

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1761

BY: STEIDLEY

AS INTRODUCED

AN ACT RELATING TO CHILDREN; CREATING THE SERIOUS AND HABITUAL JUVENILE OFFENDER ACT; STATING PURPOSE; PROVIDING SHORT TITLE; DEFINING TERMS; ESTABLISHING THE SERIOUS AND HABITUAL JUVENILE OFFENDER PROGRAM IMPLEMENTATION TASK FORCE; PROVIDING FOR THE MEMBERSHIP AND DUTIES AND RESPONSIBILITIES OF THE TASK FORCE; PROVIDING FOR OFFICERS; PROVIDING FOR REIMBURSEMENT PURSUANT TO THE STATE TRAVEL REIMBURSEMENT ACT; REQUIRING IMPLEMENTATION OF THE SERIOUS AND HABITUAL JUVENILE OFFENDER ACT BY A DATE CERTAIN; REQUIRING CERTAIN WORK PLANS, SCHEDULES, SUBCOMMITTEES AND PROGRESS REPORTS; CREATING THE JUVENILE JUSTICE INFORMATION SYSTEM; STATING THE PURPOSE AND MAKING REQUIREMENTS FOR SAID INFORMATION SYSTEM; MAKING CERTAIN REQUIREMENTS OF CERTAIN AGENCIES FOR THE DEVELOPMENT AND IMPLEMENTATION OF SAID INFORMATION SYSTEM; REQUIRING CERTAIN AGENCIES TO ESTABLISH CERTAIN GUIDELINES; AMENDING SECTION 18, CHAPTER 312, O.S.L. 1982, AS LAST AMENDED BY SECTION 4, CHAPTER 363, O.S.L. 1989 AND 10 O.S. 1981, SECTIONS 1111, 1116, AS LAST AMENDED BY SECTION 7, CHAPTER 302, O.S.L. 1990, 1125, AS LAST AMENDED BY SECTION 10, CHAPTER 363, O.S.L. 1989, 1138, AS LAST AMENDED BY SECTION 10, CHAPTER 238, O.S.L. 1990, 1127, AS

LAST AMENDED BY SECTION 3, CHAPTER 337, O.S.L. 1990, 1141, AS LAST AMENDED BY SECTION 31, CHAPTER 312, O.S.L. 1982 AND 1506, AS LAST AMENDED BY SECTION 3, CHAPTER 269, O.S.L. 1989 (10 O.S. SUPP. 1990, SECTIONS 1107.1, 1116, 1125, 1127, 1138, 1141 AND 1506), WHICH RELATE TO DELINQUENT, DEPENDENT AND NEGLECTED CHILDREN; AMENDING 19 O.S. 1981, SECTION 215.15a, AS RENUMBERED BY SECTION 25, CHAPTER 340, O.S.L. 1982, AND LAST AMENDED BY SECTION 8, CHAPTER 109, O.S.L. 1988 (19 O.S. SUPP. 1990, SECTION 215.33), WHICH RELATES TO VICTIM-WITNESS PROGRAMS; AMENDING PROVISIONS RELATED TO THE DETENTION OF CHILDREN; REQUIRING CERTAIN DETENTION HEARINGS AT CERTAIN TIMES; PROVIDING PREDETENTION FOR CERTAIN ACTS AND IN ACCORDANCE WITH CERTAIN GUIDELINES; MODIFYING PROVISIONS RELATED TO ADJUDICATORY HEARINGS; AUTHORIZING CERTAIN PUBLIC HEARINGS; PROVIDING FOR PRIVATE HEARINGS UNDER CERTAIN CONDITIONS; MODIFYING PROVISIONS RELATED TO CERTAIN DISPOSITIONAL ORDERS OF THE COURTS; AUTHORIZING CERTAIN ORDERS REGARDING DELINQUENT CHILDREN UNDER CERTAIN CONDITIONS; MODIFYING PROVISIONS RELATED TO JUVENILE COURT RECORDS; AUTHORIZING THE INSPECTION OF SAID RECORDS BY CERTAIN PERSONS; SPECIFYING CONDITIONS; MODIFYING PROVISIONS RELATED TO THE CARE, TREATMENT AND PLACEMENT OF DELINQUENT CHILDREN; MODIFYING TIME FOR RETENTION OF CERTAIN RECORDS; RESTRICTING AVAILABILITY OF CERTAIN RECORDS; AUTHORIZING VICTIM-WITNESS COORDINATORS TO INFORM VICTIMS OF NAMES OF JUVENILES WHO COMMIT CRIMES; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1160 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. For the purpose of establishing:

1. an accurate and accessible data base with information on serious and habitual juvenile offenders readily available to law enforcement agencies, juvenile court personnel, district attorneys, and others who require such information;

2. a case management system for individual serious or habitual offenders; and

3. enhancing community control of crime through information sharing regarding serious and habitual offenders that can be used by patrol officers and criminal investigators for the early identification of offenders and assist in the reduction of crime, there is hereby created the Serious and Habitual Juvenile Offender Act.

