

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 358

BY: FRANKLIN

AS INTRODUCED

AN ACT RELATING TO CHILDREN AND YOUTH CORRECTIONS;
AMENDING 10 O.S. 1981, SECTIONS 1101 AND 1102, AS
LAST AMENDED BY SECTIONS 1 AND 2, CHAPTER 337,
O.S.L. 1990, 1104.2, AS LAST AMENDED BY SECTION 1,
CHAPTER 334, O.S.L. 1989, 1112, AS LAST AMENDED BY
SECTION 7, CHAPTER 363, O.S.L. 1989, 1116.4, 1125,
AS AMENDED BY SECTION 10, CHAPTER 363, O.S.L. 1989,
1127, AS LAST AMENDED BY SECTION 3, CHAPTER 337,
O.S.L. 1990, 1138, AS LAST AMENDED BY SECTION 10,
CHAPTER 238, O.S.L. 1990, 1139, AS LAST AMENDED BY
SECTION 18, CHAPTER 247, O.S.L. 1986 (10 O.S. SUPP.
1990, SECTIONS 1101, 1102, 1104.2, 1112, 1125,
1127, 1138 AND 1139), WHICH RELATE TO DEFINITIONS
AND JURISDICTION OF THE JUVENILE COURT, REVERSE
CERTIFICATION PROCEDURES, JUVENILE PROCEEDINGS,
DISCLOSURE OF CERTAIN INFORMATION, RECORDS, FINGER
PRINTING, POWERS AND DUTIES OF THE DEPARTMENT,
RETAINING CUSTODY OF ADJUDICATED JUVENILES;
DEFINING CERTAIN TERM; CONSOLIDATING DUPLICATE
SECTIONS; CHANGING JURISDICTION FROM AGE EIGHTEEN
TO AGE TWENTY-ONE YEARS FOR DELINQUENT CHILDREN;
AUTHORIZING JURISDICTION BEYOND AGE TWENTY-ONE
YEARS UNDER CERTAIN CONDITIONS; PROVIDING RELEASE
OF CERTAIN INFORMATION ON DELINQUENT CHILDREN;

ESTABLISHING REVERSE CERTIFICATION FOR SECOND OR
SUBSEQUENT FELONY ADJUDICATION; DELETING
EXPUNGEMENT PROVISION FOR ATTEMPTED REVERSE
CERTIFICATION RECORDS; MODIFYING STATUTORY
REFERENCE AND FORM; AUTHORIZING ARREST AND
DISPOSITION RECORDS ON ADJUDICATED DELINQUENTS TO
BE OPEN TO PUBLIC; REQUIRING PROTECTION OF THE
PUBLIC FROM DELINQUENTS; DIRECTING PLACEMENT IN A
STATE TRAINING SCHOOL UNDER CERTAIN CRITERIA;
EXPANDING CONDITIONS FOR PLACEMENT IN TRAINING
SCHOOL; REQUIRING SUPERVISION BY THE DEPARTMENT OF
HUMAN SERVICES; STATING WHEN COURT JURISDICTION
TERMINATES; EXCLUDING MARRIAGE TO TERMINATE
JURISDICTION BEFORE AGE TWENTY-ONE; AUTHORIZING
TRANSFER OF JURISDICTION; REQUIRING PERSON
COMMITTED TO STATE TRAINING SCHOOL TO REMAIN UNTIL
AGE TWENTY-ONE YEARS; REQUIRING CERTAIN PERSONS TO
APPEAR BEFORE YOUTH PAROLE BOARD; AUTHORIZING
RESPONSIBILITY FOR PROBATION AND PAROLE; REMOVING
AUTHORITY OF DEPARTMENT TO DISCHARGE DELINQUENT
YOUTH; AUTHORIZING THE COURT TO DISCHARGE YOUTH;
DELETING PROVISION FOR DISCHARGE AT AGE EIGHTEEN
YEARS; CREATING A CHILDREN'S CORRECTION CODE AND
DESIGNATING TITLE; ESTABLISHING THE YOUTH PAROLE
BOARD, DESIGNATING NUMBER OF MEMBERS, APPOINTMENT,
AND TERM; STATING QUALIFICATIONS AND PROHIBITING
CERTAIN EMPLOYMENT; AUTHORIZING MEETINGS; PROVIDING
FOR TRAVEL REIMBURSEMENT; STATING DUTIES; DIRECTING
PLACEMENT DIVISION TO SET CERTAIN GUIDELINES;
PROVIDING CASE MANAGEMENT STAFF AND DIRECTING
SUPERVISION OF PAROLED YOUTH; DIRECTING THE
DEPARTMENT OF HUMAN SERVICES TO ALLOW ACCESS TO

