

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 694

BY: HERBERT

AS INTRODUCED

AN ACT RELATING TO CHILDREN; AMENDING 10 O.S. 1991, SECTIONS 601, 602, 603, 604, 607 AND 609, WHICH RELATE TO JUVENILE JUSTICE AND DELINQUENCY; CREATING THE BOARD OF JUVENILE JUSTICE; PROVIDING FOR APPOINTMENT, TERM OF OFFICE, REMOVAL AND VACANCIES; PROVIDING THAT NOT MORE THAN FOUR MEMBERS SHALL BE FROM THE SAME POLITICAL PARTY; PROVIDING FOR THE SELECTION OF A CHAIRMAN, VICE-CHAIRMAN AND SECRETARY; PROVIDING FOR RULES AND REGULATIONS; PROVIDING FOR AN OFFICIAL SEAL; PROVIDING FOR TRAVEL REIMBURSEMENT; PROVIDING DUTIES AND POWERS; CREATING THE DEPARTMENT OF JUVENILE JUSTICE; TRANSFERRING DUTIES AND AUTHORITY FOR JUVENILE JUSTICE AND CARE OF DELINQUENTS FROM THE DEPARTMENT OF HUMAN SERVICES TO THE DEPARTMENT OF JUVENILE JUSTICE; PROVIDING FOR OFFICE LOCATION; PROVIDING FOR A DIRECTOR; PROVIDING DUTIES AND POWERS; AMENDING 10 O.S. 1991, SECTIONS 1101, 1102, 1103, 1105, 1107, 1107.1, 1109, 1110, 1111, 1114, 1116, 1117, 1120, 1129, 1135.2, 1136, 1137, 1138, 1140 AND 1141, WHICH RELATE TO DEPENDENT AND DELINQUENT CHILDREN; DELETING CATEGORY OF CHILD IN NEED OF TREATMENT; MODIFYING DEFINITIONS; PROVIDING FOR MENTAL HEALTH AND ALCOHOL OR DRUG DEPENDENCY

TREATMENT; PROVIDING THAT CERTAIN HEARINGS SHALL BE PUBLIC PROCEEDINGS; PROVIDING FOR CERTAIN JUDICIAL DETERMINATIONS; PROVIDING FOR CUSTODY OF CHILDREN ADJUDICATED TO BE DELINQUENT; CHANGING CERTAIN REFERENCES FROM THE DEPARTMENT OF HUMAN SERVICES TO THE DEPARTMENT OF JUVENILE JUSTICE; AMENDING 10 O.S. 1991, SECTIONS 1160.2, 1160.4, 1160.5 AND 1160.6, WHICH RELATE TO THE SERIOUS AND HABITUAL JUVENILE OFFENDER ACT; ADDING THE DEPARTMENT OF JUVENILE JUSTICE TO THE AGENCIES COMPRISING THE JUVENILE JUSTICE SYSTEM; AMENDING 10 O.S. 1991, SECTIONS 1401, 1404, 1404.1, 1407 AND 1413, WHICH RELATE TO INSTITUTIONS FOR CHILDREN AND JUVENILE OFFENDER RESTITUTION; TRANSFERRING THE CENTRAL OKLAHOMA JUVENILE CENTER AND THE LLOYD E. RADER CHILDREN'S CENTER AND PROPERTY, CONTRACTS AND AGREEMENTS RELATED THERETO TO THE DEPARTMENT OF JUVENILE JUSTICE; MODIFYING PLACEMENT AUTHORITY OF THE DEPARTMENT OF HUMAN SERVICES; TRANSFERRING RESPONSIBILITY FOR THE JUVENILE OFFENDER VICTIM RESTITUTION WORK PROGRAM TO THE DEPARTMENT OF JUVENILE JUSTICE; AMENDING 28 O.S. 1991, SECTION 162, WHICH RELATES TO FEES AND COSTS IN JUVENILE PROCEEDINGS; REMOVING REFERENCE TO THE IN NEED OF TREATMENT CATEGORY; PROVIDING FOR APPORTIONMENT OF CERTAIN FUNDS; AMENDING 43A O.S. 1991, SECTIONS 8-202 AND 8-203, WHICH RELATE TO MENTAL HEALTH EVALUATION AND TREATMENT FOR CHILDREN; MODIFYING DEFINITION; PROVIDING FOR TREATMENT FOR ALCOHOL OR DRUG DEPENDENCY; PROVIDING FOR INVOLUNTARY COMMITMENT; AMENDING 74 O.S. 1991, SECTION 4243, WHICH RELATES TO PROHIBITED ACTIVITIES FOR STATE

AGENCIES; MODIFYING SCOPE OF CERTAIN DEPARTMENT OF HUMAN SERVICES CONTRACTS; MAKING AN APPROPRIATION TO THE DEPARTMENT OF JUVENILE JUSTICE AND STATING PURPOSES THEREFOR; PROVIDING LAPSE DATE; PROVIDING FOR CODIFICATION; PROVIDING FOR RECODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 601, is amended to read as follows:

Section 601. A. There is hereby created the State Board of Juvenile Justice which shall be the governing board of the Department of Juvenile Justice herein created. The Board shall consist of eight (8) members who shall be appointed by the Governor with the advice and consent of the Senate. One member shall be appointed from each of the six Congressional Districts as defined and in existence on January 1, 1993, and the seventh and eighth members shall be appointed from the state at large. The terms of office of two members shall expire on March 15, 1995, and each six (6) years thereafter; the terms of two members shall expire on March 15, 1997, and each six (6) years thereafter; the terms of two members shall expire on March 15, 1999, and each six (6) years thereafter; and the terms of two members shall expire on March 15, 2001. Not more than four members of the Board shall be of the same political party. Any member of the Board may be removed from office in the manner provided by law for the removal of officers not subject to impeachment. Vacancies on the Board shall be filled for the unexpired term.

B. The Board shall elect from its members a chairman, vice chairman and a secretary. It shall adopt rules and regulations for its government and may adopt an official seal for the Department. Members shall be reimbursed for travel expenses, as provided in the State Travel Reimbursement Act, while attending meetings of the Board or while performing other official duties.

C. The Board shall have the following powers and duties:

1. To establish policies for the operation of the Department;

2. To establish and maintain such institutions as are necessary or convenient for the operation of programs for the education, training, vocational education and rehabilitation of children under the jurisdiction of the Department;

3. To lease, from time to time, without restriction as to terms, any property which said Board shall determine advisable to more fully carry into effect the operation of the Juvenile Justice Department;

4. To acquire, construct, extend, improve, maintain and operate any and all facilities of all kinds which in the judgment of the Board shall be necessary or convenient to carry out the duties of the Juvenile Justice Department, if authorized by law;

5. To require the Director and any other personnel of the Department, when deemed necessary by the Board, to give bond for the faithful performance of their duties;

6. To appoint and fix the salary of the Director; and

7. To enter into contracts with private prison contractors.

D. There is hereby created the Department of Juvenile Justice. The office of the Department shall be in Oklahoma City in space provided by the Office of Public Affairs.

E. The Department of ~~Institutions, Social and Rehabilitative Services~~, hereinafter referred to as the Department, Juvenile Justice is hereby designated as the state planning and coordinating

agency for statewide juvenile justice and delinquency prevention services.

F. Effective January 1, 1993, custody, care, and supervision of children adjudicated to be delinquent is hereby transferred from the Department of Human Services to the Department of Juvenile Justice. Records of delinquent children in the custody of the Department of Human Services on the transfer date shall be transferred to the Department of Juvenile Justice.

G. The chief administrative officer shall be the Director of Juvenile Justice, who shall be appointed by the Board of Juvenile Justice and who shall serve at the pleasure of the Board.

H. The Director shall have the following duties and powers:

1. To promulgate rules and regulations necessary for the Department to perform its statutory duties, subject to approval by the Board of Juvenile Justice;

2. To employ such personnel as may be necessary to discharge the duties imposed upon the Department;

3. To maintain permanent official records of the Department;

4. To enter into contracts on behalf of the Department, subject to approval by the Board of Juvenile Justice;

5. To establish and maintain such institutions as are necessary for the operation of programs for the Department, if authorized by law.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 602, is amended to read as follows:

Section 602. A. The Department of Juvenile Justice shall enter with the State Supreme Court under the Interlocal Cooperation Act into an agreement acceptable to that Court in its capacity as the constitutional manager of the state court system:

(1) To provide intake services, probation services and parole services for the district courts in every county in Oklahoma except those counties with duly constituted juvenile bureaus;

(2) To maintain a Uniform Juvenile Statewide Court Reporting System;

(3) To establish such standards and procedures as may be required by state or federal law;

(4) To employ and/or assign necessary staff sufficient to carry out provisions of this resolution; and

(5) To contract with private nonprofit or public agencies now in existence or hereafter created.

B. In addition to the other powers and duties prescribed by law, the Department of Juvenile Justice shall have the following duties and powers with regard to children placed in Department-operated institutions and facilities:

1. Provide for the care, education, training, treatment and rehabilitation of children who are placed in the institutions. The Department may give assistance to local school districts in providing an education to such children, may supplement such education, and may provide facilities for such purposes. It shall be the duty of the Department to assure that children in the aforesaid institutions receive educational services which will stress basic literacy skills, including but not limited to curricula requirements stressing reading, writing, mathematics, science and vocational-technical education; and

2. Transfer a child from an institution under the jurisdiction of the Department to another institution under the jurisdiction of the Department or to any institution within the Department of Mental Health and Substance Abuse Services, with the consent of the Commissioner of Mental Health and Substance Abuse Services, if the Department of Juvenile Justice deems it advisable to do so; and

3. Release on parole a child previously adjudicated to be delinquent, subject to terms and conditions specified by the Department, whenever the Department determines that such release will not be detrimental to society and that the child is probably

ready to be returned to his community and revoke said parole for violation of the specified terms or conditions of parole pursuant to the provisions of this section and the rules, regulations and procedures established by the Department for such revocation; and

4. Provide parole services for delinquent children released on parole and aftercare services for delinquent children discharged from institutions or facilities of the Department. Persons designated as Juvenile Parole Officers by the Department shall have the power to serve process and to apprehend and detain juveniles and make arrests in accordance with the laws of the state.

C. The transfer of a child from a nonsecure placement to a secure placement shall be subject to an administrative transfer hearing and any revocation of parole shall be subject to a parole revocation hearing.

1. In any administrative transfer or parole revocation proceeding the following minimum standards shall apply:

- a. the child shall have the right to notice of the proposed transfer or parole revocation hearing and the alleged violation of administrative or parole rules on which the proposed transfer or parole revocation is based; and
- b. the child shall have the right to representation by an attorney; and
- c. the child shall have the right to present evidence in his own behalf; and
- d. the child shall have a right to bail, except that said right to bail shall not be construed to require that a child who is in residence in a Department-operated institution or other facility at the time of an alleged violation leading to an administrative transfer proceeding be released from such institution or facility.

2. The situs of said hearings shall be the county in which the alleged violation of administrative or parole rules occurs. The judge having juvenile docket jurisdiction in said county shall aid the administrative transfer or parole revocation process of the Department by:

- a. determining eligibility for and amount of bail; and
- b. deciding any intermediate custody or placement issue; and
- c. if legal counsel for the child has not otherwise been obtained, appointing legal counsel for the child and fixing the amount of his compensation. Said judge shall also determine if the child is eligible for free legal services. If the child is not eligible for free legal services, the court shall order the parents or legal guardian of the child to pay for such services.

3. If the child is eligible for free legal services, the district court fund of the county where the order committing the child to the custody of the Department was issued shall pay for all legal expenses incurred on behalf of the child pursuant to the provisions of this section. If the hearing takes place in a county other than the county from which said order was issued, the court clerk of the county in which the hearing is held shall bill the district court fund of the county where said order was issued for said legal expenses.

D. The Department may participate in federal programs relating to delinquent children or institutions and services for such children; and apply for, receive, use and administer federal funds for such purposes.

E. Receive interest earnings on the investment by the State Treasurer of monies, to be credited to an agency special account, for the benefit of and held in trust for delinquent children placed

in the custody of the Department or in residence at institutions maintained by the Department.

