

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 2640

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and

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the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to juveniles; creating the Oklahoma Juvenile Reform Act; providing short title; amending 10 O.S. 1991, Section 1129, as amended by Section 31, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1129), which relates to legislative intent; stating public policy; amending 10 O.S. 1991, Section 1101, as last amended by Section 1 of Enrolled House Bill No. 2299 of the 2nd Session of the 44th Oklahoma Legislature, which relates to definitions; modifying definitions; providing for transfer of certain programs and services from the Department of Human Services to the Office of Juvenile Affairs; providing for transition coordinators and transition team; providing transition process; stating duties and powers of the transition coordinators; stating legislative intent; requiring assistance by agencies comprising the Juvenile Justice System; creating the Office of Juvenile Affairs Study Commission; stating purpose; stating duties; providing for composition; providing for staffing; providing for appointments; providing for co-chairpersons; requiring a report; requiring cooperation of certain agencies; creating a legislative task force to study need and advisability of certain facility; providing for composition and appointment; providing type of facility to be considered; requiring examination of existing facilities for use for such facility; requiring a report; creating the Board of Juvenile Affairs; providing for appointment; providing for composition; providing for vacancies; authorizing reappointment for one term; providing eligibility requirements; providing for removal from office; providing for meetings; providing for selection of chair and vice-chair; providing for travel reimbursement; providing duties and powers; providing for appointment of Executive Director of the Office of Juvenile Affairs; providing qualifications; providing duties and powers; creating the Office of Juvenile Affairs; creating the Department of Juvenile Justice; stating purpose of the Department; providing for appointment of a Deputy Director of the Department of Juvenile Justice; providing for interim duties; making Office a Merit System agency

on a certain date; providing duties and powers of Office; providing duties of the Department of Juvenile Justice; providing for certain divisions and programs within the Department; providing for development of certain programs; providing for transfer of programs, divisions and funding allocations; providing for transfer of custody, care and supervision of certain children and certain monies received on behalf of such children; providing for transfer to powers, duties, records, property, assets, allotments, purchase orders, liabilities, outstanding obligations or encumbrances, monies and funds of the Office of Juvenile Justice to the Office of Juvenile Affairs; providing for abolishment of Office of Juvenile Justice; providing for a system of grievance resolution; providing for the Division of Advocate Defender; providing for an Advocate General and other necessary personnel; stating qualifications, duties and responsibilities of the Advocate General; providing for additional detention beds, medium secure beds and transitional beds; providing for conversion of certain beds; establishing the regimented juvenile training program; stating purpose; providing phases of program; providing requirements; providing for placement; providing for standards and support services; creating the Delinquency and Youth Gang Intervention and Deterrence Act; stating short title; stating purpose; defining terms; providing for establishment of procedures, criteria and rules for implementation; providing for transfer of responsibility to the Office of Juvenile Affairs on certain date; creating the Youthful Offender Act; providing short title; defining terms; providing procedure for children who are subject to juvenile proceedings; providing statutory and constitutional rights for persons certified to stand trial as adult or as youthful offender; providing court jurisdiction; providing right to bail; providing for detention and incarceration; providing for adult trials in certain circumstances; providing for subsequent criminal proceedings as youthful offender in certain circumstances; providing that certain persons charged with murder in the first degree shall be tried as adult or youthful offender; providing requirements for warrants; providing for motion for certification as youthful offender; providing criteria for consideration by the court; providing for expungement of certain records; making certification order final appealable order; authorizing incarceration if person is prosecuted as adult; providing that certain persons charged with certain offenses shall be held accountable as youthful offender; authorizing filing of petition alleging person to be delinquent or filing of youthful offender information; providing procedure upon filing of youthful offender information; providing requirements for warrants; authorizing the accused person to file motion for certification to the juvenile system; providing procedure; authorizing court to hold certification hearing on its own motion; providing criteria and requirements for ruling on certification motion; making certification order final appealable order; providing for imposition of sentence; authorizing the court to determine if certain children should be held accountable as youthful offender; providing criteria for determination; requiring certain notice; providing right of bail; providing for statutory and constitutional