B. Sections 1 through 5 of this act shall be known and may be cited as the "Serious and Habitual Juvenile Offender Act" or "SHJO Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1160.1 of Title 10, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Serious act" means any crime specified by subsection A of Section 1104.2 of this title;

2. "Habitual criminal acts" means three separate delinquency adjudications for the commission of felony acts;

3. "Felony act" means any criminal offense that would constitute a felony crime if committed by an adult;

4. "Serious and Habitual Juvenile Offender Program" or "SHJO Program" means the program of information, information sharing, case tracking, case management, supervision and sanctions established by the SHJO Act;

5. "Serious and Habitual Juvenile Offender Program Implementation Task Force" or "SHJO Task Force" means the Task Force created by Section 3 of this act for the purpose of implementing the SHJO program;

6. "Serious juvenile offender" and "habitual juvenile offender" means persons under eighteen (18) years of age who are subject to the SHJO Program in accordance with the criteria established pursuant to Section 5 of this act; and

7. "Juvenile Justice Information System" means the automated information system of arrest and case-file data established by Section 4 of this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1160.2 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Serious and Habitual Juvenile Offender Program Implementation Task Force. The SHJO Task Force shall be responsible for:

1. Overseeing the development of interagency agreements necessary for the implementation of the Juvenile Justice Information System, the delineation of the roles and responsibilities of the agencies participating in the implementation of the said system. The SHJO Task Force shall ensure that the development and implementation of the juvenile justice information system is completed in coordination and cooperation with the development and implementation of other automated information systems related to programs and services for children, youth and families;

2. Overseeing the development of interagency agreements necessary for the delineation of the service responsibilities and

coordinated delivery of services to delinquent youth by the agencies responsible for the implementation of the SHJO Program;

3. Overseeing the development, adoption and implementation of the following in accordance with the provisions of the SHJO Act:

- a. development and implementation of the Juvenile Justice Information System,
- b. court intake risk-assessment,
- c. a matrix composed of risk, offense history, and other appropriate criteria for determining the imposition of specific sanctions for youth adjudicated delinquent,
- d. a matrix for determining the imposition of a specific sanction for the violation of a condition of probation or parole,
- e. a case management system for ensuring appropriate supervision of all delinquent youth and intensive supervision of serious and habitual youthful offenders and communication between law enforcement and juvenile court personnel and others regarding said offenders, and
- f. policies, procedures, protocols, standards and guidelines for the implementation of the requirements listed in this paragraph; and

4. Monitoring the implementation of the SHJO Program to ensure full statewide implementation on or before July 1, 1994.

B. The Oklahoma Commission on Children and Youth shall appoint the members of the Serious and Habitual Juvenile Offender Program Implementation Task Force. The Task Force shall include representatives of public and private agencies responsible for services to delinquent youth, state and local law enforcement agencies, state and local education agencies, prosecution and defense attorneys, the judiciary and corrections agencies.

1. The Task Force shall elect a chairman, a vice-chairman and a Steering Committee.

2. In order to achieve full implementation of the SHJO Program by July 1, 1994, the Steering Committee shall:

- a. adopt a work plan and schedule for the completion of the tasks necessary to achieve full implementation,
- b. appoint subcommittees responsible for the completion of specific tasks, and
- c. coordinate and monitor the progress of agencies responsible for the supervision of and services to delinquent youth towards full implementation of the SHJO Program.

3. The members of the Task Force shall serve without compensation, but may be reimbursed in accordance with the State Travel Reimbursement Act.

C. On or before January 1 of each year following the effective date of this act, the Task Force shall submit a progress report specifying the tasks completed by the Task Force and the agencies responsible for implementation of the SHJO Program and those that remain to be completed in order to achieve full implementation on or before July 1, 1994, along with a report of any barriers that may impede full implementation. The progress report shall be submitted to the Governor, the President Pro Tempore of the Oklahoma State Senate, the Speaker of the Oklahoma House of Representatives, the Chief Justice of the Oklahoma Supreme Court, the Oklahoma Commission on Children and Youth, and each agency affected by the progress report.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1160.3 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. For the purpose of information sharing and management of the SHJO Program, there is hereby created the Juvenile Justice

Information System. The information system shall be an automated, data-based, system for tracking youthful offenders from arrest through final closure of the case should be implemented. The system shall include all of the components of the juvenile justice system: Department of Human Services, juvenile bureaus, law enforcement, district attorneys, and the courts. The information system shall be fully integrated with other information systems related to services to children and youth and shall:

1. Be based upon the integration, utilization and modification, as necessary, of existing information systems;

2. Provide for the security of and limited access to the information;

3. Include case specific information, including client outcomes, and have the ability to monitor juveniles in the juvenile justice system; and

4. Be capable of providing management reports and information to the various components of the juvenile justice system, and of providing aggregate information necessary for planning, monitoring, evaluating and managing programs and services provided to youthful offenders as well as for system-wide analysis of the SHJO Program.