SECTION 3. AMENDATORY 10 O.S. 1991, Section 603, is amended to read as follows:

Section 603. The Department of Juvenile Justice, in its role as planner and coordinator for juvenile justice and delinquency prevention services, is hereby authorized to and shall enter into agreements for the establishment and maintenance of community-based prevention and diversionary youth services programs which may include, but not be limited to: Emergency shelter, diagnosis, crisis intervention, counseling, group work, case supervision, job placement, recruitment and training of volunteers, consultation, brokerage of services and agency coordination with emphasis on keeping youth with a high potential for delinquency out of the traditional juvenile justice process.

SECTION 4. AMENDATORY 10 O.S. 1991, Section 604, is amended to read as follows:

Section 604. The Department of Juvenile Justice, in its role as planner and coordinator for juvenile justice and delinquency prevention services, is hereby authorized to enter into financial agreements with federal, state and local agencies or entities of government, or with any private, nonprofit agency, for juvenile delinquency prevention programs, juvenile treatment programs and child abuse and neglect prevention and treatment programs.

SECTION 5. AMENDATORY 10 O.S. 1991, Section 607, is amended to read as follows:

Section 607. A. The Department of ~~Human Services~~ Juvenile Justice is authorized to enter into agreements to establish or maintain community-based youth service programs and shelters out of local, state and federal monies.

B. The Department shall take all necessary steps to develop and implement a diversity of community services and community

residential care as needed to provide for adequate and appropriate community-based care, treatment and rehabilitation of children in the custody of the Department. Such community services and residential care shall be consistent with the treatment needs of the child and the protection of the public.

1. The Department shall, to the extent reasonable and practicable, provide community services and community residential care to children in the custody of the Department through financial agreements, as authorized in Sections 603 and 604 of this title.

2. The Department shall establish procedures for the letting of grants or contracts, and the conditions and requirements for the receipt of such grants or contracts, for community-based services and community residential care. A copy of such procedures shall be made available to any member of the general public upon request.

3. As authorized and allowed by Title XIX of the federal Social Security Act and rules and regulations promulgated pursuant to said Act, the Department shall:

- a. include in the Medicaid State Plan a service plan or plans for the reimbursement of all available home and community-based optional services for mental health and drug and alcohol treatment services for children and youth,
- b. apply for all available home and community-based Medicaid waivers which will assist in the development of community-based services for mental health and drug and alcohol treatment for children and youth, and
- c. establish procedures to assure that Title XIX reimbursements are the payments of last resort, after payments by the parents or other third party payors, for the medical care, including mental health services, provided to children in the custody of the Department or that the Department is otherwise

reimbursed, in accordance with a court order and the financial ability of the parent, for such services provided to the child.

Nothing in this paragraph shall serve to limit the authority of the Department to establish limitations on the length of time for which a health care facility is eligible for reimbursement for inpatient services provided to children and youth through the state Medicaid program.

C. After July 1, 1984, any state agency letting grants or contracts for the establishment of community residential care or treatment facilities for children shall require, as a condition for receipt of such grants or contracts, documented assurance from the agency or organization establishing such facility that appropriate arrangements have been made for providing the educational services to which residents of the facility are entitled pursuant to state and federal law.

SECTION 6. AMENDATORY 10 O.S. 1991, Section 609, is amended to read as follows:

Section 609. A. Funds appropriated to the Department of ~~Human Services~~ Juvenile Justice for community-based youth service programs shall be made available through grants or contracts, to organizations designated by the Department ~~of Human Services~~ as "Youth Services Agencies". ~~Such designations shall be granted in accordance with criteria approved by the Commission after full consideration of any recommendations of the Oklahoma Association of Youth Services.~~ The criteria for designation of Youth Services Agencies shall be established by the Department and shall include but shall not be limited to:

1. successful completion of peer review processes by the ~~Oklahoma Association of Youth Services~~ Department;

2. capability to deliver all or part of the compensable services enumerated in Section 603 of Title 10 of the Oklahoma Statutes;

3. adequate and qualified staff;

4. financial viability;

5. a documented need for the local services to be offered; and

6. such other criteria as the ~~Commission~~ Department determines appropriate.

B. Each youth service agency receiving, by grant or contract from the Department of Human Services on ~~the effective date of this act~~ June 30, 1987, state funds specifically appropriated for community-based youth service programs, is hereby automatically designated a "Youth Services Agency".

C. The Department of ~~Human Services~~ Juvenile Justice, after the opportunity for an administrative hearing, may terminate the designation of a Youth Services Agency that:

1. is seriously deficient in the administration of its program;

2. loses financial viability; or

3. fails to successfully complete the peer review process ~~by the Oklahoma Association of Youth Services~~ provided for in subsection A of this section.

Any applicant organization denied designation as a Youth Services Agency may request an administrative hearing from the Department. The ~~Commission for Human Services~~ Department shall establish an administrative hearing and appeal process.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 610 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Department of Juvenile Justice shall establish and maintain such methods of administration, including those necessary to establish and maintain a merit system of personnel administration, and shall prescribe such rules and regulations as it

deems necessary for the efficient and effective operation of the children's institutions and facilities operated by the Department.

B. The Director of the Department of Juvenile Justice shall employ and fix the duties and compensation of a superintendent, and such other personnel as he deems necessary, for each of the children's institutions and facilities operated by the Department; provided that the Department shall promulgate, and in its hiring and employment practices, the Department shall adhere to, written minimum qualifications by position for personnel working with or around children in said institutions. Such minimum qualifications shall be designed to assure that such personnel possess sufficient education, training, experience and background to provide adequate and safe professional care and services to said children; and that the children will not be exposed to abuse, deprivation, criminal conduct, or other unwholesome conditions attributable to employee incompetence or misconduct.

C. The superintendent of a children's institution shall be the guardian of the person of each child in the institution.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 611 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Department of Juvenile Justice shall promulgate written rules and regulations, outline policies and procedures governing the operation of those institutions and other facilities operated by the Department wherein juveniles may be housed. Said policies and procedures shall include, but not be limited to, standards of cleanliness, temperature and lighting, availability of medical and dental care, provision of food, furnishings, clothing and toilet articles, supervision, appropriate and permissible use of restriction and confinement, procedures for enforcing rules of conduct consistent with due process of law and visitation privileges.

B. The policies prescribed shall, at a minimum, ensure that:

1. A child shall not be punished by physical force, deprivation of nutritious meals, deprivation of family visits or solitary confinement;

2. A child shall have the opportunity to participate in physical exercise each day;

3. A child shall be allowed daily access to showers and his own clothing or individualized clothing which is clean;

4. A child shall have constant access to writing materials and may send mail without limitation, censorship or prior reading, and may receive mail without prior reading, except that mail may be opened in the presence of the child, without being read, to inspect for contraband;

5. A child shall have reasonable opportunity to communicate and to visit with his family on a regular basis, and to communicate with persons in the community;

6. A child shall have immediate access to medical care as needed, and shall receive necessary psychological and psychiatric services;

7. A child in the custody or care of the Department shall be provided access to education including teaching, educational materials and books, provided, that such policies shall provide emphasis upon basic literacy skills, including but not limited to curricula requirements stressing reading, writing, mathematics, science, vocational-technical education, and other courses of instruction designed to assure that such children will be capable of being assimilated into society as productive adults capable of self-support and full participation;

8. A child shall have reasonable access to an attorney upon request;

9. A child shall be afforded a grievance procedure, including an appeal procedure; and

10. A child's mental health needs and mental well-being will be met, protected and served through provision of guidance, counseling and treatment programs, staffed by competent, professionally qualified persons, serving under the supervision of licensed psychologists, psychiatrists or licensed clinical social workers as defined by the regulations of the State Board of Licensed Social Workers.

C. Use of physical force in institutions and other facilities operated by the Department of Juvenile Justice wherein children are housed shall be permitted only under the following circumstances:

1. For self-protection;
2. To separate juveniles who are fighting;
3. To restrain juveniles in danger of inflicting harm to themselves or others; or
4. To restrain juveniles who have escaped or who are in the process of escaping.

D. When use of physical force is authorized, the least force necessary under the circumstances shall be employed.

E. Staff members of residential and nonresidential programs who are assigned to work with juveniles shall receive written guidelines on the use of physical force, and, in accordance with staff disciplinary procedures, loss of employment may result if unauthorized use of physical force is proven.

F. Use of mechanical restraints in institutions and other facilities operated by the Department of Juvenile Justice or the Department of Mental Health and Substance Abuse Services wherein children are housed shall be minimal and shall be prohibited except as specifically provided for in the regulations of each of the Departments.

G. Any contract or agreement between the Department of Juvenile Justice and the Department of Mental Health and Substance Abuse Services for the care and treatment of children in the custody of

the Department of Juvenile Justice shall provide that the Department of Mental Health and Substance Abuse Services shall comply with the provisions of this section.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 612 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Department of Juvenile Justice shall establish and maintain a fair, simple and expeditious system for resolution of grievances of all persons committed to the Department regarding the substance or application of any written or unwritten policy, rule or regulation of the Department or of an agent or contractor of the Department or any decision, behavior or action by an employee, agent or contractor or by other person committed to the Department.

B. The Department of Juvenile Justice is authorized and directed to establish the Office of Advocate Defender within the Department and to employ such personnel as may be necessary to carry out the purposes of subsection A of this section. Such personnel may be dismissed only for cause.

1. The chief administrative officer of the Office of Advocate Defender shall be the Advocate General, who shall be an attorney selected from a list of three names submitted by the Oklahoma Commission on Children and Youth. The Advocate General shall be a member of the Oklahoma Bar Association and shall have a minimum of three (3) years' experience as an attorney. The compensation of the Advocate General shall be no less than that of the classification of Attorney III as established in the Merit System of Personnel Administration classification and compensation plan, but shall be an unclassified position.

2. The duties and responsibilities of the Advocate General are as follows:

- a. supervise personnel assigned to children's institutions and facilities as student defender/representatives,
- b. monitor and review grievance procedures and hearings,
- c. investigate grievances of juveniles and staff grievances related to juveniles which are not resolved at the facility level,
- d. investigate allegations of abuse or neglect of juveniles in Department-operated facilities or juveniles who are in the custody of the Department and placed in a private facility,
- e. coordinate any hearings or meetings of administrative review committees conducted as a result of unresolved grievances or as a result of investigations,
- f. make recommendations to the Director, and provide regular or special reports regarding grievance procedures, hearings and investigations to the Director, the Office of Juvenile System Oversight and other appropriate persons as necessary,
- g. forward to the Office of Juvenile Systems Oversight, for the information of the Director of that office, a copy of the final report of a complaint which is not resolved, through the system for resolution of grievances established by the Department of Juvenile Justice, in the favor of the complainant, and
- h. perform such other duties as required by the Director.

C. The Department shall promptly and immediately report to the appropriate district attorney having jurisdiction any act or omission by persons employed by the Department, perpetrated, committed or suffered or allowed to be perpetrated or committed by such person or persons upon any child in the custody of the Department, wherever housed, when such act or omission, upon

conviction, would constitute an offense against the criminal laws of this state. Copies of all such reports shall be forwarded to the Attorney General.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 613 of Title 10, unless there is created a duplication in numbering, reads as follows:

The Department of Juvenile Justice shall from time to time, but not less often than annually, review its programs and services and submit a report to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Supreme Court of the State of Oklahoma, analyzing and evaluating the effectiveness of the programs and services being carried out by the Department. Such report shall include, but not be limited to:

1. An analysis and evaluation of programs and services continued, established and discontinued during the period covered by the report;
2. A description of programs and services which should be implemented;
3. Relevant information concerning the number of children comprising the population of any Department-operated facility during the period covered by the report; and
4. Such other information as will enable a user of the report to ascertain the effectiveness of the facility.

SECTION 11. AMENDATORY 10 O.S. 1991, 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. "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. "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. "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. ~~"Child in need of treatment" means 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. "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.~~ 6. "Department" means the Department of Human Services.