rights; making certification order final appealable motion; providing procedure for imposition of sentence as adult; requiring investigation, unless waived; providing criteria to be considered by the court; providing standard of evidence for court certification of eligibility for imposition of adult sentence; providing sentencing powers of the court for youthful offenders; providing hearing procedures; providing for determinate sentencing, with limitation; requiring rehabilitation plan for youthful offender placed with Office of Juvenile Affairs; requiring semiannual review; providing requirements for written reports; requiring review hearings; providing that review hearings shall be held in open court; providing options for court after review hearing; providing placement authority of Department of Juvenile Justice; stating responsibility of the Department; providing rights of youthful offenders in the custody of the Office; providing procedure for pardon, restoration of citizenship, setting aside of conviction, and destruction of records; amending 10 O.S. 1991, Sections 1102, as last amended by Section 2, Chapter 342, O.S.L. 1993, 1103, as amended by Section 17, Chapter 298, O.S.L. 1992, 1104.2, as last amended by Section 4, Chapter 342, O.S.L. 1993, Section 1, Chapter 205, O.S.L. 1993, 1107, as last amended by Section 2 of Enrolled House Bill No. 2299 of the 2nd Session of the 44th Oklahoma Legislature, 1107.1, as last amended by Section 3 of Enrolled House Bill No. 2299 of the Second Session of the 44th Oklahoma Legislature, 1108, as amended by Section 2, Chapter 320, O.S.L. 1993, 1109, as amended by Section 22, Chapter 298, O.S.L. 1992, 1111, as last amended by Section 1, Chapter 302, O.S.L. 1993, 1112, as amended by Section 7, Chapter 342, O.S.L. 1993, 1114, as last amended by Section 1, Chapter 10, O.S.L. 1993, 1116, as last amended by Section 1 of Enrolled House Bill No. 1858 of the 2nd Session of the 44th Oklahoma Legislature, 1116.1, as last amended by Section 3, Chapter 373, O.S.L. 1992, 1121, 1138, as last amended by Section 8, Chapter 342, O.S.L. 1993, 1139, as last amended by Section 4 of Enrolled House Bill No. 2299 of the 2nd Session of the 44th Oklahoma Legislature, 1203, 1211 and 1401, as amended by Section 16, Chapter 299, O.S.L. 1992 (10 O.S. Supp. 1993, Sections 1102, 1103, 1104.2, 1104.3, 1108, 1109, 1111, 1112, 1114, 1116.1, 1138 and 1401), which relate to children; authorizing extension of time of retention of jurisdiction over certain children by motion of the district attorney; providing for municipal jurisdiction in certain circumstances; authorizing interlocal agreements between municipalities and district courts; defining term; providing for temporary detention in certain circumstances, subject to certain conditions; increasing allowable number of hours of community service hours that can be imposed by a municipal court; authorizing imposition of costs by municipal court; modifying purposes for certain funds; modifying procedure for preliminary inquiry; requiring agreement of district attorney for informal adjustments; authorizing deferral of filing of certain petitions under certain circumstances; modifying crimes that comprise reverse certification crimes; providing reverse certification crime for persons thirteen, fourteen or fifteen years old; modifying requirement for detention of certain persons who have fled from another state; modifying authority to take child into custody without a court