B. The Department of Human Services, the juvenile bureaus established pursuant to Section 1201 of Title 10 of the Oklahoma Statutes, the Criminal Justice Resource Center, the Office of the Court Administrator, and other agencies comprising the juvenile justice system, in accordance with guidelines established by the SHJO Task Force, shall jointly:

1. Identify information to be shared by agencies on a regular basis;

2. Develop a procedure for processing youthful profiles as cases move through agencies that come in contact with youthful offenders;

3. Establish training programs in the use of the system;

4. Conduct a pilot project to test the system; and

5. On or before January 1, 1992, submit a plan for full statewide implementation of the Juvenile Justice Information System to the SHJO Task Force.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1160.4 of Title 10, unless there is created a duplication in numbering, reads as follows:

The Department of Human Services, the juvenile bureaus established pursuant to Section 1201 of Title 10 of the Oklahoma Statutes, the District Attorneys Association, and the Office of the Court Administrator shall jointly establish the statewide guidelines for use by juvenile court personnel, juvenile detention personnel, district attorneys and the courts. Prior to implementation, the guidelines shall be reviewed and approved by the SHJO Task Force and, with regard to those guidelines that apply to the courts, the Chief Justice of the Oklahoma Supreme Court. The guidelines shall include, but not be limited to:

1. Detention criteria, the uniform application of detention criteria, and the use of secure detention;

2. The imposition of sanctions for criminal offenses and probation and parole violations;

3. Juvenile court personnel recommendations to district attorneys regarding the disposition of individual cases by district attorneys; and

4. The disposition of individual cases by district attorneys.

SECTION 6. AMENDATORY Section 18, Chapter 312, O.S.L. 1982, as last amended by Section 4, Chapter 363, O.S.L. 1989 (10 O.S. Supp. 1990, Section 1107.1), is amended to read as follows:

Section 1107.1 A. When a child is taken into custody pursuant to the provisions of Sections 1101 through 1506 of this title, the child shall be detained only if it is necessary to assure the

appearance of the child in court or for the protection of the child or the public.

1. a. No pre-adjudicatory or predisposition detention or custody order shall remain in force and effect for more than thirty (30) days. The court, for good and sufficient cause shown, may extend the effective period of such an order for an additional period not to exceed sixty (60) days.

b. Whenever the court orders a child to be held in a juvenile detention facility, as that term is defined by Section 1108 of this title, the court shall hold a hearing not less than every ten (10) days to determine the need for continued detention in said facility. After the hearing, the court may order continued detention in a juvenile detention center or may order the child detained in an alternative to secure detention. The child shall be present at the hearing.

2. No child alleged or adjudicated to be deprived, in need of supervision or in need of treatment shall be confined in any jail, adult lockup, or adult detention facility. No child shall be transported or detained in association with criminal, vicious, or dissolute persons.

3. Except as otherwise authorized by this section a child who has been taken into custody as a deprived child, a child in need of supervision, or a child in need of treatment, may not be placed in any detention facility pending court proceedings, but must be placed in shelter care or foster care, or released to the custody of his parents or some other responsible party. When a child is taken into custody as a child in need of supervision as a result of being a runaway, the court may order the child placed in a juvenile detention facility pending court proceedings if it finds said detention to be essential for the safety of the child.

B. No child may be placed in secure detention unless:

1. the child is an escapee from a correctional facility or community correctional program or placement; or

2. the child is a fugitive from another jurisdiction with a warrant on a delinquency charge or confirmation of delinquency charges by the home jurisdiction; or

3. the child is seriously assaultive or destructive towards others or himself; or

4. the child is detained for the commission of a crime that would constitute a ~~felony if committed by an adult~~ serious or habitual offender act as defined by Section 2 of this act; or

5. the child is currently charged with a felony or misdemeanor and:

a. is on probation or parole on a prior delinquent offense,

b. is on pre-adjudicatory community supervision,

c. is currently on release status on a prior delinquent offense, or

d. has willfully failed or there is reason to believe that the child will willfully fail to appear for juvenile court proceedings.

C. On and after July 1, 1992, a child shall be detained in secure detention only in accordance with the guidelines established pursuant to Section 5 of this act.