~~8.~~ 7. "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.~~ 8. "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.~~ 9. "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.~~ 10. "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.~~ 11. "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.~~ 12. "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.~~ 13. "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.~~ 14. "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.~~ 15. "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.~~ 16. "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.~~ 17. "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.~~ 18. "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.~~ 19. "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~~ found to have demonstrable mental illness or to be drug or alcohol dependent, 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~~ found to have demonstrable mental illness or to be drug or alcohol dependent 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~~ found to have demonstrable mental illness or to be drug or alcohol dependent 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~~ found to have demonstrable mental illness or to be drug or alcohol dependent 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 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.

~~21.~~ 20. "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.

~~22.~~ 21. "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.

~~23.~~ 22. "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~~ has a demonstrable mental illness or is drug or alcohol dependent and the least restrictive treatment necessary and appropriate for the child, or
- b. the child ~~is not a child in need of treatment,~~ does not have a demonstrable mental illness or is not drug or alcohol dependent and the mental health services, if any, necessary and appropriate for the child.

~~24.~~ 23. "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~~ with demonstrable mental illness or drug or alcohol dependency; or some combination thereof.

~~25.~~ 24. "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.

~~26.~~ 25. "Training school" means an institution maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of delinquent children.

~~27.~~ 26. "Rehabilitative facility" means a facility maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of children in need of supervision.

~~28.~~ 27. "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 12. AMENDATORY 10 O.S. 1991, 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. When jurisdiction shall have been obtained over a child who is or is alleged to be in need of supervision, ~~a child in need of treatment,~~ or a deprived child, such may be retained until the child becomes eighteen (18) years of age and when jurisdiction shall have been obtained over a child who is or is alleged to be a delinquent, jurisdiction may be retained until the child becomes nineteen (19) years of age. For the convenience of the parties and in the interest of justice, a proceeding under this chapter may be transferred to the district court in any other county.

B. The district court in which a petition is filed or the district court in which custody has been assumed pursuant to the

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

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

D. If the district court in which a petition is filed pursuant to either subsection B or subsection C of this section sustains the petition, the district court shall have the jurisdiction to make a final determination on the juvenile petition or to transfer the proceedings to a court having prior jurisdiction over the child. Where the other proceeding is pending in the same judicial district in which the juvenile petition is filed, the chief judge of the judicial district shall determine if the proceedings shall be consolidated and, if consolidated, which judge shall try the issues when the judges to whom the cases have been assigned are unable to agree on the procedure that should be followed.

E. A municipal court, if authorized by the governing body of the municipality, may enter into an agreement with the district court, pursuant to rules promulgated and adopted by the Oklahoma Supreme Court, to assume jurisdiction of cases involving children under eighteen (18) years of age charged with violating municipal ordinances relating to vandalism, shoplifting, trespassing, assault, battery, assault and battery, truancy, and public intoxication. A child under eighteen (18) years of age may be charged and prosecuted

for violating such a municipal ordinance provided that the maximum fine which may be imposed shall not exceed the maximum fine authorized by law. When assessing punishment, the court also may require appropriate community service work, not to exceed twenty hours, in lieu of a fine if the product of multiplying the number of hours of community service work by the prevailing minimum wage does not result in a number which exceeds the maximum fine authorized by law, or restitution, or both community service work and restitution. In addition, the court may require the child to receive counseling or other community-based services, as necessary. If a child is prosecuted for an offense in a municipal court, the child shall not be prosecuted for the offense in the district court. All municipal arrest and prosecution records for cases involving children under eighteen (18) years of age charged with violating municipal ordinances relating to vandalism, shoplifting, trespassing, assault, battery, assault and battery, truancy, or public intoxication shall be kept confidential and shall not be open to public inspection except by order of the court or as otherwise provided by Sections ~~9 1125 through 14 of Enrolled House Bill No. 1761 of the 1st Session of the 43rd Oklahoma Legislature~~ 1125.4 of this title and Section 620.2 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 13. AMENDATORY 10 O.S. 1991, Section 1103, is amended to read as follows:

Section 1103. A. The court may provide by rule who shall make a preliminary inquiry to determine whether the interests of the public or of the child who is within the purview of this chapter require that further court action be taken. Provided, that where intake is to be provided by the Department under contract with the

Supreme Court, or under the provision of rules issued by the Supreme Court, the preliminary inquiry as set out herein shall follow the uniform contractual procedures as agreed to by the Supreme Court and the Department. If it is determined that no further action be taken, said person or the court may make such informal adjustment as is practicable without a petition.

B. A petition in a juvenile proceeding may be filed by the district attorney or the person who is authorized to make a preliminary inquiry to determine if further action is necessary. The proceeding shall be entitled "In the matter of \_\_\_\_\_, an alleged (delinquent) (deprived) child or (a child alleged to be in need of supervision) ~~or (a child alleged to be in need of treatment)~~".

The petition shall be verified and may be upon information and belief. It shall set forth (1) with particularity facts which bring the child within the purview of Chapter 51 of this title; (2) the name, age and residence of the child; (3) the names and residences of his parents; (4) the name and residence of his legal guardian, if there be one; (5) the name and residence of the person or persons having custody or control of the child; (6) the name and residence of the nearest known relative, if no parent or guardian can be found; (7) the relief requested; and (8) the specific federal law, state law or municipal ordinance under which the child is charged, and an endorsement of witnesses intended to be called by the petitioner, where the child is sought to be adjudged a delinquent child under Chapter 51 of this title. If a termination of parental rights is desired, it must be stated in the petition and summons, and if an order for the payment of funds for the care and maintenance of the child is desired, it must be stated in the petition and summons. If any of the facts herein required are not known by the petitioner, the petition shall so state, along with the reasons why said facts are not known to petitioner.

~~C. A petition alleging a child to be a child in need of treatment shall be filed by a district attorney and may be filed by a district attorney only after receipt and review of a report of a mental health examination of the child by an independent qualified mental health professional.~~

~~D.~~ Nothing in this section shall prevent the filing of a petition alleging a child to be a child ~~in need of treatment and~~ delinquent, in need of supervision or deprived.

~~E.~~ D. A copy of the petition shall be attached to and delivered with the summons.

SECTION 14. AMENDATORY 10 O.S. 1991, Section 1105, is amended to read as follows:

Section 1105. A. Service of summons shall be made as provided for service in civil actions or service may be made by certified mail to such person's last-known address, requesting a return receipt from the addressee only. Where the address of the person to be summoned is not known, or if the mailed summons is returned, the court may order that notice of the hearing be published once in a newspaper of general circulation in the county. The court may not hold the hearing until at least forty-eight (48) hours after the service of the summons, except with the consent of the parent or guardian; provided, however, that the court may not hold the hearing until at least five (5) days after the date of mailing the summons, if the parent is not served within the state, except with the consent of the parent, or if notice is published, until at least ten (10) days after the date of publication; provided, further, that if one or more persons must be served by publication, and if it appears that the court must order the child held in a place of detention in order to meet the requirement of this section with respect to the time for holding a hearing when a party can be served only by publication, the court may advance the date of the hearing, with reasonable notice to the other persons who have been served or are

properly and legally notified, to any date that the court determines to be reasonable and may proceed with the action; but an order determining that a child is delinquent or in need of supervision or is deprived shall not become final until thirty (30) days after the date of the publication of the notice. Nothing contained herein shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical or mental health treatment, to protect the child's health or welfare.

B. Whenever a petition alleging a child to be ~~a child~~ in need of mental health treatment or treatment for alcohol or drug dependency is filed and ~~the court has ordered an inpatient mental health examination of the child, the hearing on the petition shall be set for not more than twenty (20) days after the inpatient admission of the child to a hospital or other mental health facility.~~

~~1. The report of a mental health examination of the child by an independent qualified mental health professional shall be attached to a petition alleging the child to be a child in need of treatment. If such report is not attached to the petition at the time it is filed, or if the court finds the report to be inadequate to aid the court in the adjudication or disposition of the case, the court shall order an independent mental health examination of the child. A report of the examination shall be submitted to the court prior to a hearing on the petition, and the court may order such other reports as it deems necessary in order to aid the court in the adjudication or disposition of the case.~~

~~2. Any report of a mental health examination of a child alleged to be a child in need of treatment that recommends that the child be found to be eligible for inpatient mental health treatment shall be certified and shall be signed by two qualified mental health professionals, at least one of whom shall be independent as defined by Section 1 of this act, the procedure for evaluation, care,~~

treatment, detention and commitment shall be governed by the Mental Health Law, Title 43A of the Oklahoma Statutes.

SECTION 15. AMENDATORY 10 O.S. 1991, Section 1107, is amended to read as follows:

Section 1107. A. A child may be taken into custody prior to the filing of a petition:

1. By a peace officer, or employee of the court without a court order if the child is found violating any law or ordinance, or if the child is willfully and voluntarily absent from the home of the child without the consent of the parent, guardian or legal custodian for a substantial length of time or without intent to return, or if the child's surroundings are such as to endanger the welfare of the child.

2. Pursuant to an order of the district court issued on the application of the office of the district attorney. The application presented by the district attorney may be supported by a sworn affidavit which may be based upon information and belief. The application shall state facts sufficient to demonstrate to the court that there is reasonable suspicion to believe the child is in need of protection due to abandonment, abuse or neglect, or is in surroundings that are such as to endanger the welfare of the child.

B. Whenever a child is taken into custody as a delinquent child or a child in need of supervision, the child shall be detained or be released to the custody of his parent, guardian, attorney or custodian, upon the written promise of such parent, guardian, attorney or custodian to bring the child to the court at the time fixed. If detained, such child shall be taken immediately before a judge of the district court in the county in which the child is sought to be detained, or to the place of detention or shelter designated by the court. If no judge be available locally, the person having the child in custody shall immediately report his detention of the child to the presiding judge of the judicial

administrative district, provided that the child shall not be detained in custody beyond the next judicial day or for good cause shown due to problems of arranging for and transporting the child to and from a regional juvenile detention center, beyond the next two (2) judicial days unless the court shall so order after a detention hearing to determine if there exists probable cause to detain the child, as provided in Section 1107.1 of this title. If the latter judge cannot be reached, such detention shall be reported immediately to any judge regularly serving within the judicial administrative district. If detained, a reasonable bond for release shall be set. Pending further disposition of the case, a child whose custody has been assumed by the court may be released to the custody of a parent or other person appointed by the court, or be detained pursuant to the provisions of Section 1107.1 of this title in such place as shall be designated by the court, subject to further order.

C. Whenever a child is taken into custody as a deprived child, he shall be taken to a shelter, hospital, foster home or other appropriate place as designated by the court, or he shall be taken immediately before a judge of the district court for the purpose of obtaining an order for protective custody. When a child has been taken into custody as a deprived child without a court order, the peace officer or employee of the court taking the child into custody shall immediately report the fact of the detention of the child to a judge of the district court in the county in which the child was taken into custody. If no judge is available locally, the detention shall be reported immediately to the presiding judge of the judicial administrative district, or if the presiding judge of the judicial administrative district cannot be reached, then to any judge regularly serving within the judicial administrative district. Within the next two (2) judicial days following the child being taken into custody, and thereafter at such intervals as may be

determined by the court, the court shall conduct a hearing to determine whether the child should remain in protective custody or be released to the parent, guardian, legal custodian or another responsible person pending further proceedings pursuant to this chapter. The parent or legal guardian of the child shall be given immediate notice of the custody of the child whenever possible and prior adequate notice of the hearing. The court may release an alleged deprived child from protective custody upon such conditions as the court finds reasonably necessary for the protection of the child and the court shall determine whether the allegations regarding the child are such that additional time for the filing of a petition pursuant to subsection B of Section 1104.1 of this title is warranted.

D. When any child is taken into custody pursuant to this title and it reasonably appears to the peace officer, employee of the court or person acting pursuant to court order that the child is in need of medical treatment to preserve his health, any peace officer, any employee of the court or person acting pursuant to court order shall have the authority to authorize medical examination and medical treatment for any child found to be in need of medical treatment as diagnosed by a competent medical authority in the absence of a parent or guardian who is competent to authorize medical treatment. The officer or the employee of the court or person acting pursuant to court order shall authorize said medical treatment only after exercising due diligence to locate the parent, guardian or other person legally competent to authorize said medical treatment. The parent, guardian or custodian of the child shall be responsible for such medical expenses as ordered by the court. No peace officer, any employee of the court or person acting pursuant to court order authorizing such treatment in accordance with the provisions of this section for any child found in need of such

medical treatment shall have any liability, civil or criminal, for giving such authorization.