YOUTH OFFENDERS AND INFORMATION; REQUIRING NOTICE TO YOUTH OFFENDER AND WRITTEN ORDERS; AUTHORIZING THE YOUTH PAROLE BOARD TO ESTABLISH CERTAIN POLICIES AND PROCEDURES; AUTHORIZING THE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES TO APPOINT AN ADMINISTRATIVE DIRECTOR; PROVIDING FOR REVOCATION HEARINGS; GRANTING SUBPOENA POWER; REQUIRING MAJORITY VOTE FOR REVOCATION DECISION; REQUIRING CERTAIN RECORDS; AUTHORIZING BOARD TO ISSUE WARRANTS; PROVIDING FOR CERTAIN TEMPORARY DETENTION; REQUIRING WRITTEN PAROLE AGREEMENT; AUTHORIZING DISCHARGE FROM JURISDICTION OF DEPARTMENT; REQUIRING COMPLIANCE WITH YOUTH PAROLE POLICIES FOR DISCHARGE; PROVIDING FOR APPEAL; DIRECTING THE DEPARTMENT OF HUMAN SERVICES TO PROVIDE CERTAIN STAFF; DIRECTING DUTIES STAFF; REQUIRING PROGRESS REPORTS AND NOTICE TO COURT OF VIOLATION; CREATING THE YOUTH CORRECTIONS FUND; AMENDING 68 O.S. 1981, SECTION 1004, AS LAST AMENDED BY SECTION 95, CHAPTER 2, O.S.L. SUPP. 1989 (68 O.S. SUPP. 1990, SECTION 1004), WHICH RELATES TO APPORTIONMENT OF GROSS PRODUCTION TAX; DELETING CERTAIN AMOUNT FROM THE GENERAL REVENUE FUND; DIRECTING DEPOSIT OF CERTAIN AMOUNT TO THE YOUTH CORRECTIONS FUND; REPEALING 10 O.S. 1981, SECTION 1101, AS LAST AMENDED BY SECTION 1, CHAPTER 302, O.S.L. 1990 (10 O.S. SUPP. 1990, SECTION 1101), WHICH IS A DUPLICATE SECTION AND RELATES TO DEFINITIONS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 10 O.S. 1981, Section 1101, as last amended by Section 1, Chapter 337, O.S.L. 1990 (10 O.S. Supp. 1990, Section 1101), is amended to read as follows:

Section 1101. When used in this title, unless the context otherwise requires:

1. "Child" means any person under eighteen (18) years of age, except for any person sixteen (16) or seventeen (17) years of age who is charged with any crime specified in subsection A of Section 1104.2 of this title, or who has been certified as an adult pursuant to Section 1112 of this title; provided that any person under eighteen (18) years of age who is not convicted after being charged with a crime pursuant to Section 1104.2 of this title, or who is not convicted after certification as an adult pursuant to Section 1112 of this title, shall continue to be subject to the jurisdiction of the juvenile court.

2. "Adult" means a person eighteen (18) years of age or older, except that persons eighteen (18) years of age or older under the continuing jurisdiction of the juvenile court pursuant to Sections 1102, 1138 and 1139 of this title shall be referred to as children.

3. "Delinquent child" means a child who:

- a. has violated any federal or state law or municipal ordinance, except a traffic statute or traffic ordinance, or any lawful order of the court made pursuant to the provisions of Sections 1101 through 1506 of this title, or
- b. has habitually violated traffic laws or traffic ordinances.

~~3.~~ 4. "Child in need of supervision" means a child who:

- a. has repeatedly disobeyed reasonable and lawful commands or directives of his parent, legal guardian, or other custodian, or
- b. is willfully and voluntarily absent from his home without the consent of his parent, legal guardian, or other custodian for a substantial length of time or without intent to return, or
- c. is willfully and voluntarily absent from school for fifteen (15) or more days or parts of days within a semester or four (4) or more days or parts of days within a four-week period without a valid excuse as defined by the local school boards, if said child is subject to compulsory school attendance.

~~4.~~ 5. "Deprived child" means a child:

- a. who is for any reason destitute, homeless, or abandoned ~~or,~~
- b. who does not have the proper parental care or guardianship or whose home is an unfit place for the child by reason of neglect, cruelty, or depravity on the part of his parents, legal guardian, or other person in whose care the child may be, ~~or~~
- c. who is a child in need of special care and treatment because of his physical or mental condition including a child born in a condition of dependence on a controlled dangerous substance, and his parents, legal guardian, or other custodian is unable or willfully fails to provide said special care and treatment, ~~or~~
- d. who is a handicapped child deprived of the nutrition necessary to sustain life or of the medical treatment necessary to remedy or relieve a life-threatening medical condition in order to cause or allow the death of said child if such nutrition or medical treatment

is generally provided to similarly situated nonhandicapped or handicapped children, provided that no medical treatment is necessary if, in the reasonable medical judgment of the attending physician, such treatment would be futile in saving the life of the child, or

e. who is, due to improper parental care and guardianship, absent from school for fifteen (15) or more days or parts of days within a semester or four (4) or more days or parts of days within a four-week period without a valid excuse as defined by the local school boards if said child is subject to compulsory school attendance, or

f. whose parent or legal custodian for good cause desires to be relieved of his custody.