D. 1. Except as otherwise provided in this section, no child may be placed in secure detention in a jail, adult lockup, or other adult detention facility unless:

a. the child is detained for the commission of a crime that would constitute a felony if committed by an adult, and

b. the child is awaiting an initial court appearance, and

- c. the child's initial court appearance is scheduled within twenty-four (24) hours after being taken into custody, excluding weekends and holidays, and
- d. the court of jurisdiction is outside of the Standard Metropolitan Statistical Area as defined by the Bureau of Census, and
- e. there is no existing acceptable alternative placement for the child, and
- f. the jail, adult lockup or adult detention facility meets the requirements for licensure of juvenile detention facilities, as adopted by the Commission for Human Services, is appropriately licensed, and provides sight and sound separation for juveniles, which includes:

- (1) total separation between juveniles and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities;
- (2) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities; and
- (3) separate juvenile and adult staff, specifically direct care staff such as recreation, education and counseling.

Specialized services staff, such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of juvenile and adults can serve both.

2. Nothing in this section shall preclude a child who is detained for the commission of a crime that would constitute a felony if committed by an adult, or a child who is an escapee from a juvenile training school or from a Department of Human Services group home from being held in any jail certified by the State Department of Health, police station or similar law enforcement offices for up to six (6) hours for purposes of identification, processing or arranging for transfer to a secure detention or alternative to secure detention. Such holding shall be limited to the absolute minimum time necessary to complete these actions.

- a. The time limitations for holding a child in a jail for the purposes of identification, processing or arranging transfer established by this section shall not include the actual travel time required for transporting a child from a jail to a juvenile detention facility or alternative to secure detention.
- b. Whenever the time limitations established by this subsection are exceeded, this circumstance shall not constitute a defense in a subsequent delinquency or criminal proceeding.

3. Nothing in this section shall preclude detaining in a county jail or other adult detention facility an eighteen-year old charged in a juvenile petition for whom certification to stand trial as an adult is prayed.

~~D.~~ E. Nothing contained in this section shall in any way reduce or eliminate a county's liability as otherwise provided by law for injury or damages resulting from the placement of a child in a jail, adult lockup, or other adult detention facility.

~~E.~~ F. Any juvenile detention facility shall be available for use by any eligible Indian child as that term is defined by the Oklahoma Indian Child Welfare Act providing that the use of the juvenile detention facility meets the requirements of this act. The

Indian tribe may contract with any juvenile detention facility for the providing of detention services.

~~F.~~ G. Each member of the staff of a juvenile detention facility shall satisfactorily complete a training program provided or approved by the Department of Human Services.

SECTION 7. AMENDATORY 10 O.S. 1981, Section 1111, is amended to read as follows:

Section 1111. A. All cases of children shall be heard separately from the trial of cases against adults. The adjudicative hearings shall be conducted according to the rules of evidence, and may be adjourned from time to time. ~~The~~ Except for delinquency proceedings, the hearings shall be private unless specifically ordered by the judge to be conducted in public, but persons having a direct interest in the case shall be admitted. Stenographic notes or other transcript of the hearings shall be kept as in other cases, but they shall not be open to inspection except by order of the court or as otherwise provided by law. The child may remain silent as a matter of right during said hearing, and before he is interrogated, he shall be so advised. A decision determining a child to come within the purview of this chapter must be based on sworn testimony and the child must have the opportunity for cross-examination unless the facts are stipulated. Where a child is alleged to be delinquent and the facts are stipulated, the judge must ascertain from the child if he agrees with the stipulation and if he understands the consequences of stipulating the facts.

B. Court hearings of children alleged or adjudicated to be a delinquent child shall be open to the public unless closed by an order of the court. Upon its own motion or the motion of any of the parties to the case, the court may order a hearing of a child alleged or adjudicated to be a delinquent child to be a private hearing as provided by subsection A of this section for good cause shown.

SECTION 8. AMENDATORY 10 O.S. 1981, Section 1116, as last amended by Section 7, Chapter 302, O.S.L. 1990 (10 O.S. Supp. 1990, Section 1116), is amended to read as follows:

Section 1116. A. The following kinds of orders of disposition may be made in respect to wards of the court:

1. The court may place the child on probation or under supervision in his own home, or in the custody of a suitable person elsewhere, upon such conditions as the court shall determine. The court may require the parent or other person to give security by bond, with surety or sureties approved by the court, for compliance with such order.

If it is consistent with the welfare of the child, the child shall be placed with his parent or legal guardian, but if it appears to the court that the conduct of such parent, guardian, legal guardian, stepparent or other adult person living in the home has contributed to such delinquency, or need of supervision or treatment, or deprivation, the court may issue a written order specifying conduct to be followed by such parent, guardian, legal custodian, stepparent or other adult person living in the home with respect to such child. The conduct specified shall be such as would reasonably prevent the child from becoming delinquent, in need of supervision or treatment, or deprived, as defined by Section 1101 of this title. Such order shall remain in effect for a period of not more than one (1) year to be specified by the court, and the order may be extended or renewed by the court.