E. ~~1.~~ No child who is alleged or adjudicated to be deprived, delinquent, or in need of supervision ~~or in need of treatment~~, or who has been taken into custody as otherwise provided by this title, shall be admitted to a hospital or mental health facility:

~~a~~ 1. on an emergency psychiatric basis except as provided by ~~subsection F of this section~~ the Mental Health Law, Title 43A of the Oklahoma Statutes;

~~b~~ 2. for an inpatient mental health examination except as provided by ~~Section 9 of this act~~ the Mental Health Law, Title 43A of the Oklahoma Statutes; or

~~e~~ 3. for inpatient mental health care and treatment except upon a finding by the court that the child is eligible for such services as provided by ~~Section 7 of this act~~ the Mental Health Law, Title 43A of the Oklahoma Statutes.

~~2. Whenever a child is taken into custody as a child in need of treatment, he shall be taken to a shelter, hospital, foster home or other appropriate place as designated by the court, or he shall be taken immediately before a judge of the district court for the purpose of obtaining an order for protective custody. When a child has been taken into custody as a child in need of treatment without a court order, the peace officer or employee of the court taking the child into custody shall immediately report the fact of the detention of the child to a judge of the district court in the county in which the child was taken into custody. If no judge is available locally, the detention shall be reported immediately to the presiding judge of the judicial administrative district, or if the presiding judge of the judicial administrative district cannot be reached, then to any judge regularly serving within the judicial administrative district. The parent or legal guardian of the child shall be given immediate notice of the custody of the child whenever~~

~~possible and prior adequate notice of any hearing pursuant to this subsection. Within the next two (2) judicial days following the child being taken into custody, and thereafter at such intervals as may be determined by the court, the court shall conduct a hearing to determine whether the child should remain in protective custody or be released to the parent, guardian, legal custodian or another responsible person pending further proceedings pursuant to this chapter. The court may release an alleged child in need of treatment from protective custody upon such conditions as the court finds reasonably necessary for the protection of the child or others and the court shall determine whether the allegations regarding the child are such that additional time for the filing of a petition pursuant to subsection D of Section 1104.1 of this title is warranted. Any protective order of the court pursuant to this subsection for a mental health examination of the child shall be as provided by Section 9 of this act.~~

~~3. Nothing in this subsection or subsection F of this section shall be interpreted to preclude or prohibit the admission of a child to a hospital for needed medical care and services, other than mental health treatment or examination.~~

~~F. After a prescreening examination and a determination by a qualified mental health professional that there is reasonable cause to believe that as a result of a demonstrable mental illness there exists an imminent danger that the child will intentionally or unintentionally seriously physically injure himself or another person, a child may be admitted to a hospital or mental health facility on an emergency psychiatric basis. Except upon an order of the court for an inpatient mental health examination of the child as provided by Section 9 of this act, such emergency psychiatric admission shall be for not more than two (2) judicial days, excluding weekends and legal holidays.~~

SECTION 16. AMENDATORY 10 O.S. 1991, 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, an order for secure detention shall remain in force and effect for not more than ten (10) days after such order. Upon an application of the district attorney and after a hearing on such application, the court, for good and sufficient cause shown, may extend the effective period of such an order for an additional period not to exceed ten (10) days after such hearing. The total period of pre-adjudicatory or predisposition shall not exceed the ninety-day limitation as specified in subparagraph a of this paragraph. The child shall be present at the hearing on the application for extension unless, as authorized and approved by the court, the attorney for the child is present at the hearing and the child is available to participate in the hearing via telephone conference communication. For the purpose of this paragraph, "telephone

conference communication" means use of a telephone device that allows all parties, including the child, to hear and be heard by the other parties at the hearing. After the hearing, the court may order continued detention in a juvenile detention center, may order the child detained in an alternative to secure detention or may order the release of the child from detention.

2. No child alleged or adjudicated to be deprived, ~~or~~ or 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, ~~or~~ or a child in need of supervision, ~~or a child in need of treatment, may~~ shall 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 serious act as defined by Section ~~2~~ 1160.2 of this ~~act~~ title; or

5. the child is detained for the commission of a crime that would constitute a habitual criminal act as defined by Section ~~2~~ 1160.2 of this ~~act~~ title; or

6. the child is currently charged with a felony act as defined by Section ~~2~~ 1160.2 of this ~~act~~ title 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 adopted pursuant to Section ~~3~~ 1160.3 of this ~~act~~ title.

D. 1. Except as otherwise provided in this section, no child ~~may~~ shall 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.

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.

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.

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 17. AMENDATORY 10 O.S. 1991, Section 1109, is amended to read as follows:

Section 1109. A. No information gained by questioning a child nor any evidence subsequently obtained as a result of such information shall be admissible into evidence against the child unless the questioning about any alleged offense by any law enforcement officer or investigative agency, or employee of the court, or the Department is done in the presence of the parents, guardian, attorney, or legal custodian of the child. No such questioning shall commence until the child and his parents, or guardian, or other legal custodian have been fully advised of the constitutional and legal rights of the child, including the right to be represented by counsel at every stage of the proceedings, and the right to have counsel appointed by the court if the parties are without sufficient financial means; provided, however, that no legal aid or other public or charitable legal service shall make claim for compensation as contemplated herein. It is further provided that where private counsel is appointed in such cases, the court shall set reasonable compensation and order the payment out of the court fund.

B. If the parents, guardian, or other legal custodian of the child requests an attorney and is found to be without sufficient financial means, counsel shall be appointed by the court if a petition has been filed alleging that the child is a deprived child, or a child in need of supervision, ~~or a child in need of treatment,~~ or if termination of parental rights is a possible remedy, provided that the court may appoint counsel without such request, if it deems representation by counsel necessary to protect the interest of the parents, guardian or other legal custodian. If the child is not otherwise represented by counsel, whenever a petition is filed pursuant to the provisions of Section 1103 of this title, the court shall appoint a separate attorney, who shall not be a district

attorney, for the child regardless of any attempted waiver by the parent or other legal custodian of the child of the right of the child to be represented by counsel.

C. Whenever a petition is filed alleging that a child is a deprived child, a delinquent child, or a child in need of supervision ~~or a child in need of treatment~~, the court may appoint a guardian ad litem for the child at any time subsequent to the filing of the petition and shall appoint a guardian ad litem upon the request of the child or his attorney and whenever a court-appointed special advocate is available to the court to serve as a guardian ad litem regardless of whether or not a guardian ad litem has been requested by the child or his attorney. The availability of a court-appointed special advocate shall be determined by the executive director of the ~~court-appointed~~ court-appointed special advocate program for the county.

1. The guardian ad litem shall not be a district attorney, an employee of the office of the district attorney, an employee of the court, an employee of a juvenile bureau established pursuant to the provisions of Sections 1201 through 1210 of this title, or an employee of any public agency having duties or responsibilities towards the child.

2. Whenever a court-appointed special advocate is available for appointment as a guardian ad litem as provided by this subsection, the court shall give priority to the appointment of a court-appointed special advocate as the guardian ad litem of a deprived child.

D. For the purpose of this section and Section 846 of Title 21 of the Oklahoma Statutes, a "court-appointed special advocate" or "CASA" means a responsible adult, other than an attorney for the parties, who has volunteered to be available for appointment by the court to serve as an officer of the court and represent any child wherein a juvenile petition has been filed, based on the

availability of volunteers, until discharged by the court. It shall be the duty and responsibility of the court-appointed special advocate to advocate for the best interests of the child and to assist the child in obtaining a permanent, safe, homelike placement.

The court-appointed special advocate shall be given access to the court file and access to all records and reports relevant to the case and to any records and reports of examination of the child's parent or other custodian, made pursuant to this section or Section 846 of Title 21 of the Oklahoma Statutes.

A court-appointed special advocate shall serve without compensation and shall have such other qualifications and duties and responsibilities as may be prescribed by rule by the Supreme Court. Any person participating in a judicial proceeding as a court-appointed special advocate shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any civil liability that otherwise might be incurred or imposed. Any person serving in positions of management of a CASA organization, including members of the Board of Directors acting in good faith, shall be immune from any civil liability or any vicarious liability for the negligence of any CASA organization advocates, managers, or directors.

All records concerning child abuse shall be confidential and shall be open to inspection only to persons duly authorized by the state or United States in connection with the performance of their official duties. It shall be unlawful and a misdemeanor for the Commission, or any employee working under the Department of Human Services, any other public officer or employee, or any court-appointed special advocate (CASA), to furnish or permit to be taken off of the records any information therein contained for commercial, political or any other unauthorized purpose.

E. The district attorney shall prepare and prosecute any case or proceeding within the purview of Chapter 51 of this title.

SECTION 18. AMENDATORY 10 O.S. 1991, Section 1110, is amended to read as follows:

Section 1110. In adjudicatory hearings to determine whether a child is delinquent, in need of supervision, ~~in need of treatment~~ or deprived, the child informed against, or any person entitled to service of summons, shall be entitled to a speedy and impartial hearing, and shall have the right to demand a trial by jury, which shall be granted as in other cases, unless waived, or the judge on his own motion may call a jury to try any such case. Such jury shall consist of six (6) persons.

SECTION 19. AMENDATORY 10 O.S. 1991, 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.

1. Except as provided by paragraph 2 of this subsection, 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.

2. Hearings related to ~~the second or subsequent~~ any delinquency adjudication of a child shall be public proceedings. ~~The adjudications relied upon to determine whether a hearing is a public proceeding pursuant to this paragraph shall not have arisen out of the same transaction or occurrence or series of events closely related in time and location.~~ Upon its own motion or the motion of any of the parties to the hearing and for good cause shown, the court may order specific testimony or evidence to be heard in private. For the purposes of this paragraph, "good cause" shall

mean a showing that it would be substantially harmful to the mental or physical well-being of the child if such testimony or evidence were presented at a public hearing.

B. The child may remain silent as a matter of right in delinquency hearings, in need of supervision hearings and in need of treatment hearings, and before he is interrogated, he shall be so advised. A child who is determined to be competent to testify shall not refuse to be a witness in a hearing to determine whether or not said child is deprived, unless the privilege against self-incrimination is invoked. The testimony of said child may be given as provided by Section 1147 or 1148 of this title or as otherwise authorized by law for the protection of child witnesses.

C. 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.

SECTION 20. AMENDATORY 10 O.S. 1991, Section 1114, is amended to read as follows:

Section 1114. A. If the court finds that the allegations of the petition are supported by the evidence, and that it is in the best interest of the child and the public that he be made a ward of the court, the court shall sustain the petition, and shall make an order of adjudication, setting forth whether the child is delinquent, or in need of supervision or deprived and shall adjudge the child as a ward of the court.

B. If the court finds the allegations on a petition alleging a child to be ~~a child~~ in need of mental health treatment or treatment for alcohol or drug dependency are supported by clear and convincing evidence, ~~including but not limited to the evidence of a mental~~

~~health examination of the child by an independent qualified mental health professional pursuant to the provisions of Section 4 of this act, and that it is in the best interest of the child that he be made a ward of the court, the court shall sustain the petition and shall make an order of adjudication~~ proceed pursuant to the provisions of the Mental Health Law, Title 43A of the Oklahoma Statutes. If warranted by the facts in the case, an order of adjudication finding a child to be ~~a child~~ in need of mental health treatment or treatment for alcohol or drug dependency shall not serve to preclude a subsequent order of adjudication finding a child to be delinquent, in need of supervision or deprived or to vacate any such order of adjudication previously entered.

SECTION 21. AMENDATORY 10 O.S. 1991, 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.