No child who, in good faith, is being provided with treatment and care by spiritual means alone in accordance with the tenets and practice of a recognized church or religious denomination by a duly accredited practitioner thereof shall be considered, for that reason alone, to be a deprived child pursuant to any provision of Sections 1101 through 1506 of this title. The phrase dependent and neglected shall be deemed to mean deprived.

~~5. 6. "Child in need of treatment" means any child who is afflicted with a substantial disorder of the emotional processes, thought, or cognition which grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life appropriate to the age of the child. The term child in need of treatment shall not mean a child afflicted with epilepsy, mental retardation, organic brain syndrome, physical handicaps, or brief periods of intoxication caused by such substances as alcohol or drugs unless the child also meets the criteria for a child in~~

need of treatment a child who has a demonstrable mental illness and as a result of that mental illness:

- a. can be expected within the near future to intentionally or unintentionally seriously physically injure himself or another person and has engaged in one or more recent overt acts or made significant recent threats which substantially support that expectation, or
- b. is unable to attend to those of his basic needs that must be attended to in order for him to avoid serious harm in the near future and has demonstrated such inability by failing to attend to those basic needs in the recent past. A determination regarding the ability of the child to attend to his basic needs shall be based upon the age of the child and reasonable and appropriate expectation of the abilities of a child of such age to attend to said needs.

The term "child in need of treatment" shall not mean a child afflicted with epilepsy, developmental disability, organic brain syndrome, physical handicaps, brief periods of intoxication caused by such substances as alcohol or drugs or who is truant or sexually active unless the child also meets the criteria for a child in need of treatment pursuant to subparagraphs a or b of this paragraph.

~~6.~~ 7. "Handicapped child" means any child who has a physical or mental impairment which substantially limits one or more of the major life activities of the child or who is regarded as having such an impairment by a competent medical professional.

~~7.~~ 8. "Department" means the Department of Human Services.

~~8.~~ 9. "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition pursuant to the provisions of

Section 1103 of this title are supported by the evidence and whether a child should be adjudged to be a ward of the court.

~~9.~~ 10. "Dispositional hearing" means a hearing to determine the order of disposition which should be made with respect to a child adjudged to be a ward of the court.

~~10.~~ 11. "Preliminary inquiry" or "intake" means a mandatory, preadjudicatory interview of the child and, if available, his parents, legal guardian, or other custodian, which is performed by a duly authorized individual to determine whether a child comes within the purview of this chapter, whether other nonadjudicatory alternatives are available and appropriate, and if the filing of a petition is necessary.

~~11.~~ 12. "Facility" means a place, an institution, a building or part thereof, a set of buildings, or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned or operated by a public or private agency.

~~12.~~ 13. "Secure facility" means a facility which is designed and operated to ensure that all entrances and exits from the facility are subject to the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeter of the facility, or a facility which relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents.

~~13.~~ 14. "Community-based" means a facility, program or service, or open group home or other suitable place located near the home or family of the child, and programs of community supervision and service which maintain community participation in their planning, operation, and evaluation. These programs may include but are not limited to medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment,

drug treatment, transitional living, independent living and other rehabilitative services.

~~14.~~ 15. "Day treatment" means a program which provides intensive services to children who reside in their own home, the home of a relative, or a foster home. Day treatment programs include educational services and may be operated as a part of a residential facility.

~~15.~~ 16. "Group home" means a residential facility housing no more than twelve children with a program which emphasizes family-style living in a homelike environment. Said group home may also offer a program within the community to meet the specialized treatment needs of its residents.

~~16.~~ 17. "Transitional living program" means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting children to develop the skills and abilities necessary for successful adult living. Said program may include but shall not be limited to reduced staff supervision, vocational training, educational services, employment and employment training, and other appropriate independent living skills training as a part of the transitional living program.

~~17.~~ 18. "Independent living program" means a program designed to assist a child to enhance skills and abilities necessary for successful adult living and may include but shall not be limited to minimal direct staff supervision and supportive services in making the arrangements necessary for an appropriate place of residence, completing an education, vocational training, obtaining employment or other similar services.

~~18.~~ 19. "Community residential center" means a residential facility for no more than twenty children which offers a range of services including personal and social services, and emphasizes normal group living, school attendance, securing employment, and general participation in the community.

~~19.~~ 20. "Institution" means a residential facility offering care and treatment for more than twenty residents. Said institution may:

- a. have a program which includes community participation and community-based services, or
- b. be a secure facility with a program exclusively designed for a particular category of resident.