order; providing for detention of persons whose age is not immediately ascertainable and who appear to be adults; providing restrictions and conditions; providing for transportation of juveniles to and from secure detention by detention centers; authorizing agreements with federally recognized tribes for detention services; providing responsibility of other persons to provide transportation in certain circumstances; providing for custodial interrogation of a child; defining term; authorizing use of noncustodial questioning; prohibiting court from excluding relatives of victims from hearings during victim testimony; modifying certification criteria; providing for Teen Court program and alternative diversion program for first-time offenders; defining terms; expanding dispositional authority of the court; authorizing court to order child to participate in military mentor program; providing requirement for such program; authorizing certain agreements; providing for determinate placement of certain children, on or after a certain date; providing for payment of certain costs; authorizing modification or revocation of dispositional orders and redispotion; requiring certain notification if placement of child is changed; defining term; providing for payment of costs for placement services; providing procedure for assessing ability of parents to pay certain expenses; authorizing courts to order such payments; providing restrictions; providing for enforcement; requiring certain reports; authorizing order of secure placement of certain children, on or after certain date; providing that certain children shall remain in Department custody for determinate period, beginning on a certain date; authorizing retention of custody of certain children upon motion of district attorney; requiring juvenile bureaus to comply with certain procedures and guidelines; providing for judicial training; modifying purpose of certain bed space at the Central Oklahoma Juvenile Center; establishing the Juvenile Placement Guidelines Committee; stating purpose; providing for composition; authorizing subcommittees; providing for selection of Chairman and Vice Chairman; authorizing election of other officers; requiring minimum number of meetings; providing for travel reimbursement; stating purposes and duties; requiring legislative approval prior to implementation of guidelines; providing for a quorum; requiring compliance with the Oklahoma Open Meeting Act and the Oklahoma Open Records Act; providing for staff assistance; amending 21 O.S. 1991, Section 443, as amended by Section 12, Chapter 276, O.S.L. 1993 (21 O.S. Supp. 1993, Section 443), which relates to escapes; prohibiting escape from juvenile detention facilities in certain circumstances and providing penalty therefor; amending Section 3, Chapter 309, O.S.L. 1993 and 21 O.S. 1991, Sections 1273, as amended by Section 2, Chapter 309, O.S.L. 1993 and 1283, as last amended by Section 1 of Enrolled Senate Bill No. 969 of the 2nd Session of the 44th Oklahoma Legislature (21 O.S. Supp. 1993, Sections 1271.1 and 1273), which relate to weapons; prohibiting certain acts; providing for disposition of certain confiscated weapons; amending 22 O.S. 1991, Sections 60.1, as amended by Section 1, Chapter 42, O.S.L. 1992, 60.2, as last amended by Section 15, Chapter 325, O.S.L. 1993, 60.3, as last amended by Section 16, Chapter 325, O.S.L. 1993, 60.4, as last amended by Section 1, Chapter 379, O.S.L. 1992, 60.5 and 60.6, as amended by Section 5,

Chapter 42, O.S.L. 1992 (22 O.S. Supp. 1993, Sections 60.1, 60.2, 60.3, 60.4 and 60.6), which relate to domestic abuse; modifying definitions; providing for domestic abuse, stalking and harassment by minor thirteen years of age or older; modifying forms; providing for certain orders and hearings; amending 51 O.S. 1991, Section 155, which relates to the Governmental Tort Claims Act; providing immunity from liability for certain activities; amending 56 O.S. 1991, Section 200.6, which relates to funding for detention; modifying rate of reimbursement for certain counties; amending 70 O.S. 1991, Sections 3-104.2, as amended by Section 7, Chapter 324, O.S.L. 1992 and 1-111, as amended by Section 5, Chapter 324, O.S.L. 1992 (70 O.S. Supp. 1993, Sections 3-104.2 and 1-111), which relate to education; providing for the awarding of certain competitive grant for alternative education programs; providing eligibility qualifications for school district; providing for program eligibility; providing for priority for certain grant recipients; providing funding limits; restricting use of grant funds; requiring certain reporting; providing for application of certain laws; providing for contracting for technical assistance; directing the State Board of Education to promulgate rules; providing for implementation of Alternative Education Academy Grants; stating criteria and guidelines for Grants; providing for certain salary for certain teachers; requiring certain notification by the Board; requiring school districts to conduct certain needs assessment; requiring submission of certain plans; requiring State Board of Education to submit certain statewide plan; modifying contents of Comprehensive Local Education Plan; requiring certain training of regional accreditation officers; providing for the awarding of certain competitive grants by the State Board of Vocational and Technical Education; stating program criteria; providing for contracting for technical assistance; providing for funding cycle and limitations; limiting expenditure of grant funds; requiring the State Board of Vocational and Technical Education to submit certain reports; modifying definition of school day; authorizing an abbreviated day for alternative education program; providing for certification of alternative education teachers; amending 70 O.S. 1991, Section 9-108, which relates to transportation furnished by school districts; providing for school field trips to correctional facilities; amending 74 O.S. 1991, Section 1221, which relates to cooperative agreements with federally recognized tribes; exempting certain agreements from certain procedure; repealing Sections 3 and 4, Chapter 359, O.S.L. 1992 (10 O.S. Supp. 1993, Sections 1161.1 and 1161.2), which relate to the Oklahoma Juvenile Transfer Study Council; providing for codification; providing for noncodification; providing effective dates; and declaring an emergency.