- a. 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.
- b. In issuing orders to a parent, guardian, legal guardian, stepparent or other adult person living in the home of a child adjudicated to be a delinquent child or in making other disposition of said delinquent child, the court may consider the testimony of said parent, guardian, legal guardian, stepparent or other adult person concerning the behavior of the juvenile and his ability to exercise parental control over the behavior of the juvenile.
- c. In any dispositional order involving a child age sixteen (16) or older, the court shall make a determination, where appropriate, of the services

needed to assist the child to make the transition from foster care to independent living.

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 unless the child has been adjudicated to be delinquent.

5. The court may commit the child to the custody of Department of Juvenile Justice, if the child has been adjudicated to be delinquent, and also may order that the child be placed in an institution or facility maintained by the state for delinquent children; provided, any order adjudicating a child to be delinquent

and committing the child to the Department of Juvenile Justice 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. With respect to a child adjudicated a delinquent child, the court may:

- a. for acts involving criminally injurious conduct as defined in Section 142.3 of Title 21 of the Oklahoma Statutes, order the child 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. Except as otherwise provided by law, such adjudication order shall be kept confidential by the Board,

- b. order the child to engage in a term of community service without compensation. The state or any political subdivision shall not be liable if a loss or claim results from any acts or omission of a child ordered to engage in a term of community service pursuant to the provisions of this paragraph,
- c. if it is consistent with the welfare of the child, 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,
- d. order the cancellation or denial of driving privileges as provided by Sections 6-107.1 and 6-107.2 of Title 47 of the Oklahoma Statutes,
- e. in accordance with the guidelines approved and adopted by the Oklahoma Supreme Court for the implementation of the Serious and Habitual Juvenile Offender Program, make the following orders: sanction detention in the residence of the child or facility designated by the Department of ~~Human Services~~ Juvenile Justice or the juvenile bureau for such purpose for up to five (5) days; weekend detention in a place other than a juvenile detention facility or shelter; tracking; or house arrest with electronic monitoring. On and after the adoption of guidelines by the Oklahoma Supreme Court for the Implementation of the Serious and Habitual Juvenile Offender Program, the provisions of subparagraphs a through d of this paragraph shall be subject to said guidelines,

f. in accordance with the guidelines approved and adopted by the Oklahoma Supreme Court for the implementation of the Serious and Habitual Juvenile Offender Program, impose sanctions for the violation of pre-adjudicatory or postadjudicatory violations of probation.

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

9. In any dispositional order removing a child from the home of the child, the court shall make a determination that, in accordance with the best interests of the child, reasonable efforts have been made to provide for the return of the child to the child's own home, or that efforts to reunite the family are not feasible, and reasonable efforts are being made to secure an alternate permanent placement for the child.

B. ~~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~~ a child is ~~subsequently~~ placed in a hospital or mental health facility for ~~said~~ inpatient mental health treatment, pursuant to court order, 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.

C. 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.

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

E. 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.

F. 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, or 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.

SECTION 22. AMENDATORY 10 O.S. 1991, Section 1117, is amended to read as follows:

Section 1117. A. 1. Whenever the court transfers custody of a child as provided in Section 1116 of this title, the person, institution, agency, or Department receiving custody shall have the right to, and shall be responsible for, the care and control of the child, and shall have the duty and authority to provide food, clothing, shelter, ordinary medical care, education, discipline for the child, and, in an emergency, to authorize surgery or other extraordinary care. ~~Except for an emergency psychiatric admission pursuant to subsection F of Section 5 of this act, said~~ Said person, institution, agency or department may:

- a. provide or arrange for the provision of an inpatient mental health examination of such child only pursuant to a court order as provided by ~~Section 9 of this act~~ the Mental Health Law, Title 43A of the Oklahoma Statutes,
- b. provide or arrange for the provision of inpatient mental health care and treatment of such child only after the filing of a petition alleging the child to be a child in need of mental health treatment or treatment for drug or alcohol dependency and a finding by the court that the child is eligible for inpatient mental health care and treatment.

Nothing in this subsection shall be interpreted to prohibit or preclude the provision of outpatient mental health services, including an outpatient mental health examination, counseling,

educational, rehabilitative or other similar services to said child, as necessary and appropriate, in the absence of a specific court order for such services.

2. The medical care, surgery and extraordinary care shall be charged to the appropriate agency where the child qualifies for the care under law, rule, regulation or administrative order or decision.

3. Nothing in this subsection shall be interpreted to:

- a. relieve a parent of the obligation to provide for the support of the child as otherwise provided by law, or
- b. limit the authority of the court to order a parent to make support payments or to make payments or reimbursements for medical care or treatment, including mental health care or treatment, to the person, institution, agency or Department having custody of the child, or
- c. abrogate the right of the child to any benefits provided through public funds for which the child is otherwise eligible.

4. No person, agency or institution shall be liable in a civil suit for damages for authorizing or not authorizing surgery or extraordinary care in an emergency, as determined by competent medical authority.

B. The person, institution, agency, or Department having legal custody of a child pursuant to an order of the court shall receive notice of court proceedings regarding the child as provided in Sections 1105 and 1115 of this title and shall be allowed to intervene upon application as a party to all court proceedings pertaining to the care and custody of the child including, but not limited to: adjudication, disposition, review of disposition, and termination of parental rights.

SECTION 23. AMENDATORY 10 O.S. 1991, Section 1120, is amended to read as follows:

Section 1120. A. After a petition under the provisions of this title has been filed, the court may order the child to be examined and evaluated by a physician or other appropriate professional to aid the court in making the proper disposition concerning the child. The court may order a mental health examination of a child as provided by subsection C of this section.

B. Whenever a child concerning whom a petition has been filed appears to be in need of nursing, medical or surgical care, the court may order the parent or other person responsible for the care and support of the child to provide such care in a hospital or otherwise. If the parent or other person fails to provide such care, the court may, after due notice, enter an order therefor, and the expense thereof, when approved by the court, shall be a charge upon the county, but the court may adjudge that the person having the duty under the law to support the child pay part or all of the expenses of such care. In an emergency the court may, when health or condition of the child may require it, cause the child to be placed in a public hospital or institution for treatment or special care, or in a private hospital or institution which will receive the child for like purpose, and consent to emergency treatment or surgery.

C. After a prescreening mental health evaluation and upon an application by the district attorney, the court may issue an order for a mental health examination of a child alleged or adjudicated to be a delinquent, in need of supervision, or ~~or~~ ~~deprived~~ ~~or~~ ~~in~~ ~~need~~ ~~of~~ ~~treatment~~, or who has been taken into custody as otherwise provided by this title, ~~by an independent qualified mental health professional~~ pursuant to the provisions of the Mental Health Law, Title 43A of the Oklahoma Statutes.

~~1. The court shall order an inpatient mental health examination only after a finding that there exists an imminent danger that the child will seriously physically injure himself or another person and therefore the mental health examination cannot be conducted on an outpatient basis. Such finding shall be based upon clear and convincing evidence and any order of the court for an inpatient mental health examination shall be for not more than ten (10) days.~~

~~2. In all other cases, the court shall order the mental health examination of the child to be conducted on an outpatient basis in or near the community in which the child resides at the time of such order.~~

D. After adjudication and at the request of a judge in any juvenile proceeding, the Department shall investigate the home conditions and environment of the child and the financial ability, occupation and earning capacity of the parent, legal guardian or custodian of the child. Upon request by the court of another state, the Department may conduct a similar investigation.

SECTION 24. AMENDATORY 10 O.S. 1991, Section 1129, is amended to read as follows:

Section 1129. Chapter 51 of this title shall be liberally construed, to the end that its purpose may be carried out, to wit:

1. That the care and custody and discipline of the child shall approximate, as nearly as may be, that which should be given by its parents, and that, as far as practicable, any delinquent child shall not be treated as a criminal.

2. That the public policy of this state is to assure adequate and appropriate care and treatment for any child, to allow for the use of the least restrictive method of treatment consistent with the treatment needs of the child and, in the case of delinquents, the protection of the public, to provide orderly and reliable procedures for the placement of a child ~~alleged to be a child in need of~~

~~treatment~~ and to protect the rights of any child placed out of his home pursuant to law.

SECTION 25. AMENDATORY 10 O.S. 1991, Section 1135.2, is amended to read as follows:

Section 1135.2 A. The Department of Human Services and the Department of Mental Health and Substance Abuse Services, no later than January 1, 1987, shall jointly:

1. Establish procedures which shall ensure that children ~~adjudicated in need of treatment and placed~~ in the custody of the Department of Human Services shall have adequate and appropriate access to the services, including but not limited to inpatient services, emergency services, group homes, and day treatment services, provided through the Oklahoma Youth Center and to other appropriate facilities and programs operated by or available through the Department of Mental Health and Substance Abuse Services; and

2. Establish administrative procedures for the timely and expeditious resolution of any dispute which may arise over the placement of a child in a facility or program operated by the Department of Mental Health and Substance Abuse Services. Such procedures shall, at a minimum, provide:

- a. for a person designated by each Department to serve as its representative for the purpose of resolving any dispute which may arise over the placement of a child in an inpatient treatment facility operated by the Department of Mental Health and Substance Abuse Services; and
- b. that whenever there is no resolution of a dispute over the placement of a child in an inpatient facility operated by the Department of Mental Health and Substance Abuse Services within three (3) working days after the initial request of the Department of Human Services for the consent of the Department of Mental

Health and Substance Abuse Services for the placement of a child in a Department of Mental Health and Substance Abuse Services inpatient facility, an arbitrator provided for in subsection B of this section will be notified, and the matter will be immediately submitted for arbitration and that the decision of the arbitrator shall be a final decision; and

- c. an opportunity for the child whose placement is in dispute to be represented at any arbitration proceedings regarding his placement.

B. No later than January 1, 1987, the Department of Human Services and the Department of Mental Health and Substance Abuse Services shall jointly select an individual to serve as arbitrator and an individual to serve as an alternate in case the arbitrator is unavailable. Any person selected to serve as an arbitrator or alternate arbitrator shall:

1. be a person qualified to make a decision regarding the placement of a child ~~adjudicated to be a child~~ in need of mental health treatment or treatment for drug or alcohol dependency;

2. agree to make his services immediately available upon notification of a dispute to be resolved; and

3. agree to provide a decision within no more than one (1) week after notification of a dispute over the placement of a child.

C. If for any reason the Department of Human Services and the Department of Mental Health and Substance Abuse Services are unable to jointly agree upon a person to serve as arbitrator by January 1, 1987, the Commission on Children and Youth shall select said person at its next regularly scheduled monthly meeting.

D. Nothing in this title shall be construed as prohibiting the Department of Mental Health and Substance Abuse Services from admitting a child, upon the voluntary application for admission by

his parent or legal guardian and the recommendation of a qualified mental health professional for such admission, to a facility or program operated by the Department of Mental Health and Substance Abuse Services appropriate for the care and treatment of the child.

SECTION 26. AMENDATORY 10 O.S. 1991, Section 1136, is amended to read as follows:

Section 1136. It shall be the responsibility of the Department to provide care for deprived children who are committed to the care of the Department for custody or guardianship. The Department may provide for the care of such children in the home of the child, the home of a relative of the child, in a foster home, group home, transitional living program, independent living program or in any other community-based facility under the jurisdiction or licensure of the Department established for the care of deprived children, except that a deprived child may not be placed in an institution operated by the Department after October 1, 1982. Any deprived children in Department-operated institutions on October 1, 1982, shall be removed from such institutions no later than June 30, 1983. A deprived child found to be ~~a child~~ in need of mental health treatment or treatment for alcohol or drug dependency and eligible for residential care and treatment, as provided in Section 1116 of this title, by the court, may be placed in a ~~Department treatment center or other~~ mental health facility pursuant to the provisions of the Mental Health Law, Title 43A of the Oklahoma Statutes.

SECTION 27. AMENDATORY 10 O.S. 1991, Section 1137, is amended to read as follows:

Section 1137. A. Whenever a child who has been adjudicated by the court as a child in need of supervision has been committed to the Department, the Department may place the child in the home of the child, the home of a relative of the child, foster home, group home, transitional living program, independent living program, community-based setting, rehabilitative facility or child care

facility under the operation of or licensure of the state, or in a state school for the mentally retarded if eligible for admission thereto. No child in need of supervision shall be placed in a Department-operated institution, other than a rehabilitative facility, after October 1, 1982. Any children in need of supervision in Department-operated institutions on October 1, 1982, shall be removed from such institutions no later than June 30, 1983.