~~20.~~ 21. "Mental health facility" means:

- a. a facility or program operated by the Department of Mental Health and Substance Abuse Services or a facility or program operated by a private agency which offers outpatient or residential care and treatment services to children in need of treatment including but not limited to public or private hospitals, institutions, or agencies, comprehensive mental health centers, clinics, satellites, day treatment facilities, halfway homes, and group homes. A facility which or a program that offers outpatient care and treatment services to children in need of treatment shall be certified by the Department of Mental Health and Substance Abuse Services. A facility which offers residential treatment services to children in need of treatment shall be licensed by the Department of Mental Health and Substance Abuse Services except that a facility accredited by the Joint Commission on Accreditation of Hospitals to provide care and treatment to children in need of treatment shall be deemed to meet rules and regulations promulgated by the Department of Mental Health and Substance Abuse Services for licensure, or
- b. a child guidance center operated by the State Department of Health, or

- c. a facility or program operated by the State Department of Human Services and designated by the Department to be a mental health treatment center for children in the custody of the Department.

22. "Qualified mental health professional" means an individual having specific training and current experience in the mental health testing, examination, evaluation and diagnosis of children and adolescents and who:

- a. holds at least a master's degree in a mental health field and is employed by the Department of Mental Health and Substance Abuse Services, the State Department of Health, or the Department of Human Services as a provider of mental health services in an Office of Personnel Management employment classification of Psychological Assistant or above or Social Worker II or above, or
- b. has been awarded a current, valid Oklahoma license in a mental health field or permission to practice by a licensure board in a mental health field.

For the purpose of this paragraph, "mental health field" means medicine, psychology, counseling and guidance, applied behavioral studies, human relations or social work.

23. "Independent" means that the person or persons performing a mental health examination and submitting a report to the court pursuant to the provisions of this title has no financial interests in or other connections to or relationships with a facility in which the child will be placed for inpatient mental health services that would constitute a conflict of interest, and has signed an affidavit to that effect.

24. "Mental health examination" and "mental health evaluation" means an examination or evaluation of a child by a qualified mental health professional for the purpose of making a determination or

preparing reports or recommendations as to whether, in the opinion of the qualified mental health professional:

- a. the child is a child in need of treatment and the least restrictive treatment necessary and appropriate for the child; or
- b. the child is not a child in need of treatment, and the mental health services, if any, necessary and appropriate for the child.

25. "Less restrictive alternative to inpatient mental health care and treatment" means and shall include but not be limited to: Outpatient counseling services, including services provided in the home of the child and which may be referred to as "home-based services"; day treatment or day hospitalization services; respite care; foster care; group home care that provides for the delivery of services specifically designed to meet the treatment needs of children in need of treatment; or some combination thereof.

26. "Prescreening mental health evaluation" means a face to face examination of a child by a qualified mental health professional to determine whether the child should be admitted to a hospital or inpatient mental health facility on an emergency psychiatric basis as provided by Section 1107 of this title.

~~21.~~ 27. "Training school" means an institution maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of delinquent children.

~~22.~~ 28. "Rehabilitative facility" means a facility maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of children in need of supervision.

~~23.~~ 29. "Treatment center" means a facility maintained by the state for the care, education, training, treatment, and rehabilitation of children who are in the custody of the Department and who have been found by the court to be in need of treatment.

SECTION 2. AMENDATORY 10 O.S. 1981, Section 1102, as last amended by Section 2, Chapter 337, O.S.L. 1990 (10 O.S. Supp. 1990, Section 1102), 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.

1. 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~~

2. When jurisdiction shall have been obtained over a delinquent child, jurisdiction ~~may~~ shall be retained until the child becomes ~~nineteen (19)~~ twenty-one (21) years of age, unless terminated earlier. However, the court retains jurisdiction beyond the age of twenty-one (21) years of age of a person who has refused or failed to pay any fine or victim restitution ordered by the court, but only for the purpose of causing compliance with the existing order. 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, 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, or public intoxication shall be kept confidential and shall not be open to public inspection except by order of the court or as provided in Section 1125 of this title.

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 3. AMENDATORY 10 O.S. 1981, Section 1104.2, as last amended by Section 1, Chapter 334, O.S.L. 1989 (10 O.S. Supp. 1990, Section 1104.2), is amended to read as follows:

Section 1104.2 A. 1. Any person sixteen (16) or seventeen (17) years of age who is charged with murder, kidnapping for purposes of extortion, robbery with a dangerous weapon, rape in the first degree, use of firearm or other offensive weapon while committing a felony, arson in the first degree, burglary with explosives, shooting with intent to kill, manslaughter in the first degree, nonconsensual sodomy, or manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, or dispense a controlled dangerous substance, shall be considered as an adult.

2. Any person sixteen (16) or seventeen (17) years of age who, having been adjudicated a delinquent child for any felony offense, commits a second or subsequent crime that would constitute a felony if committed by an adult shall be considered as an adult.

3. Upon the arrest and detention, such sixteen- or seventeen-year-old accused shall have all the statutory and constitutional rights and protections of an adult accused of a crime, but shall be detained in a jail cell or ward entirely separate from prisoners who are eighteen (18) years of age or over.