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

SECTION 1. This act shall be known and may be cited as the "Oklahoma Juvenile Reform Act".

SECTION 2. AMENDATORY 10 O.S. 1991, Section 1129, as amended by Section 31, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1129), is amended to read as follows:

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

1. ~~That~~ The paramount consideration in all proceedings concerning a child alleged or found to be deprived or in need of supervision is the best interests of the child. The purpose of the laws relating to children alleged or found to be deprived or in need of supervision is to:

- a. secure for each such child, the care and guidance, preferably in the child's own home, as will best serve the spiritual, emotional, mental and physical welfare of the child,
- b. provide judicial procedures which protect the welfare of the child,
- c. preserve and strengthen the child's family ties whenever possible and in the child's best interests, removing the child from the custody of parents only when the child's welfare is in danger or the child's safety cannot be adequately safeguarded without removal. When removal from the child's own family is necessary and in the child's best interests, 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~~

- d. assure adequate and appropriate care and treatment for ~~any~~ the child, ~~to allow for~~ with 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 and to protect the rights of any child placed out of his home pursuant to law.~~

2. The purpose of the laws relating to children alleged or adjudicated to be delinquent is to promote the public safety and reduce juvenile delinquency. This purpose should be pursued through means that are fair and just, that:

- a. recognize the unique characteristics and needs of children,
- b. give children access to opportunities for personal and social growth,
- c. maintain the integrity of substantive law prohibiting certain behavior and developing individual responsibility for lawful behavior,
- d. provide a system for the rehabilitation and reintegration of juvenile delinquents into society,
- e. preserve and strengthen family ties whenever possible, including improvement of home environment,
- f. remove a juvenile from the custody of his parents when his welfare and safety or the protection of the public would otherwise be endangered,
- g. secure for any juvenile removed from the custody of his parents the necessary treatment, care, guidance and discipline to assist him in becoming a responsible and productive member of society, and
- h. provide procedures through which the provisions of the law are executed and enforced and which will assure the parties fair hearings at which their rights as citizens are recognized and protected.

SECTION 3. AMENDATORY 10 O.S. 1991, Section 1101, as last amended by Section 1 of Enrolled House Bill No. 2299 of the 2nd Session of the 44th Oklahoma Legislature, 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 any person thirteen (13), fourteen (14) or fifteen (15) years of age who is charged with murder in the first degree pursuant to subsection B of Section 1104.2 of this title, or any individual who has been certified as an adult pursuant to Section 1112 of this title, or any individual against whom the imposition of judgment and sentence has been deferred for any crime specified in subsection A or B of Section 1104.2 of this title, any individual against whom the imposition of judgment and sentence has been deferred after certification 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 any individual 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, any provision of the Oklahoma Wildlife Conservation Code, ~~Section 1-101 et seq. of Title 29 of the Oklahoma Statutes,~~ or any lawful order of the court made pursuant to the provisions of Sections 1101 through 1505 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. a. "Deprived child" means a child:
- (1) who is for any reason destitute, homeless, or abandoned, or
 - (2) 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
 - (3) 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
 - (4) 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
 - (5) 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

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

b. (1) nothing in this paragraph shall be construed to mean a child is deprived for the sole reason the parent, guardian or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

(2) nothing contained in this subparagraph shall prevent a court from immediately assuming custody of a child pursuant to Section 1107 of this title and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.