If it is consistent with the welfare of the child, in cases where the child has been adjudicated to be deprived or in need of supervision due to repeated absence from school, the court may order counseling and treatment for the child and the parents of the child to be provided by the local school district, the county, the Department or a private individual or entity. Prior to final disposition, the court shall require that it be shown by the

appropriate school district that a child found to be truant has been evaluated for learning disabilities, mental retardation, and hearing and visual impairments and other impediments which could constitute an educational handicap. The results of such tests shall be made available to the court for use by the court in determining the disposition of the case.

No child who has been adjudicated in need of supervision or deprived upon the basis of truancy or noncompliance with the mandatory school attendance law alone may be placed in a public or private institutional facility or be removed from the custody of the lawful parent, guardian or custodian of the child. A deprived adjudication based upon repeated absence from school shall not constitute a ground for termination of parental rights.

2. The court may commit the child to the custody of a private institution or agency, including any institution established and operated by the county, authorized to care for children or to place them in family homes. In committing a child to a private institution or agency, the court shall select one that is licensed by the Department or any other state department supervising or licensing private institutions and agencies; or, if such institution or agency is in another state, by the analogous department of that state. Whenever the court shall commit a child to any institution or agency, it shall transmit with the order of commitment a summary of its information concerning the child, and such institution or agency shall give to the court such information concerning the child as the court may at any time require.

3. The court may order the child to receive counseling or other community-based services as necessary.

4. The court may commit the child to the custody of the Department; provided, any order adjudicating a child to be delinquent and committing the child to the Department shall be for an indeterminate period of time.

5. Whenever, after a hearing on a petition alleging a child to be a child in need of treatment, the court determines by clear and convincing evidence that the child is a child in need of treatment, the court shall order the child to receive the least restrictive mental health care and treatment appropriate for the treatment needs of the child until such time as such care and treatment is no longer necessary.

a. The court shall not find a child adjudicated to be a child in need of treatment to be eligible for inpatient mental health services unless the court finds by clear and convincing evidence, after a thorough consideration of less restrictive alternatives to inpatient treatment:

(1) that reasonable efforts have been made to provide for the mental health treatment needs of the child through the provision of less restrictive alternatives to inpatient treatment and that such alternatives have failed to meet the treatment needs of the child, or

(2) that the condition of the child is such that less restrictive alternatives are unlikely to meet the mental health treatment needs of the child;

b. Whenever the court finds that a child adjudicated to be a child in need of treatment is eligible for inpatient mental health treatment:

(1) when the child is in the custody of his parent, legal guardian or legal custodian other than the Department of Human Services, the court may authorize such parent, legal guardian or legal custodian to make arrangements for the admission of the child to a public or private mental health facility appropriate for the inpatient care and

treatment of children and which is willing to admit the child for treatment and may order the Department of Human Services to assist the parent or legal guardian in making said arrangements; or (2) when the child is in the custody of the Department of Human Services, the court may authorize the Department to place the child in a mental health facility appropriate for the inpatient treatment needs of the child.

6. If the child has been placed outside the home, and it appears to the court that the parent, guardian, legal custodian, or stepparent, or other adult person living in the home has contributed to the delinquency, need of supervision or treatment, or deprivation of the child, the court may order that the parent, guardian, legal custodian, stepparent, or other adult living in the home be made subject to any treatment or placement plan prescribed by the Department or other person or agency receiving custody of the child.

7. The court may order any child adjudicated a delinquent child for acts involving criminally injurious conduct as defined in Section 142.3 of Title 21 of the Oklahoma Statutes, to pay a victim compensation assessment in an amount not to exceed that amount specified in Section 142.18 of Title 21 of the Oklahoma Statutes. The court shall forward a copy of the adjudication order to the Crime Victims Compensation Board for purposes of Section 142.11 of Title 21 of the Oklahoma Statutes. Such adjudication order shall be kept confidential by the Board.

8. The court may dismiss the petition or otherwise terminate its jurisdiction at any time for good cause shown.

B. A dispositional order removing a child from the custody of the parents of the child shall be reviewed at a hearing by the court at least once every six (6) months until such time as the child is returned to the custody of his parents. No later than eighteen (18)

months after placing a child in foster care and every twelve (12) months thereafter, the court making the original order of adjudication shall conduct a dispositional hearing to consider whether the child should be returned to his parents or other family member; the child should be continued in foster care for a specified period; the rights of the parents of the child should be terminated and the child placed for adoption or legal guardianship; or whether the child, because of exceptional circumstances, should remain in foster care on a long-term basis as a permanent plan or with a goal of independent living.