B. Upon the filing of an information against such accused person, a warrant shall be issued which shall set forth the rights of the accused person, and the rights of the parents, guardian or next friend of the accused person to be present at the preliminary hearing, to have an attorney present and to make application for certification of such accused person as a child to the juvenile division of the district court. The warrant shall be personally served together with a certified copy of the information on the accused person and on the parents, guardian or next friend of the accused person.

C. The accused person shall file a motion for certification as a child before the start of the criminal preliminary hearing. Upon the filing of such motion, the complete juvenile record of the accused shall be made available to the district attorney and the accused person.

At the conclusion of the state's case at the criminal preliminary hearing, the accused person may offer evidence to support the motion for certification as a child.

The court shall rule on the certification motion of the accused person before ruling on whether to bind the accused over for trial. When ruling on the certification motion of the accused person, the court shall give consideration to the following guidelines, listed in order of importance:

1. Whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;

2. Whether the offense was against persons or property, greater weight being given for retaining the accused person within the adult

criminal system for offenses against persons, especially if personal injury resulted;

3. The record and past history of the accused person, including previous contacts with law enforcement agencies and juvenile or criminal courts, prior periods of probation and commitments to juvenile institutions; and

4. The prospects for adequate protection of the public if the accused person is processed through the juvenile system.

The court, in its decision on the certification motion of the accused person, need not detail responses to each of the above considerations, but shall state that the court has considered each of the guidelines in reaching its decision.

D. Upon completion of the criminal preliminary hearing, if the accused person is certified as a child to the juvenile division of the district court, then all adult court records relative to the accused person and this charge shall be ~~expunged and any mention of the accused person shall be removed from public record~~ closed.

E. An order certifying a person as a child or denying the request for certification as a child pursuant to subsection D of this section shall be a final order, appealable when entered.

SECTION 4. AMENDATORY 10 O.S. 1981, Section 1112, as last amended by Section 7, Chapter 363, O.S.L. 1989 (10 O.S. Supp. 1990, Section 1112), is amended to read as follows:

Section 1112. ~~(a)~~ A. Except as otherwise provided, a child who is charged with having violated any state statute or municipal ordinance other than those enumerated in Section 1104.2 of this title, shall not be tried in a criminal action but in a juvenile proceeding.

B. If, during the pendency of a criminal or quasi-criminal charge against any person, it shall be ascertained that the person was ~~a child~~ under eighteen (18) years of age at the time of committing the alleged offense, the district court or municipal

court shall transfer the case, together with all the papers, documents and testimony connected therewith, to the juvenile division of the district court.

1. The division making such transfer shall order the child to be taken forthwith to the place of detention designated by the juvenile division, to that division itself, or release such child to the custody of some suitable person to be brought before the juvenile division. ~~However, nothing in this act~~

2. Nothing in Sections 1101 et seq. of this title shall be construed to prevent the exercise of concurrent jurisdiction by another division of the district court or by municipal courts in cases involving children wherein the child is charged with the violation of a state or municipal traffic law or ordinance.

~~(b)~~ C. Except as otherwise provided by law, if a child is charged with delinquency as a result of an offense which would be a felony if committed by an adult, the court on its own motion or at the request of the district attorney shall conduct a preliminary hearing to determine whether or not there is prosecutive merit to the complaint.

1. If the court finds that prosecutive merit exists, it shall continue the hearing for a sufficient period of time to conduct an investigation and further hearing to determine the prospects for reasonable rehabilitation of the child if he should be found to have committed the alleged act or omission.

2. Consideration shall be given to:

~~1.~~ ~~The~~ a. the seriousness of the alleged offense to the community, and whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner~~;~~

~~2.~~ ~~Whether~~ b. whether the offense was against persons or property, greater weight being given to offenses

against persons especially if personal injury resulted~~†, 1~~

- ~~3.~~ The c. the sophistication and maturity of the juvenile and his capability of distinguishing right from wrong as determined by consideration of his psychological evaluation, home, environmental situation, emotional attitude and pattern of living~~†, 1~~
- ~~4.~~ The d. the record and previous history of the juvenile, including previous contacts with community agencies, law enforcement agencies, schools, juvenile courts and other jurisdictions, prior periods of probation or prior commitments to juvenile institutions~~†, 1~~
- ~~5.~~ The e. the prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile if he is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court~~†, 1~~ and
- ~~6.~~ ~~Whether~~ f. whether the offense occurred while the juvenile was escaping or in an escape status from an institution for delinquent children.

3. After such investigation and hearing, the court may in its discretion proceed with the juvenile proceeding, or it shall state its reasons in writing and shall certify that such child shall be held accountable for his acts as if he were an adult and shall be held for proper criminal proceedings for the specific offense charged, by any other division of the court which would have trial jurisdiction of such offense if committed by an adult. The juvenile proceeding shall not be dismissed until the criminal proceeding has commenced and if no criminal proceeding commences within thirty (30) days of the date of such certification, unless stayed pending

appeal, the court shall proceed with the juvenile proceeding and the certification shall lapse.

