

ENGROSSED HOUSE AMENDMENT

TO

ENGROSSED SENATE BILL NO. 390

BY: WRIGHT of the SENATE

and

STEIDLEY of the HOUSE

(CHILDREN - AMENDING 10 O.S., SECTION 1102 -

CONDITIONS OF DETENTION OF CHILD -

EMERGENCY)

AMENDMENT NO. 1. Strike the stricken title, enacting clause and entire bill and insert

"(CHILDREN - AMENDING 10 O.S., SECTIONS 1102,

1139 AND 9 - JURISDICTION AND CUSTODY MATTERS -

EMERGENCY)

SECTION 1. AMENDATORY 10 O.S. 1981, Section 1102, as last amended by Section 1 of Enrolled House Bill No. 1309 of the 1st Session of the 43rd Oklahoma Legislature, is amended to read as follows:

Section 1102. A. Upon the filing of a petition, or upon the assumption of custody pursuant to the provisions of Section 1107 of this title, the district court shall have jurisdiction of any child who is or is alleged to be delinquent, in need of supervision, in need of treatment, or deprived, who is found within the county; and of the parent, guardian or legal custodian of said child, regardless of where the parent, guardian or legal custodian is found. When jurisdiction shall have been obtained over a child in need of

supervision, a child in need of treatment, or a deprived child, such may be retained until the child becomes eighteen (18) years of age and when jurisdiction shall have been obtained over a delinquent child, jurisdiction may be retained until the child becomes ~~nineteen~~ (19) twenty-one (21) years of age, provided a plan for rehabilitation shall be submitted to the court by the Department of Human Services specifying a release date at least one (1) year prior to the juvenile becoming twenty-two (22) years of age. For the convenience of the parties and in the interest of justice, a proceeding under this chapter may be transferred to the district court in any other county.

B. The district court in which a petition is filed or the district court in which custody has been assumed pursuant to the provisions of Section 1107 of this title may retain jurisdiction of a delinquent child in such proceeding notwithstanding the fact that the child is subject to the jurisdiction of another district court within the state. Any adjudication and disposition made by the court in which said petition is filed shall control over prior orders in regard to the child.

C. The district court in which a petition is filed which alleges that a child is in need of supervision, in need of treatment, or is deprived can issue any temporary order or grant any interlocutory relief authorized by this chapter notwithstanding the fact that another district court within the state has jurisdiction of the child or has jurisdiction to determine the custody or support of the child.

D. If the district court in which a petition is filed pursuant to either subsection B or subsection C of this section sustains the petition, the district court shall have the jurisdiction to make a final determination on the juvenile petition or to transfer the proceedings to a court having prior jurisdiction over the child. Where the other proceeding is pending in the same judicial district

in which the juvenile petition is filed, the chief judge of the judicial district shall determine if the proceedings shall be consolidated and, if consolidated, which judge shall try the issues when the judges to whom the cases have been assigned are unable to agree on the procedure that should be followed.

E. A municipal court, if authorized by the governing body of the municipality, may enter into an agreement with the district court, pursuant to rules promulgated and adopted by the Oklahoma Supreme Court, to assume jurisdiction of cases involving children under eighteen (18) years of age charged with violating municipal ordinances relating to vandalism, shoplifting, trespassing, assault, battery, assault and battery, truancy, and public intoxication. A child under eighteen (18) years of age may be charged and prosecuted for violating such a municipal ordinance provided that the maximum fine which may be imposed shall not exceed the maximum fine authorized by law. When assessing punishment, the court also may require appropriate community service work, not to exceed twenty hours, in lieu of a fine if the product of multiplying the number of hours of community service work by the prevailing minimum wage does not result in a number which exceeds the maximum fine authorized by law, or restitution, or both community service work and restitution. In addition, the court may require the child to receive counseling or other community-based services, as necessary. If a child is prosecuted for an offense in a municipal court, the child shall not be prosecuted for the offense in the district court. All municipal arrest and prosecution records for cases involving children under eighteen (18) years of age charged with violating municipal ordinances relating to vandalism, shoplifting, trespassing, assault, battery, assault and battery, truancy, or public intoxication shall be kept confidential and shall not be open to public inspection except by order of the court.

F. Funds generated from fines paid pursuant to an agreement between a municipal court and the district court shall be earmarked and used by the municipality to fund local programs which address problems of juvenile crime.

SECTION 2. AMENDATORY 10 O.S. 1981, Section 1139, as last amended by Section 18, Chapter 247, O.S.L. 1986 (10 O.S. Supp. 1990, Section 1139), is amended to read as follows:

Section 1139. A. All children adjudicated delinquent and committed to the Department shall be discharged at such time as the Department determines there is a reasonable probability that it is no longer necessary, either for the rehabilitation and treatment of the child, or for the protection of the public, that the Department retain legal custody. Following a hearing, the court may also order that a child adjudged delinquent and committed to the Department shall be discharged by the Department provided the child is on parole status and the court deems the discharge in the best interest of the child and public.

B. All children adjudged delinquent and committed to the Department and not discharged under subsection A of this section shall be discharged when the child becomes eighteen (18) years of age, unless the Department is authorized by the court to retain custody of the child until ~~nineteen (19)~~ twenty-one (21) years of age. Upon motion of the Department the court, after notice to the delinquent child and to the parents and attorney of said child, may authorize the Department to retain custody of the child until he reaches ~~nineteen (19)~~ twenty-one (21) years of age. If the court sustains the motion of the Department, the delinquent child during the extended period shall be considered as a child for purposes of receiving services from the Department. If a criminal offense is committed by the individual during the extended period, said offense shall be considered as having been committed by an adult. Except to the extent necessary to effectuate the purposes of this section, an

individual after age eighteen (18) is considered an adult for purposes of other applicable law.

C. The Department shall not place a child under ten (10) years of age in an institution maintained for delinquent children.

SECTION 3. AMENDATORY 10 O.S. 1981, Section 9, is amended to read as follows:

Section 9. The abuse of parental authority is the subject of judicial cognizance in a civil action in the district court brought by the child or any grandparent on the child's behalf, or by its relatives within the third degree of consanguinity or affinity, or by the officers of the poor where the child resides or by any foster parent of the child or any person who has been a foster parent of the child; and when the abuse is established, the child may be freed from the dominion of the parent, and the duty of support and education enforced.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the House of Representatives the 3rd day of April, 1991.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1991.

President of the Senate