C. Whenever the court finds a child adjudicated to be a child in need of treatment eligible for inpatient mental health treatment pursuant to the provisions of this section and the child is subsequently placed in a hospital or mental health facility for said inpatient treatment, the court shall review the case at least every sixty (60) days or more frequently as directed by the court until the child is discharged from inpatient treatment.

D. The court shall not terminate the rights of a parent who has not been notified that the parental rights might be terminated. If the court terminates the rights of a parent and commits the child to an individual or agency, the court may invest in such individual or agency authority to consent to the adoption of the child. Provided, that where the court commits the child to the Department, it shall vest the Department with authority to place the child and, upon notice to the court that an adoption petition has been filed concerning said child, invest the Department with authority to consent to the adoption of the child, and the jurisdiction of the committing court shall terminate.

E. No child who has been adjudicated in need of supervision or deprived may be placed in a state training school.

F. No child charged in a state or municipal court with a violation of state or municipal traffic laws or ordinances, or

convicted therefor, may be incarcerated in jail for any said violation unless the charge for which the arrest was made would constitute a felony if the child were an adult; provided, that nothing contained in the above section prohibits the detention of a juvenile for traffic-related offenses prior to the filing of a petition in the district court alleging delinquency as a result of said acts.

G. If it is consistent with the welfare of the child, the court may require community service or restitution or both community service and restitution for acts of delinquency. The immunities provided by Sections 227 and 228 of Title 57 of the Oklahoma Statutes shall apply to community services directed pursuant to this section.

H. The court may require any child found to be a juvenile delinquent or child in need of supervision, the parents of any child found to be a juvenile delinquent, a child in need of supervision, a deprived child or a child in need of treatment, or both the child and the parents, to reimburse the court fund, in whole or in part, for any disbursements made from the court fund in conjunction with the case, including, but not limited to, court-appointed attorney's fees, expert witness fees, sheriff's fees, witness fees, transcripts and postage. When any parent is financially able but has willfully failed to pay court costs or to reimburse the court fund as ordered by the court or has willfully failed to pay court costs and to reimburse the court fund as ordered by the court, the parent may be held in contempt of court and, upon conviction, shall be punished pursuant to Section 566 of Title 21 of the Oklahoma Statutes. After a judicial determination that the child, the parent of the child, or both such child or parent, are able to pay the costs and to reimburse the court fund or pay the costs and to reimburse the court fund in the case in installments, the court may order the costs and such reimbursement of the court fund to be paid in installments and

shall set the amount and due date of each installment. A parent may be found to be financially able to pay court costs or to reimburse the court fund or to pay court costs and to reimburse the court fund in installments even though the court has previously found the parent indigent.

I. In accordance with the guidelines approved and adopted by the Oklahoma Supreme Court for the implementation of the SHJO Program, the court may make the following orders for children adjudicated delinquent: out-of-home community placement crisis intervention for up to five (5) days; thirty-day intensive, highly structured placement; tracking; day treatment; and house arrest with electronic monitoring.

SECTION 9. AMENDATORY 10 O.S. 1981, Section 1125, as amended by Section 10, Chapter 363, O.S.L. 1989 (10 O.S. Supp. 1990, Section 1125), is amended to read as follows:

Section 1125. A. The court shall make and keep records of all cases brought before it. Such records shall be open to public inspection only by order of the court to persons having a legitimate interest therein, except that all records of proceedings in adoption cases and all papers and books relating thereto shall remain confidential as provided by law. The court shall devise and cause to be printed such forms for social and legal records and such other papers as may be required. Nothing in this section shall be construed to prohibit inspection by any person who is entitled to inspect such records pursuant to any provision of Title 10 of the Oklahoma Statutes.

B. Court records may be inspected, and their contents may be disclosed without a court order, to the following:

1. Peace officers of this state and other jurisdictions, when necessary for the discharge of their official duties;

2. The judge and professional staff, including juvenile probation officers, of a juvenile court having the child currently before it in any proceeding;

3. The child, his or her counsel, parent, guardian, custodian and guardian ad litem;

4. The designated representative of any public agency which has custody of the child, or is responsible for the care, treatment, or supervision of the child pursuant to a court order, or a private agency providing services to such child pursuant to a contract with a public agency; and

5. A court in which the child has been convicted of a public offense in connection with a pre-sentence report or dispositional proceedings.

SECTION 10. AMENDATORY 10 O.S. 1981, Section 1138, as last amended by Section 10, Chapter 238, O.S.L. 1990 (10 O.S. Supp. 1990, Section 1138), is amended to read as follows:

Section 1138. A. It is the intent of the Legislature of this state to provide for the creation of all reasonable means and methods that can be established by a state for:

1. the prevention of delinquency ~~and for~~;
2. the care and rehabilitation of delinquent children; and
3. the protection of the public.

It is further the intent of the Legislature that this state, through the Department of Human Services, establish, maintain and continuously refine and develop a balanced and comprehensive state program for children who are potentially delinquent or are delinquent.