B. The Department may establish and maintain one or more rehabilitative facilities to be used exclusively for the custody of children in need of supervision. Each such facility shall be, primarily, a nonsecure facility having as its primary purpose the rehabilitation of children adjudicated to be in need of supervision. Such facility shall have a bed capacity for no more than twenty children, and shall minimize the institutional atmosphere and prepare the child for reintegration into the community. Provided however, that such facility may be designed and operated as a secure facility used exclusively for children in need of supervision whom the court has specifically found to be so unmanageable, ungovernable and antisocial that no other reasonable alternative exists for treatment or restraint other than placement in such a secure facility. Such facility shall not rely on locked rooms, fences, or physical restraints.

C. A child in need of supervision who has been found to be a ~~child~~ in need of mental health treatment or treatment for alcohol or drug dependency and to be eligible for residential care and treatment, as provided in Section 1116 of this title, by the court, may be placed in a ~~Department-operated treatment center or other~~ mental health facility pursuant to the provisions of the Mental Health Law, Title 43A of the Oklahoma Statutes.

SECTION 28. AMENDATORY 10 O.S. 1991, 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;
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~~ Juvenile Justice, 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 of Juvenile Justice, and the court has not ordered that the child be placed in an institution or facility maintained by the state for delinquent children, the Department ~~may~~ shall:

1. Place the child in ~~a state training school or other~~ an 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 of Juvenile Justice to be in the best interest of the child; or

7. ~~Place~~ Petition the court, pursuant to the Mental Health Law, Title 43A of the Oklahoma Statutes, to 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 29. AMENDATORY 10 O.S. 1991, Section 1140, is amended to read as follows:

Section 1140. A. If a child who has been adjudicated ~~as a delinquent,~~ a child in need of supervision, or deprived, and who has been committed to the Department of Human Services becomes unmanageable and uncontrollable while in the legal custody of the Department, the Department may return the child to the court having original jurisdiction for further disposition or may provide information to the district attorney and request the filing of a petition alleging the child to be delinquent or in need of ~~treatment~~ mental health treatment or treatment for alcohol or drug dependency, if such petition is warranted by the facts in the case.

B. If a child who has been adjudicated as a delinquent and who has been committed to the Department of Juvenile Justice becomes unmanageable and uncontrollable while in the legal custody of the Department of Juvenile Justice, the Department may return the child

to the court having original jurisdiction for further disposition or may provide information to the district attorney and request the filing of a petition for involuntary commitment pursuant to the Mental Health Law, Title 43A of the Oklahoma Statutes.

SECTION 30. AMENDATORY 10 O.S. 1991, Section 1141, is amended to read as follows:

Section 1141. A. The Department of Juvenile Justice 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 of Juvenile Justice may participate in federal programs for juvenile probation officers, and may apply for, receive, use and administer federal funds for such purpose.

B. A pre-adjudicatory substance abuse assessment of a child may be conducted in conjunction with a court intake or preliminary inquiry pursuant to an alleged delinquent act or upon admission to a juvenile detention facility through the use of diagnostic tools including but not limited to urinalysis, structured interviews or substance abuse projective testing instruments.

1. Information gained from the substance abuse assessment pursuant to this subsection shall be used only for substance abuse treatment and for no other purpose. The results shall not be used in any evidentiary or fact-finding hearing in a juvenile proceeding or as the sole basis for the revocation of a community-based placement or participation in a community-based program.

2. The results of the substance abuse assessment may be given to the child's intake, probation or parole counselor, the parent or guardian of the child or to his attorney. In accordance with the guidelines established pursuant to the Serious and Habitual Juvenile Offender Program and Section ~~44~~ 620.6 of this ~~act~~ title, the counselor may also provide the results of the substance abuse

assessment with medical personnel, therapists, school personnel or others for use in the treatment and rehabilitation of the child.

C. In accordance with the guidelines adopted pursuant to the Serious and Habitual Juvenile Offender Program, the Department of ~~Human Services~~ Juvenile Justice and the juvenile bureaus established by Section 1201 of this title shall implement:

1. Court intake risk-assessment for children alleged or adjudicated to be delinquent;

2. The imposition of administrative sanctions for the violation of a condition of probation or parole;

3. A case management system for ensuring appropriate:

a. diversion of youth from the juvenile justice system,

b. services for and supervision of all youth on pre-adjudicatory or postadjudicatory probation or on

parole and for juvenile offenders in the custody of the Department of ~~Human Services~~ Juvenile Justice, and

c. intensive supervision of serious and habitual offenders and communication between law enforcement and juvenile court personnel and others regarding said offenders;

4. Guidelines for juvenile court personnel recommendations to district attorneys regarding the disposition of individual cases by district attorneys.

D. The Department of ~~Human Services~~ Juvenile Justice shall establish directly and by contract, the services necessary to implement the Serious and Habitual Juvenile Offender 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, highly structured placements, transitional programs, 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 31. AMENDATORY 10 O.S. 1991, Section 1160.2, is amended to read as follows:

Section 1160.2 As used in ~~Sections 1 through 28 of this act~~  
this title:

1. "Agencies comprising the juvenile justice system" means:
  - a. the courts, the District Attorney's Council and offices of the district attorneys, state and local law enforcement agencies, juvenile bureaus established pursuant to Section 1201 of Title 10 of the Oklahoma Statutes, the Department of Juvenile Justice, the Department of Human Services, the Oklahoma Commission on Children and Youth, the Department of Corrections, the Criminal Justice Resource Center, any other state agency responsible for the care, custody or supervision of youth alleged or adjudicated to be delinquent, and
  - b. to the extent that they are responsible for the provision of services to youth alleged or adjudicated to be delinquent, including but not limited to educational, treatment or residential services, local school districts and area vocational-technical schools and other public and private agencies not otherwise specifically included in subparagraph a of this paragraph, comprising the "children and youth service system" as defined by Section 600 of Title 10 of the Oklahoma Statutes;
2. "Felony act" or "felony offense" means any criminal offense that would constitute a felony crime if committed by an adult;

3. "Habitual criminal acts" means three separate delinquency adjudications for the commission of felony acts. The felony acts relied upon shall not have arisen out of the same transaction or occurrence or series of events related in time and location;

4. "Juvenile court personnel" means those persons responsible for juvenile court intake, probation and parole supervision and services to youth alleged or adjudicated to be delinquent;

5. "Juvenile Justice Information System" means the automated information system established by Section ~~6~~ 1160.6 of this ~~act~~ title;

6. "Juvenile offender" means a delinquent child as defined by Section 1101 of Title 10 of the Oklahoma Statutes;

7. "Sanction" means a consequence imposed upon a juvenile offender:

a. as a result of a criminal act, and

b. as a result of a violation of a condition of probation or parole;

8. "Serious act" means any crime specified by subsection A of Section 1104.2 of Title 10 of the Oklahoma Statutes;

9. "Serious and Habitual Juvenile Offender Program" means the program of information, information sharing, case tracking, case management, supervision and sanctions established by Section ~~3~~ 1160.3 of this ~~act~~ title;

10. "Serious and Habitual Juvenile Offender Program Implementation Task Force" means the Task Force created by Section ~~5~~ 1160.5 of this ~~act~~ title for the purpose of implementing the Serious and Habitual Juvenile Offender Program; and

11. "Serious juvenile offender" and "habitual juvenile offender" means persons under eighteen (18) years of age who have been adjudicated delinquent for the commission of serious acts or habitual criminal acts and are subject to the Serious and Habitual

Juvenile Offender Program in accordance with the criteria established pursuant to Section ~~3~~ 1160.3 of this ~~act~~ title.

SECTION 32. AMENDATORY 10 O.S. 1991, Section 1160.4, is amended to read as follows:

Section 1160.4 For the purpose of achieving full implementation of the Serious and Habitual Juvenile Offender Program on or before July 1, 1995:

1. The Oklahoma Commission on Children and Youth shall:
  - a. appoint the members of the Serious and Habitual Juvenile Offender Program Implementation Task Force and facilitate and coordinate the work of the Serious and Habitual Juvenile Offender Program Implementation Task Force,
  - b. facilitate and oversee the adoption of the contracts or interagency agreements necessary for:
    - (1) the delineation of the service responsibilities and the coordinated delivery of services to youth alleged or adjudicated to be delinquent by the agencies responsible for the implementation of the Serious and Habitual Juvenile Offender Program, and
    - (2) the delineation of the roles and responsibilities of the agencies for the implementation of the Juvenile Justice Information System, the information to be shared among them on a regular basis, and the procedures for processing case-profiles as cases move through agencies that come into contact with juvenile offenders, and
  - c. oversee the implementation of the Serious and Habitual Juvenile Offender Program;

2. In accordance with the proposed guidelines recommended by the Serious and Habitual Juvenile Offender Program Implementation

Task Force, the Department of Juvenile Justice, the Department of Human Services, the juvenile bureaus established pursuant to Section 1201 of Title 10 of the Oklahoma Statutes, the District Attorney's Council, the Oklahoma State Supreme Court as authorized and directed by Section 602 of Title 10 of the Oklahoma Statutes and Section 23 of Title 20 of the Oklahoma Statutes, the Oklahoma Commission on Children and Youth, the Oklahoma State Bureau of Investigation, local law enforcement agencies, and other agencies comprising the juvenile justice system shall:

- a. develop and implement the Serious and Habitual Juvenile Offender Program,
- b. develop and implement the Juvenile Justice Information System,
- c. adopt rules, policies, procedures, standards, protocols and guidelines, as appropriate, for the development and implementation of the Serious and Habitual Juvenile Offender Program and the Juvenile Justice Information System, and
- d. enter into contracts or interagency agreements under the Interlocal Cooperation Act, as appropriate for the purpose of implementing the Serious and Habitual Juvenile Offender Program and the Juvenile Justice Information System.

SECTION 33. AMENDATORY 10 O.S. 1991, Section 1160.5, is amended to read as follows:

Section 1160.5 A. There is hereby created within the Oklahoma Commission on Children and Youth until July 1, 1996, the Serious and Habitual Juvenile Offender Program Implementation Task Force.

B. The Serious and Habitual Juvenile Offender Program Implementation Task Force shall:

1. Serve as a forum for the development and adoption of contracts and interagency agreements necessary for:

- a. the delineation of the service responsibilities and coordinated service delivery of services to delinquent youth by the agencies responsible for the implementation of the Serious and Habitual Juvenile Offender Program, and
- b. the delineation of the roles and responsibilities of the agencies responsible for the implementation of the Juvenile Justice Information System, the information to be shared by said agencies on a regular basis, and procedures for processing case-profiles as cases move through agencies that come into contact with juvenile offenders;

2. Be responsible for the development of recommended proposed guidelines, policies, procedures, protocols, and standards, as appropriate, for adoption by the agencies responsible for the implementation of the Serious and Habitual Juvenile Offender Program and the Juvenile Justice Information System;

3. Cooperate with and provide assistance to the task force established by Section 620.2 of ~~Title 10 of the Oklahoma Statutes~~ this title in the preparation of the proposed guidelines for the disclosure of confidential information required by Section ~~44~~ 620.6 of this ~~act~~ title.

4. Monitor the implementation of the Serious and Habitual Juvenile Offender Program and the Juvenile Justice Information System and progress towards full implementation by July 1, 1995; and

5. Exercise incidental powers and engage in incidental activities as necessary, proper, and appropriate for the purpose of carrying out the duties and responsibilities assigned to the Serious and Habitual Juvenile Offender Program Implementation Task Force by the Serious and Habitual Juvenile Offender Act.