4. If not included in the original summons, notice of a hearing to consider whether a child should be certified for trial as an adult shall be given to all persons who are required to be served with a summons at the commencement of a juvenile proceeding, but publication in a newspaper when the address of a person is unknown is not required. The purpose of the hearing shall be clearly stated in the notice.

~~(e)~~ D. Prior to the entry of any order of adjudication, any child in custody shall have the same right to be released upon bail as would an adult under the same circumstances. Subsequent to the entry of an order that a child stand trial as an adult, said child shall have all the statutory and constitutional rights and protections of an adult accused of a crime but shall, while awaiting trial and for the duration of the trial, be detained in a jail cell or ward entirely separate from prisoners who are eighteen (18) years of age or over. Upon conviction, the juvenile may be incarcerated with the adult population. If, prior to the entry of any order of adjudication, the child becomes eighteen (18) years of age, the child may be detained in a county jail or released on bail.

~~(d)~~ E. Any child who has been certified to stand trial as an adult pursuant to any certification procedure provided by law and is subsequently convicted of the alleged offense or against whom the imposition of judgment and sentencing has been deferred shall be tried as an adult in all subsequent criminal prosecutions, and shall not be subject to the jurisdiction of the juvenile court in any further proceedings.

~~(e)~~ F. An order either certifying a person as a child pursuant to subsection ~~(b)~~ C of this section or denying such certification shall be a final order, appealable when entered.

SECTION 5. AMENDATORY 10 O.S. 1981, Section 1116.4, is amended to read as follows:

Section 1116.4 No member of the review board or staff member of such board may disclose any information acquired from case reviews or be compelled to disclose such information except:

1. When the Department gives written consent;
2. When such information pertains to criminal acts or violations of any law as provided in this title or other provisions of law;

3. When the child was the victim of a crime. The members of the board or staff member of such board may be required by a court of competent jurisdiction to testify at any proceeding in which the commission of such a crime is the subject of inquiry; or

4. When the person waives the privilege by bringing charges against the board.

Nothing in this act shall be construed to prohibit any board member or staff member of such board from testifying in court hearings concerning matters of adoption, child abuse, child neglect, or matters pertaining to the welfare of children or from seeking collaboration or consultation with professional colleagues and administrative superiors on behalf of the child, parent or parents of the child.

SECTION 6. 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. 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 and records of arrest and disposition in cases where a child is adjudicated a delinquent child

shall be open to the public without court order. 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.

SECTION 7. 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~~ Sections 1101 et seq. of this title, 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 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~~ as provided by Section 1125 of this title.

~~(b)~~ B. 1. If latent fingerprints are found during the investigation of an offense, a law enforcement officer may fingerprint a child for the purpose of comparing his fingerprints with the latent fingerprints, 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 shall be destroyed immediately after the 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.

2. 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.

3. 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.

4. 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:

1. 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~~

2. 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 or who has been adjudicated a delinquent child for a felony offense and commits a second or subsequent crime that would constitute a felony if the crime had been committed by an adult.

SECTION 8. 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 the prevention of delinquency, the protection of the public, and for the care and rehabilitation of delinquent children. 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~~ shall:

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~~ misdemeanor or felony 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 by the Department, in an independent living program; ~~or~~

4. Allow the child his liberty, under supervision by the Department, 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. Jurisdiction of a child obtained by the court through adjudication, under Section 1102 of this title continues for purposes of this act until the child becomes twenty-one (21) years of age, unless terminated earlier. The continuing jurisdiction of the court terminates:

1. Upon order of the court; or

2. Upon commencement of proceedings in adult cases, under Sections 1104.2 and 1112 of this title, or as provided by law after a person is eighteen (18) years of age or older.

The continuing jurisdiction of the court is not terminated by marriage.

D. Jurisdiction over a child on probation, parole or a child who is otherwise under the continuing jurisdiction of the court, may be transferred by the court to the court of another district, if the receiving court consents. The receiving court has the same power with respect to the child and juvenile matters as the court of original jurisdiction.

E. A person, committing an offense before the age of eighteen (18) years of age, who has been committed to a state training school shall remain until he reaches the age of twenty-one (21) years, is paroled, or is discharged by the court.

F. A person, committing an offense before the age of eighteen (18) years of age, who has been committed to a state training school shall appear before the Youth Parole Board within ninety (90) days after commitment for review of the treatment plans and establishment of parole release guidelines.

G. The Youth Parole Board shall have the authority and responsibility for parole of adjudicated juvenile delinquents as provided by this act. The Department of Human Services shall have the responsibility for juvenile delinquents on probation.

SECTION 9. 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~~ court 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 or that the child has reached the age of twenty-one (21) years and has paid all fines and fees as ordered by the court under Section 1116 of this title. The court may retain jurisdiction beyond age twenty-one (21) years as provided in Section 1102 of this title. 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 twenty-one (21) years of age and has paid all fines and fees or 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) 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) 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~~ person, after the person is eighteen (18) years of age or older, 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 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 40 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a Children's Correction Code to be designated as Title 10A of the Oklahoma Statutes.