B. Whenever a child who has been adjudicated by the court as a delinquent child has been committed to the Department, the Department may:

1. Place the child in a state training school or other institution or facility maintained by the state for delinquent children if the child has:

- a. exhibited seriously violent, aggressive or assaultive behavior; or
- b. committed a serious felony constituting violent, aggressive and assaultive behavior; or
- c. habitually committed serious delinquent acts; or
- d. committed multiple serious delinquent acts;

to the extent that it is necessary for the protection of the public;
or

2. Place the child in a facility maintained by the state for children, or in a foster home, group home, transitional living program or community residential center; or

3. Allow the child his liberty, under supervision, in an independent living program; or

4. Allow the child his liberty, under supervision, either immediately or after a period in one of the facilities referred to in paragraphs 1 and 2 of this subsection; or

5. Place the child in a state school for mentally retarded, if the child is eligible for admission thereto; or

6. Place the child in any licensed private facility deemed by the Department to be in the best interest of the child; or

7. Place the child in a Department-operated treatment center or other mental health facility if the delinquent child has been found to be in need of treatment and to be eligible for residential care and treatment, as provided in Section 1116 of this title, by the court.

C. The Department shall place priority on the placement of delinquent youth held in secure juvenile detention facilities.

SECTION 11. AMENDATORY 10 O.S. 1981, Section 1127, as last amended by Section 3, Chapter 337, O.S.L. 1990 (10 O.S. Supp. 1990, Section 1127), is amended to read as follows:

Section 1127. ~~(a)~~ A. A record of any child under this act, or any evidence given in such cause, shall not in any civil, criminal or other cause or proceeding in any court be lawful or proper evidence against the child for any purpose whatever, except in subsequent cases against the same child under this act. ~~The~~ Except for arrest records the records of law enforcement officers concerning juveniles shall be maintained separate from records of arrests, and shall not be open to public inspection, or their contents disclosed, except by order of the court.

~~(b) If latent fingerprints are found during the investigation of an offense~~ B. Upon the arrest of a child alleged to have committed a criminal act, a law enforcement officer may fingerprint a child for the purpose of comparing his fingerprints with ~~the~~ latent fingerprints found during the investigation of a criminal offense, and the fingerprints may be sent to a law enforcement agency for comparison purposes ~~only~~. If the comparison is negative or if the court finds that the child did not commit the alleged offense, the child's fingerprint card and all ~~copies of his fingerprints~~ records of the fingerprints and arrest shall be ~~destroyed~~ amended to reflect said facts immediately after the comparison or juvenile proceeding is completed unless the child is reported to a law enforcement agency as a missing child or a custodial parent, legal guardian or legal custodian of the child requests issuance of the fingerprint card to the parent, legal guardian, or legal custodian to advance the purposes of the Oklahoma Minor Identification Act, Sections 1629 et seq. of this title, in which case the fingerprint card shall be issued according to said request. If the child is reported to a law enforcement agency as a missing child, and only until the child is located, his fingerprints

may be retained pursuant to the provisions of this section. If the court finds that the child committed the alleged offense, or if the commission of the offense is admitted or not contested by the juvenile and his parents pursuant to an informal adjustment, deflection or diversion of the referral, his fingerprints may be retained either in a central state depository or in a local district court file which local depository may be a duly constituted law enforcement agency or agencies designated by the presiding judge of the juvenile docket. Fingerprints obtained and maintained pursuant to this section or pursuant to the Oklahoma Minor Identification Act, but in the later case only with the voluntary and informed consent of the parent, legal guardian or legal custodian of the child may be used only by law enforcement officers for comparison purposes in connection with the investigation of a crime or to establish identity in instances of death, serious illness, runaways, or emergency.

~~(e)~~ C. No adjudication by the court upon the status of a child in a juvenile proceeding shall operate to impose any of the civil disabilities ordinarily resulting from conviction of a crime, nor shall a child be deemed a criminal by reason of such adjudication, nor shall any arrest or detention under this chapter or any adjudication in a juvenile proceeding be deemed a detention or an arrest or conviction for purposes of employment, civil rights, or any statute, regulation, license, questionnaire, application, or any other public or private purposes; provided, however, that nothing herein shall prevent an adjudication in a juvenile proceeding (1) from being considered in connection with the sentencing of said child should he be convicted in a criminal action after he has become an adult, or (2) from being used to show the bias, if any, of the child should he be a witness in any civil or criminal action either while a child or after he has become an adult.

~~(d)~~ D. Subsections ~~(a)~~ A and ~~(b)~~ B of this section shall not apply to the use, confidentiality and disposition of the records and fingerprints of a person who is sixteen (16) or seventeen (17) years old and charged with one of the crimes enumerated in Section 1104.2 of this title.