C. 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:

1. Representatives of each of the following agencies and organizations appointed from a list of not less than three individuals recommended by the governing board of each such agency or organization:

- a. Department of Public Safety;
- b. Oklahoma Employment Security Commission;
- c. Oklahoma Criminal Justice Resource Center;
- d. Department of Human Services;
- e. State Department of Education;
- f. District Attorney's Council;
- g. Oklahoma Sheriffs and Peace Officers Association;
- h. Oklahoma Association of Chiefs of Police;
- i. Oklahoma State Bureau of Investigation;
- j. Oklahoma Department of Corrections;
- k. Private non-profit operators for Detention;
- l. Oklahoma Juvenile Detention Association;
- m. State and local common education agencies;
- n. Vocational-technical schools;
- o. Oklahoma State Department of Health;
- p. Department of Mental Health and Substance Abuse Services;
- q. Oklahoma Association of Youth Services;
- r. Oklahoma Association Childrens Institutions and Agencies;
- s. Statutorily constituted Juvenile Bureaus;
- t. Oklahoma Department of Juvenile Justice;

2. Representatives of the Oklahoma Supreme Court, who shall be district or associate district judges having juvenile docket

responsibility designated by the Chief Justice of the Supreme Court;  
and

3. Others as necessary and appropriate to carry out the duties of the Serious and Habitual Juvenile Offender Program Implementation Task Force.

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

2. In order to assist the agencies responsible for the implementation of the Serious and Habitual Juvenile Offender Program to achieve full implementation by July 1, 1995, 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 Serious and Habitual Juvenile Offender Program.

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

E. On or before January 1 of each year following the effective date of the Serious and Habitual Juvenile Offender 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 Serious and Habitual Juvenile Offender Program and those that remain to be completed in order to achieve full implementation on or before July 1, 1995, 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 34. AMENDATORY 10 O.S. 1991, Section 1160.6, is amended to read as follows:

Section 1160.6 A. For the purpose of information sharing and management of the Serious and Habitual Juvenile Offender Program, there is hereby created the Juvenile Justice Information System. The information system shall be an automated, data-based, system for tracking juvenile offenders from arrest through final closure of the case and shall include information provided by all of the components of the juvenile justice system in accordance with the provisions of the Serious and Habitual Juvenile Offender Act. 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 accuracy of the information and 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 Serious and Habitual Juvenile Offender Program.

B. The Department of Juvenile Justice, 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, including but not limited to law enforcement and district attorneys, in accordance with guidelines established by the Serious and Habitual Juvenile Offender Program Implementation Task Force, shall jointly:

1. Identify information to be shared by agencies on a regular basis;
2. Develop procedures for processing case-profiles as cases move through agencies that come in contact with juvenile 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 Serious and Habitual Juvenile Offender Program Implementation Task Force and to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and each agency affected by said plan.

SECTION 35. AMENDATORY 10 O.S. 1991, Section 1401, is amended to read as follows:

Section 1401. A. The Effective January 1, 1993, the Department of Juvenile Justice shall have the supervision, management, operation and control of the children's institution located at Tecumseh, formerly known and designated as Girls' Town and now known as Central Oklahoma Juvenile Center. The Center and all property, equipment and supplies related thereto are hereby transferred from the Department of Human Services to the Department of Juvenile Justice. All contracts, leases, or other agreements entered into by the Department of Human Services on behalf of the Center shall be assumed by the Department of Juvenile Justice.

It shall be the duty of the State Fire Marshal and the Commissioner of Public Health, to cause regular, periodic, not less than quarterly, unannounced inspections of said institution, utilizing adequately trained and qualified inspection personnel, to

determine and evaluate conditions and programs being maintained and carried on at said institution in their respective areas of agency jurisdiction. Such inspections shall include, but not be limited to, the following: Compliance with minimum fire and life safety standards; compliance with minimum standards governing general sanitation of the institution, with particular emphasis upon food storage, preparation, serving and transportation, respectively. Reports of such inspections will be made in writing, itemizing and identifying any deficiencies and recommending corrective measures, and shall be filed with ~~the Commission for Human Services,~~ the Director of the Department of ~~Human Services~~ Juvenile Justice, the Governor, the Attorney General, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Office of Juvenile System Oversight. The Department shall file copies of the reports of the inspections and recommendations of the accrediting agencies listed in subsection B of this section with the Office of Juvenile System Oversight.

B. The Department of Juvenile Justice is authorized and directed to establish, subject to the limits of funds available therefor, a diversity of placement alternatives for children committed to the custody of the Department including, but not limited to, foster family homes, foster family group homes, group homes and mental health treatment centers. All child care services and facilities operated by the Department shall be accredited by the American Correctional Association, the Joint Commission on Accreditation of Hospitals or the Child Welfare League of America, as appropriate for the service or facility. ~~Applications for such accreditation shall be submitted to the appropriate agency no later than June 30, 1983.~~

~~C. The Department of Human Services is hereby authorized to expend a sum not to exceed One Million Four Hundred Thousand Dollars (\$1,400,000.00) from monies appropriated for that purpose from the~~

~~Human Services Fund during the fiscal year ending July 1, 1983, and each fiscal year thereafter, for the purpose of providing subsidy payments to licensed nonprofit child care institutions within the State of Oklahoma to furnish food, clothing, shelter and upkeep for Oklahoma children and to assist the agency in developing a more comprehensive program to meet the needs of each child in the program including, but not limited to, social services, recreational activities and individual and family counseling with the goal of returning the child to his family. Such subsidy shall be made on a per capita basis not to exceed One Thousand Two Hundred Dollars (\$1,200.00) per year and shall be expended in twelve (12) monthly payments beginning July 1 of the fiscal year. Nothing in this section shall preclude an individual from receiving federal matching funds for which he would otherwise be eligible.~~

SECTION 36. AMENDATORY 10 O.S. 1991, Section 1404, is amended to read as follows:

Section 1404. A. In addition to the other powers and duties prescribed by law, the Department shall have the following duties and powers with regard to children placed in Department-operated institutions and facilities:

1. Provide for the care, education, training, treatment and rehabilitation of children who are placed in the institutions. The Department may give assistance to local school districts in providing an education to such children, may supplement such education, and may provide facilities for such purposes. It shall be the duty of the Department to assure that children in the aforesaid institutions receive educational services which will stress basic literacy skills, including but not limited to curricula requirements stressing reading, writing, mathematics, science and vocational-technical education; and

2. ~~Transfer from a children's institution to another facility under the jurisdiction of the Department, a child who has been~~

~~adjudicated delinquent, if the Department believes it advisable to do so; transfer from a facility for children in need of supervision or deprived children to another such facility, a child who has been adjudicated in need of supervision or deprived, provided that such transfer is consistent with the treatment needs of the child and will further the goal of returning the child to his own home; transfer from a children's institution to a state school for the mentally retarded, any child eligible for admission thereto, if the child appears to be in need of the care and treatment provided at such school; transfer from a facility for delinquent, in need of supervision, or deprived children to a Department-operated treatment center any child found by the court to be a child in need of treatment and eligible for commitment for residential care and treatment as provided in Section 1116 of this title; and~~

3. ~~Release on parole a child previously adjudicated to be delinquent, subject to terms and conditions specified by the Department, whenever the Department determines that such release will not be detrimental to society and that the child is probably ready to be returned to his community and revoke said parole for violation of the specified terms or conditions of parole pursuant to the provisions of this section and the rules, regulations and procedures established by the Department for such revocation; and~~

4. ~~Release any child from a children's institution, except children adjudicated delinquent, for placement in a foster home, group home, transitional living program, independent living program or other community-based facility or program subject to terms and conditions specified by the Department; and~~

5. ~~Provide parole services for children released on parole from children's institutions, and aftercare services for children discharged from children's institutions or facilities. Persons designated as Juvenile Parole Officers by the Department shall have~~

~~the power to serve process and to apprehend and detain juveniles and make arrests in accordance with the laws of the state.~~

B. The transfer of a child from a nonsecure placement to a secure placement shall be subject to an administrative transfer hearing and any revocation of parole shall be subject to a parole revocation hearing.

1. In any administrative transfer or parole revocation proceeding the following minimum standards shall apply:

- a.—the child shall have the right to notice of the proposed transfer or parole revocation hearing and the alleged violation of administrative or parole rules on which the proposed transfer or parole revocation is based; and
- b.—the child shall have the right to representation by an attorney; and
- c.—the child shall have the right to present evidence in his own behalf; and
- d.—the child shall have a right to bail, except that said right to bail shall not be construed to require that a child who is in residence in a Department-operated institution or other facility at the time of an alleged violation leading to an administrative transfer proceeding be released from such institution or facility.

2. The situs of said hearings shall be the county in which the alleged violation of administrative or parole rules occurs. The judge having juvenile docket jurisdiction in said county shall aid the administrative transfer or parole revocation process of the Department by:

- a. determining eligibility for and amount of bail; and
- b. deciding any intermediate custody or placement issue; and

c. if legal counsel for the child has not otherwise been obtained, appointing legal counsel for the child and fixing the amount of his compensation. Said judge shall also determine if the child is eligible for free legal services. If the child is not eligible for free legal services, the court shall order the parents or legal guardian of the child to pay for such services.

3. If the child is eligible for free legal services, the district court fund of the county where the order committing the child to the custody of the Department was issued shall pay for all legal expenses incurred on behalf of the child pursuant to the provisions of this section. If the hearing takes place in a county other than the county from which said order was issued, the court clerk of the county in which the hearing is held shall bill the district court fund of the county where said order was issued for said legal expenses.

C. The Department may participate in federal programs relating to ~~delinquent children,~~ children in need of supervision, or deprived children, ~~or children in need of treatment~~ or institutions and services for such children; and apply for, receive, use and administer federal funds for such purposes.

D. Receive interest earnings on the investment by the State Treasurer of monies, to be credited to an agency special account, for the benefit of and held in trust for persons placed in the custody of the Department or in residence at institutions maintained by the Department.

SECTION 37. AMENDATORY 10 O.S. 1991, Section 1404.1, is amended to read as follows:

Section 1404.1 There is hereby created a program of juvenile crime victim restitution to be administered by the Department of ~~Human Services~~ Juvenile Justice. The program shall be known as the "Juvenile Offender Victim Restitution Work Program".

A. The ~~Commission for Human Services~~ Department of Juvenile Justice shall promulgate rules and regulations necessary for the implementation of the provisions of this ~~act~~ section.

B. The programs developed under the provisions of this act shall provide restitution to a victim by requiring the child to work or provide a service for the victim, or to make monetary restitution to the victim from money earned from such a program. The supervised work or service program shall not deprive the child of schooling which is appropriate to his age, need, and specific rehabilitative goals. Provided, such program shall not prohibit the child from fulfilling his restitution obligation through jobs he has found, by performing volunteer services for the community, or by doing work for the victim.

C. Agreements for participation in the programs under this ~~act~~ section may include restitution not in excess of actual damages caused by the child which shall be paid from the net earnings of the child received through participation in a constructive program of service or education acceptable to the child, the victim, the Department of ~~Human Services~~ Juvenile Justice, the district attorney and/or the district court. During the course of such service, the child shall be paid no less than the federal minimum wage. In considering such agreement, the Department of ~~Human Services~~ Juvenile Justice, the district attorney and/or the district court shall take into account the child's age, physical and mental capacity. The service shall be designed to relate to the child a sense of responsibility for the injuries caused to the person or property of another. If a petition has not been filed, the district attorney shall approve the nature of the work, the number of hours to be spent performing the assigned tasks and shall further specify that as part of a plan of treatment and rehabilitation, that fifty percent (50%) or more of the child's net earnings be used for restitution in order to provide positive reinforcement for the work

performed. If a petition has been filed, the district court may approve the nature of the work, the number of hours to be spent performing the assigned tasks and may further specify that as part of a plan of treatment and rehabilitation, that fifty percent (50%) or more of the child's net earnings be used for restitution.

D. The Department of ~~Human Services~~ Juvenile Justice may subsidize the employment of a child for the purposes of participation in a work program as provided by this section.

E. Any person, entity or political subdivision who is an employer of children or recipient of services either of which are under an agreement with the Juvenile Offender Victim Restitution Work Program shall not be liable for ordinary negligence for:

1. Damage to the property of the child or injury to the child except as to the liability established by the Workers' Compensation Act if the child is covered thereunder; or

2. Damage to any property or injury to any person; which results from the services of the child pursuant to this act.

SECTION 38. AMENDATORY 10 O.S. 1991, Section 1407, is amended to read as follows:

Section 1407. The official name and designation of the ~~diagnostic and evaluation~~ center for children situated at Sand Springs, Oklahoma, shall be Lloyd E. Rader Children's ~~Diagnostic and Evaluation~~ Center. Effective January 1, 1993, the Center and all property, records, equipment and supplies related thereto are hereby transferred from the Department of Human Services to the Department of Juvenile Justice.