1. There is hereby established the Youth Parole Board. The Board shall consist of seven (7) members who are residents of the state, and who are appointed by and serve at the pleasure of the Governor.

2. Board members shall be appointed for a term of three (3) years. A member shall serve after the expiration of his term until the respective successor shall have been appointed. Vacancies shall be filled for the duration of unexpired terms.

3. The members shall have training or experience in social work, law, juvenile or criminal justice, or related behavioral sciences. A member shall not hold any position in the state's juvenile justice system, other than in his capacity as a member of the Youth Parole Board, be an employee, officer, advisor, policy board member, subcontractor of any juvenile justice agency or its contractor, or hold any public office during the tenure of his appointment.

4. The Board shall meet as often as necessary at a place it designates to carry out the duties of the Board.

5. Members shall serve without compensation, but shall be reimbursed for travel expenses from monies appropriated by the Legislature for such purposes, as provided by the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

B. The Youth Parole Board shall determine appropriate parole dates for youth offenders, based on guidelines established by the Placement division of the Department of Human Services. The

Placement division shall review and update policy guidelines annually.

C. Youth offenders may be paroled to their own homes, to a residential community-based program, to a nonresidential community-based treatment program, to an independent living setting, or to other appropriate residences, but shall remain on parole until parole is terminated by the Youth Parole Board.

D. The Youth Parole Board shall be provided case management staff by the Child Related Court Services division of the Department of Human Services. Child Related Court Services shall implement parole release plans and shall supervise youth offenders while on parole.

E. The Department of Human Services shall permit the Youth Parole Board to have reasonable access to youth offenders in secure facilities and shall furnish all pertinent data requested by the Board in matters of parole, revocation and termination.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 41 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. The Youth Parole Board has responsibility for parole release, rescission, revocation, and termination of parole for youth offenders who have been committed to the Department of Human Services. The Board shall determine when and where and under what condition youth offenders who have been committed to a secure facility are eligible for parole.

B. Each youth offender shall be served with notice of parole hearings, and has the right to personally appear before the board for parole consideration.

C. Orders and decisions of the Board shall be in writing, and each youth offender shall be provided written notice of the Board's reasoning and decision in his case.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 42 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. The Board shall establish policies and procedures for its governance, meetings, hearings, the conduct of proceedings before it, the parole of youth offenders, and the general conditions of proceedings under which parole may be granted, rescinded, revoked, modified, and terminated.

B. The Director of the Department of Human Services shall appoint an administrative officer of the Youth Parole Board, to be responsible for the day-to-day operations of the Board.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 43 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. The Youth Parole Board may revoke the parole of a youth offender after a hearing and upon determination that there has been a violation of law or of a condition of parole by the youth offender which warrants his return to a secure facility. The parole revocation hearing shall be held at a secure facility.

B. Before returning a youth offender to a secure facility for a parole revocation hearing, the Placement division of the Department of Human Services shall provide a prerevocation hearing within the vicinity of the alleged violation, to determine whether there is probable cause to believe that the youth offender violated the conditions of his parole. Upon a finding of probable cause, the youth offender shall be remanded to a secure facility, pending a revocation hearing.

C. A paroled youth offender shall be entitled to legal representation at the parole revocation hearing, and if the youth offender or his family has requested but cannot afford legal representation, the Youth Parole Board shall appoint legal counsel.

D. The Board and the administrative officer have the power to issue subpoenas, compel attendance of witnesses, compel production of books, papers and other documents, administer oaths, and take testimony under oath for the purposes of conducting the hearings.

E. A youth offender shall receive advance notice of the date, time, place, and reason for the hearing, and shall have the right to appear at the hearing. The Board shall provide the youth offender an opportunity to be heard, to present witnesses and evidence, and to confront and cross-examine adverse witnesses, unless there is good cause for disallowing that confrontation.

F. Decisions in parole revocation hearings shall be reached by a majority vote of the members of the Board.

G. The administrative officer shall maintain summary records of all hearings and provide written notice to the youth offender of the decision and reason for the decision in the case.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 44 of Title 10A, unless there is created a duplication in numbering, reads as follows:

The Board may issue a warrant to order any peace officer or Department of Human Services employee to retake physical custody of a youth offender who is alleged to be in violation of parole conditions. The Board may issue a warrant to any peace officer or Department of Human Services employee to take into custody a youth offender who is alleged to be in violation of court ordered treatment, observation or assessment, community placement, or who has escaped from a secure facility. Based upon that warrant, a youth offender may be held in a local detention facility for no longer than forty-eight (48) hours, excluding weekends and legal holidays, to allow time for court review of allegations of treatment, observation or assessment violations, community placement violations, a prerevocation hearing of alleged parole violation, or

in the case of an escape, arrangement for transportation to the secure facility.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 45 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. Conditions of parole shall be specified in writing and agreed to by the youth offender. That agreement shall be evidenced by the signature of the youth offender, affixed to the parole document.