SECTION 12. AMENDATORY 10 O.S. 1981, Section 1141, as amended by Section 31, Chapter 312, O.S.L. 1982 (10 O.S. Supp. 1990, Section 1141), is amended to read as follows:

Section 1141. A. The Department shall provide intake, probation and parole services for juveniles pursuant to the provisions of Section 602 of this title and may enter into agreements to supplement probationary services to juveniles in any county. The Department may participate in federal programs for juvenile probation officers, and may apply for, receive, use and administer federal funds for such purpose.

B. The Department of Human Services and the juvenile bureaus established pursuant to Section 1201 of Title 10 of the Oklahoma Statutes shall develop and implement as case management system to ensure appropriate supervision and treatment of juvenile offenders and intensive supervision and treatment of serious and habitual juvenile offenders.

C. The Department of Human Services shall establish directly and by contract, the services necessary to implement the SHJO Program, including but not limited to: misdemeanor and non-serious first-time offender programs, tracking and mentor services, weekend detention, five-day out-of-home sanction placements, short-term thirty-day intensive transitional programs, highly structured placements, substance abuse treatment and diagnostic and evaluation programs and day treatment programs. In implementing these services, the Department shall give priority to those areas of the state having the highest incidences of juvenile crime and delinquency.

SECTION 13. AMENDATORY 10 O.S. 1981, Section 1506, as last amended by Section 3, Chapter 269, O.S.L. 1989 (10 O.S. Supp. 1990, Section 1506), is amended to read as follows:

Section 1506. ~~(a)~~ A. Upon motion of any person against whom a petition has been filed alleging such person to be a delinquent child or a child in need of supervision, or upon motion of any person acting on behalf of said person or upon the court's own motion, and after the expiration of ~~three (3)~~ nine (9) years after said person attains majority or after ~~three (3)~~ nine (9) years after said person ceases to be subject to the jurisdiction of the court, whichever period is later, the court shall order the sheriff, chief of police, and any municipal court which assumed jurisdiction of the person pursuant to subsection C of Section 1102 of this title to produce their office files and records of said person and shall order the clerk of the court to destroy or obliterate the entire file and record of the case, including docket sheets, index entries, court records, summons, warrants, or any other papers or records in the clerk's office or which have been produced by the sheriff, the chief of police, or a municipal court in which said case or the name of the child is mentioned, and the court shall order court probation officers or court counselors to destroy all records, reports and social and clinical studies relating to said person that are in their possession except where such documents are necessary to maintain state or federal funding.

~~(b)~~ B. All records relating to the allegations, adjudication, disposition, and treatment of said person in the possession of any agency or institution that has had custody of said person shall be confidential and withheld from inspection except upon authorization of said person or his heirs, unless said person is under court-ordered jurisdiction of the State Department of Corrections.

~~(c)~~ C. If under Department of Corrections jurisdiction, all records relating to allegations, adjudication, disposition, and

treatment of said individual shall remain confidential, but shall be made available to appropriate Department of Corrections personnel for treatment and classification of said person, upon the request of the district attorney or said person when said person is a witness in a civil or criminal action, as provided by Section 1127 of this title and for no other purpose.

SECTION 14. AMENDATORY 19 O.S. 1981, Section 215.15a, as renumbered by Section 25, Chapter 340, O.S.L. 1982, as last amended by Section 8, Chapter 109, O.S.L. 1988 (19 O.S. Supp. 1990, Section 215.33), is amended to read as follows:

Section 215.33 A. The district attorney's office shall inform as far as practical that victims and witnesses of crimes have the following services subject to the discretion of the district attorney with the consent in writing of the presiding judge of the judicial district:

1. To be notified that a court proceeding to which they have been subpoenaed will not go on as scheduled, in order to save the person an unnecessary trip to court;

2. To receive protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available;

3. To be informed of financial assistance and other social services available as a result of being a witness or a victim of a crime, including information on how to apply for the assistance and services;

4. To be informed of the procedure to be followed in order to apply for and receive any witness fee to which they are entitled;

5. To be provided, whenever possible, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants;

6. To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis and property the ownership of which is disputed, shall be returned to the person;

7. To be provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances; and

8. To have the family members of all homicide victims afforded all of the services under this section, whether or not they are witnesses in any criminal proceedings.

B. Victim-witness coordinators may inform the victim of a crime committed by a juvenile of the name and address of the juvenile found to have committed the crime.

C. All victim-witness coordinators appointed to perform the services specified in subsection A of this section shall complete a minimum of fifteen (15) hours in-service training annually. Said training shall be conducted pursuant to the direction of the District Attorneys Council and the Crime Victims Compensation Board.

SECTION 15. This act shall become effective September 1, 1991.

43-1-5626

CLD