All contracts, leases, or other agreements entered into by the Department of Human Services on behalf of the Center shall be assumed by the Department of Juvenile Justice.

SECTION 39. AMENDATORY 10 O.S. 1991, Section 1413, is amended to read as follows:

Section 1413. The Commission is authorized to transfer any pupil or pupils from any institution referred to in Section 1406 of this title to any other of such institutions, or to any institution within the Department of Mental Health and Substance Abuse Services, with the consent of the Director of Mental Health and Substance Abuse Services when it determines pursuant to the Mental Health Law, Title 43A of the Oklahoma Statutes, that such pupil or pupils are in need of mental health treatment ~~at~~ or treatment for alcohol or drug dependency from such institution.

SECTION 40. AMENDATORY 28 O.S. 1991, Section 162, is amended to read as follows:

Section 162. A. The clerks of the courts shall collect as costs in every juvenile delinquency, child in need of supervision, child in need of treatment, or deprived case in which the juvenile is adjudicated, irrespective of whether or not the sentence is deferred, or in every such case in which a petition is filed at the demand of the parents of a juvenile and said petition is subsequently dismissed prior to adjudication at said parents' request, the following flat charge and no more, except for the charges provided for in this section, which fee shall cover docketing of the case, filing of all papers, issuance of process, warrants and orders, and other services to date of judgment:

For each case where one or more juveniles are adjudicated deprived.....	\$50.00
For each juvenile who is certified to stand trial as an adult .....	\$75.00
In each juvenile case wherein parental rights are terminated.....	\$50.00
For each juvenile adjudicated in need of Supervision <del>or in need of treatment</del> .....	\$50.00
For each juvenile adjudicated for an offense which would be a misdemeanor if committed	

by an adult, including violation of any traffic law, whether charged individually or conjointly with others.....\$50.00

For each juvenile adjudicated for an offense which would be a felony if committed by an adult, whether charged individually or conjointly with others.....\$75.00

For the services of a court reporter at each trial held in the case.....\$20.00

When a jury is requested.....\$30.00

A sheriff's fee for serving or endeavoring to serve all writs, warrants, orders, process, commands, or notices or pursuing any fugitive from justice.....\$20.00 or mileage as established by Oklahoma Statutes, whichever is greater.

B. Such costs shall be levied against the juvenile, the parent, or both, but shall not be levied against the legal guardian or any state or private agency having custody of any juvenile subject to such proceedings.

C. Prior to adjudication, parties in juvenile delinquency, child in need of supervision, ~~child in need of treatment~~, and deprived cases shall not be required to pay, advance, or post security for the issuance or service of process to obtain compulsory attendance of witnesses. These fees shall be deposited into the court fund, except the sheriff's fee, when collected, shall be transferred to the general fund of the county in which service is made or attempted to be made.

D. The clerk of the district court shall charge the sum of Thirty Dollars (\$30.00) for preparing, assembling, indexing, and transmitting the record for appellate review. This fee shall be

paid by the party taking the appeal and shall be entered as costs in the action. If more than one party to the action shall prosecute an appeal from the same judgment or order, the fee shall be paid by the party whose petition in error is determined by the district court or by the appellate court to commence the principal appeal. The fees collected hereunder shall be paid into the court fund.

E. Thirteen Dollars (\$13.00) of the fees collected for each juvenile case shall be transferred to the Indigent Defense System Revolving Fund. Fees and costs collected in juvenile cases, other than the fees dedicated to the Indigent Defense System Revolving Fund, may be withdrawn from the court fund and used for operations of the juvenile bureaus, in counties wherein a statutory juvenile bureau is in operation, upon approval by the Chief Justice of the Oklahoma Supreme Court.

F. In those seventy-four counties in which court services are provided by contract between the Oklahoma Supreme Court and the Department of Human Services, funds received from court costs in juvenile cases, other than the fees dedicated to the Indigent Defense System Revolving Fund, may be withdrawn from the court fund and paid to the Department of Human Services or the Department of Juvenile Justice upon approval by the Chief Justice of the Oklahoma Supreme Court. Said funds are to be expended by the Department of Human Services or the Department of Juvenile Justice to supplement community-based programs, such as juvenile offender victim restitution work programs, youth services programs, day treatment programs, group home services, and detention services. Specific annual training of Department of Human Services or Department of Juvenile Justice workers in community-based services providing the above court-related services is also to be included for expenditure of funds received from court costs in juvenile cases by the Department of Human Services and the Department of Juvenile Justice.

SECTION 41. AMENDATORY 43A O.S. 1991, Section 8-202, is amended to read as follows:

Section 8-202. A. A child fourteen (14) years of age or older who has been admitted or accepted for admission to a mental health facility for inpatient mental health treatment pursuant to Section ~~15~~ 8-201 of this ~~act~~ title, or the next friend of such child, may object to such admission. For the purposes of this section, "next friend" means a relative of the child or other person authorized to act on behalf of the child, including but not limited to an employee of the Department of Human Services, the Department of Mental Health and Substance Abuse Services, or the Department of Juvenile Justice, a volunteer with a court-appointed special advocate organization, or other person designated by the court.

1. Whenever a child fourteen (14) years of age or older who has been admitted to a mental health facility for inpatient mental health treatment notifies the facility of his desire to object to such admission, the facility shall without undue delay assist the child in properly filing such objection with the court.

2. An objection to inpatient treatment shall be made in writing in such form and filed in such manner as designated by the court.

B. Upon the filing of an objection to an admission for inpatient mental health treatment by a child or the next friend of a child the court shall:

1. If the child is not represented by counsel, appoint an attorney to represent the child. An attorney so appointed shall consult with the child at least one (1) day prior to the date set for the hearing;

2. Set a date for a hearing on the objection. Said date shall be not more than five (5) days from the date of the filing of the objection, excluding weekends and legal holidays;

3. Cause notice of the date, time, place and purpose of the hearing to be sent to the child, the parents or legal guardian of

the child, the person in charge of the mental health facility and, if other than the child, the person filing the objection. Said notice shall be delivered at least one (1) day prior to the date set for the hearing.

C. 1. After a hearing, the court shall sustain or dismiss the objection to admission.

2. The court shall sustain objection unless it is shown by clear and convincing evidence, including the evidence of a licensed mental health professional, that the child is ~~a child~~ in need of mental health treatment as defined by Section 1101 of Title 10 of the Oklahoma Statutes or treatment for alcohol or drug dependency and:

- a. 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
- b. after a thorough consideration of less restrictive alternatives to inpatient treatment, that the condition of the child is such that less restrictive alternatives are unlikely to meet the mental health treatment needs of the child.

D. Whenever, pursuant to the provisions of subsection C of this section, the court dismisses an objection to admission for inpatient mental health treatment, the court shall set the matter for review not more than three (3) months from the date of dismissal and shall continue to review the matter at intervals of not more than three (3) months until the child is discharged from inpatient mental health treatment.

E. An order of the court sustaining the objection of a child to inpatient mental health evaluation or treatment as provided by this section shall not relieve the parent, legal guardian or legal

custodian admitting the child to the mental health facility of the liability for the costs of services provided to the child.

F. Nothing in this section shall prohibit or preclude the filing of a writ of habeas corpus.

SECTION 42. AMENDATORY 43A O.S. 1991, Section 8-203, is amended to read as follows:

Section 8-203. A. Except as provided in this section, a mental health facility shall not detain a child admitted for inpatient mental health evaluation or treatment pursuant to Section ~~15~~ 8-201 of this ~~act~~ title for more than three (3) days, excluding weekends and legal holidays, after a parent or legal guardian of the child gives written notice of his intent to terminate the inpatient services and remove the child from the facility.

B. If, after receipt of a notice as provided by subsection A of this section, the person in charge of the mental health facility or other person authorized by the person in charge of the facility to make such determination, determines that the condition of the child is such that the child should remain in the mental health facility, the person in charge of the facility or his designee may request the district attorney to file a petition for involuntary commitment pursuant to the provisions of this title, alleging the child to be a ~~child~~ in need of inpatient treatment ~~pursuant to the provisions of Title 10 of the Oklahoma Statutes~~, within three (3) days after the receipt of said notice, excluding weekends and legal holidays. The facility may detain and treat the child pending a hearing on the ~~application~~ petition.

SECTION 43. AMENDATORY 74 O.S. 1991, Section 4243, is amended to read as follows:

Section 4243. A. No state agency shall:

1. Enter into any contract with an employee of the agency, or with a business in which an employee holds a substantial financial interest, unless the contract is made after public notice by the

agency and compliance with competitive bidding procedures. This paragraph shall not apply to a contract of employment with the state;

2. Enter into a contract with or make any ruling or take any action in favor of any person or business which is represented before such agency by a former state employee who, while a state employee, participated substantially in the particular matter before the agency; or

3. Purchase any real property from any employee of said state agency or from any person who within eighteen (18) months prior to such purchase held such position with the state government, unless the property is acquired either by condemnation proceedings or the price to be paid for such property is approved in writing by the appointing authority of the agency acquiring such property and by the Governor.

B. 1. The Department of Human Services is authorized to contract with qualified former state employees, or the spouses of state employees, or other relatives of state employees, for the purpose of providing direct care or treatment services to clients of the Department who are mentally retarded or have other developmental disabilities ~~or are delinquent~~, children in need of supervision, ~~or in need of treatment~~, or deprived. Provided, however, that rates of payment and other terms and conditions of contracts entered into pursuant to this section shall be established by the Commission for Human Services and shall be no more favorable than contracts for such services with persons who were not employed by the Department of Human Services nor related to an individual employed by the Department of Human Services.

2. A state employee terminating state employment to provide direct care or treatment services to clients of the Department who are mentally retarded or have developmental disabilities, ~~are delinquent~~, children in need of supervision, ~~or in need of~~

~~treatment,~~ or deprived may not return to state employment for a period of one hundred eighty (180) days after date of termination from contracts with the Department of Human Services for direct care or treatment services to clients of the Department who are mentally retarded or have developmental disabilities ~~or are delinquent,~~ children in need of supervision, ~~or in need of treatment,~~ or deprived.

C. Notwithstanding provisions to the contrary, the Department of Human Services is authorized to employ or contract with personnel of the University of Oklahoma Health Sciences Center, directly or indirectly, to obtain professional services for the Oklahoma Medical Center or clients of other programs administered by the Department of Human Services.

D. Notwithstanding provisions to the contrary, the Department of Human Services is authorized to contract with qualified state employees, or the spouses of state employees, or other relatives of state employees, for the purpose of providing foster care, respite care, and attendant services to children in the custody of the Department.

SECTION 44. There is hereby appropriated to the Department of Juvenile Justice from any monies not otherwise appropriated from the General Revenue Fund of the State Treasury for the fiscal year ending June 30, 1993, the sum of Thirty Million Dollars (\$30,000,000.00) or so much thereof as may be necessary to perform the duties imposed upon the Department of Juvenile Justice by law.

SECTION 45. The appropriation made by this act shall be subject to fiscal year limitations and may be encumbered through June 30, 1993. Any unexpended funds remaining after November 15, 1993, shall lapse and be transferred to the credit of the proper fund for the then current fiscal year.

SECTION 46. All unexpended funds to the credit of the Central Oklahoma Juvenile Center and the Lloyd E. Rader Children's Center

and all unexpended appropriations for the Centers shall be transferred by the State Treasurer to the credit of the Department of Juvenile Justice.

SECTION 47. RECODIFICATION 10 O.S. 1991, Section 1401, as amended by Section 35 of this act and Section 1407, as amended by Section 38 of this act, shall be recodified in the Oklahoma Statutes as Sections 614 and 615 of Title 10, unless there is created a duplication in numbering.

SECTION 48. This act shall become effective January 1, 1993.

43-2-1898 NP