENDMENTS

1988—Pub. L. 100-690 substituted "facility) upon" for "facility upon" in last par.

1974—Pub. L. 93-415 amended section generally, substituting "Duties of magistrate", for "Probation; commitment to custody of Attorney General; support" in section catchline, and substituting provisions relating to procedure before, and duties of, magistrate, for provisions relating to probation, commitment to custody of Attorney General, duties of Attorney General, and procedures aiding court in determining whether to

place juvenile on probation or commit him to custody of Attorney General.

1962—Pub. L. 87-428 added fourth par. authorizing commitment of a juvenile delinquent to the custody of the Attorney General for observation and study.

#### CHANGE OF NAME

Words "magistrate judge" substituted for "magistrate" in catchline and wherever appearing in text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

### § 5035. Detention prior to disposition

A juvenile alleged to be delinquent may be detained only in a juvenile facility or such other suitable place as the Attorney General may designate. Whenever possible, detention shall be in a foster home or community based facility located in or near his home community. The Attorney General shall not cause any juvenile alleged to be delinquent to be detained or confined in any institution in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges. Insofar as possible, alleged delinquents shall be kept separate from adjudicated delinquents. Every juvenile in custody shall be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, education, and medical care, including necessary psychiatric, psychological, or other care and treatment.

(June 25, 1948, ch. 645, 62 Stat. 858; Pub. L. 93-415, title V, § 505, Sept. 7, 1974, 88 Stat. 1135.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 925 (June 16, 1938, ch. 486, § 5, 52 Stat. 765).

Minor changes were made in arrangement and phraseology.

#### CODIFICATION

Another section 505 of Pub. L. 93-415, as added by Pub. L. 107-273, div. C, title II, § 12222(a), Nov. 2, 2002, 116 Stat. 1896, is classified to section 5784 of Title 42, The Public Health and Welfare.

Another section 505 of title V of Pub. L. 93-415, as added by Pub. L. 102-586, § 5(a), Nov. 4, 1992, 106 Stat. 5028, was classified to section 5784 of Title 42, The Public Health and Welfare, prior to the general amendment of that title V by Pub. L. 107-273.

#### AMENDMENTS

1974—Pub. L. 93-415 amended section generally, substituting "Detention prior to disposition", for "Arrest, detention and bail" in section catchline, striking out provisions relating to discretionary power of arresting officer or marshal to confine juvenile in jail, provisions relating to bail and default of bail, and inserting provisions relating to mandatory separation of juvenile from adjudicated delinquents, and provisions relating to the physical conditions of confining facility.

### § 5036. Speedy trial

If an alleged delinquent who is in detention pending trial is not brought to trial within thirty days from the date upon which such detention was begun, the information shall be dismissed on motion of the alleged delinquent or at the direction of the court, unless the Attorney General shows that additional delay was caused by the juvenile or his counsel, or consented to by the juvenile and his counsel, or would be in