B. A youth offender may be discharged from the jurisdiction of the Department of Human Services at any time, by written order of the Department, and notice to the juvenile court, finding that no further purpose would be served by secure confinement or supervision in a community setting.

C. Discharge of a youth offender from the jurisdiction of the Department of Human Services shall be in accordance with policies approved by the Youth Parole Board.

D. Discharge of a youth offender is a complete release of all penalties incurred by adjudication of the offense for which the youth offender was committed.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 46 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A youth offender, or the parent or legal guardian of a youth offender, may appeal any decision of the Board regarding parole release, rescission, or revocation, to the Director of the Department of Human Services or his designee. The director or his designee may set aside or remand the Board's decision only if it is arbitrary, capricious, an abuse of discretion, or contrary to law.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 47 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. The Department of Human Services shall provide to the Child Related Court Services division a sufficient number of case management staff to provide care, treatment, and supervision for youth offenders on parole.

B. Case management staff shall develop treatment programs for each youth offender placed on parole within the community, provide appropriate services, and monitor individual progress. Progress reports shall be filed every three months with the juvenile court and the Youth Parole Board for each parolee. The Board and the juvenile court shall be immediately notified, in writing, of any violation of law or of conditions of parole.

C. Case management staff shall conduct investigations and make reports requested by the courts to aid them in determining appropriate case disposition in cases of parole, revocation, and termination. Upon notification of an escapee from a secure facility, the case management staff shall initiate action to locate and apprehend escapees.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 48 of Title 10A, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a fund to be designated the "Youth Corrections Fund". The fund shall be used for new construction of secure juvenile facilities, capital improvements to existing secure juvenile facilities, delinquency prevention and rehabilitation services subject to legislative appropriation and shall consist of gross production tax as provided in Section 1004 of Title 68 of the Oklahoma Statutes.

SECTION 19. AMENDATORY 68 O.S. 1981, Section 1004, as last amended by Section 95, Chapter 2, O.S.L. Supp. 1989 (68 O.S. Supp. 1990, Section 1004), is amended to read as follows:

Section 1004. The gross production tax provided for in ~~this article~~ Section 1001 et seq. of this title, is hereby levied and shall be collected and apportioned as follows, to wit:

1. Eighty percent (80%) of all monies collected hereunder from the tax levied on oil, asphalt or ores bearing uranium, lead, zinc, jack, gold, silver or copper shall be paid to the State Treasurer of the state to be placed in the ~~General Revenue Fund of the state and used for the general expense of state government, to be paid out pursuant to direct appropriation by the Legislature~~ Youth Corrections Fund to be used for new construction of secure juvenile facilities, capital improvements, and delinquency prevention and rehabilitation services as appropriated by the Legislature;

2. Seventy-eight percent (78%) of all monies levied and collected under this article from the tax on natural gas and/or casinghead gas shall be paid to the State Treasurer of the state and by him distributed as follows:

- a. the first One Hundred Seventy-five Million Dollars (\$175,000,000.00) received by the State Treasurer during each fiscal year shall be distributed among the funds referred to in Section 17-108 of Title 70 of the Oklahoma Statutes, as directed by the Board of Trustees of the Oklahoma Teachers' Retirement System, and
- b. the balance thereof shall be distributed to and deposited in the Pension Systems Reserve Fund, to be paid out pursuant to direct appropriation by the Legislature;

3. One-tenth (1/10th) of the sum collected from each county whence the oil or natural gas and/or casinghead gas or asphalt or ores bearing uranium, lead, zinc, jack, gold, silver or copper was produced shall be paid to the county treasurer of such county, to be

credited by said county treasurer of such county to the County Highway Fund;

4. a. Except as provided in subparagraph b of this paragraph, one-tenth (1/10th) of the sum collected from each county whence the oil or natural gas and/or casinghead gas or asphalt or ores bearing uranium, lead, zinc, jack, gold, silver or copper or other mineral or substance covered hereby was produced shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the county superintendent of schools to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction; and
- b. Beginning July 1, 1991, if the amendment to Section 12a of Article X of the Constitution of the State of Oklahoma contained in Enrolled House Joint Resolution No. 1005 of the 1st Extraordinary Session of the 42nd Oklahoma Legislature is approved by the people, one-tenth (1/10th) of the sum collected from the gross production of oil or natural gas and/or casinghead gas or asphalt or ores bearing uranium, lead, zinc, jack, gold, silver or copper or other mineral or substance covered hereby shall be remitted to the State Treasurer to be deposited in the Common School Fund; and

5. Two percent (2%) of all monies collected from the tax upon natural gas and casinghead gas shall be placed to the credit of the General Revenue Fund of the State Treasury.

SECTION 20. REPEALER 10 O.S. 1981, Section 1101, as last amended by Section 1, Chapter 302, O.S.L. 1990 (10 O.S. Supp. 1990, Section 1101), is hereby repealed.

SECTION 21. This act shall become effective September 1, 1991.

43-1-075

NP