The phrase dependent and neglected shall be deemed to mean deprived;

5. "Child in need of mental health treatment" means a child in need of mental health treatment as defined by the Inpatient Mental Health Treatment of Children Act, Section 5-501 et seq. of Title 43A of the Oklahoma Statutes;

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. "Department" means the Department of Human Services;

8. "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. "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. "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. "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. "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. "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. "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. "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. "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. "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. "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. "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. "Mental health facility" means a mental health facility as defined by the Inpatient Mental Health Treatment of Children Act;

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

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

~~23. "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; and~~

~~24. "Commission" means the Commission for Human Services~~

"Secure detention" means the temporary care of children who require secure custody in physically restricting facilities:

a. while under the continuing jurisdiction of the court pending court disposition, or

b. pending placement by the Department of Human Services after adjudication;

24. "Probation" means a legal status created by court order whereby a delinquent child is permitted to remain outside a Department facility directly or by contract under prescribed conditions and under supervision by the Department, subject to return to the court for violation of any of the conditions prescribed;

25. "Office" means the Office of Juvenile Affairs; and

26. "Board" means the Board of Juvenile Affairs.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.1 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Beginning July 1, 1994, the Division Administrator of the Office of Juvenile Justice of the Department of Human Services who served in such capacity on May 1, 1994 and the Director of the Oklahoma Commission on Children and Youth shall serve as the transition coordinators for the orderly transfer of responsibilities for programs and services related to children alleged or adjudicated to be delinquent or in need of supervision

from the Department of Human Services to the Office of Juvenile Affairs. The transition coordinators shall serve in that capacity until the Executive Director of the Office of Juvenile Affairs has been appointed and has assumed responsibilities of the office pursuant to Section 7 of this act. The position of transition coordinator held by the Division Administrator of the Office of Juvenile Justice shall be a position funded by the Department of Human Services. The position of transition coordinator held by the Director of the Oklahoma Commission on Children and Youth shall be a position funded by the Oklahoma Commission on Children and Youth. Four (4) employees of the Department of Human Services shall be assigned to the Office of Juvenile Affairs to assist the transition coordinators, as necessary, in fulfilling the responsibilities required by this section. The employees shall be selected as follows:

1. The Supervisor of the Residential Services Unit of the Office of Juvenile Justice or a Programs Coordinator from the Residential Services Unit of the Office of Juvenile Justice;

2. The Supervisor of the Juvenile Services Unit of the Office of Juvenile Justice or a Programs Coordinator from the Juvenile Services Unit of the Office of Juvenile Justice;

3. The Supervisor of the Management Services Unit of the Office of Juvenile Justice or a Programs Administrator from the Management Services Unit of the Office of Juvenile Justice; and

4. The District Supervisor of District E of the Juvenile Services Unit or a Programs Field Representative who is a District Supervisor in the Juvenile Services Unit.

B. No selected employee shall be assigned to the Office of Juvenile Affairs except on the freely given written consent of the employee. By August 1, 1994, the employees selected from the Department of Human Services shall be assigned to the Office of Juvenile Affairs, but their salaries and necessary expenses related to the performance of their duties shall continue to be funded by the Department of Human Services until July 1, 1995. Each employee who is assigned pursuant to this subsection shall retain the classified or unclassified status the employee holds

with the Department of Human Services. Until July 1, 1995, classified employees of the Department of Human Services who are assigned to the Office of Juvenile Affairs pursuant to this section shall be exempt from provisions of the Oklahoma Personnel Act and the Merit System of Personnel Administration that govern classification and compensation. On and after July 1, 1995, the employees of the Department of Human Services assigned to the Office of Juvenile Affairs pursuant to this section shall be transferred to said office and titles of their positions may be changed to reflect the specialized nature of positions provided by the organization of the Office of Juvenile Affairs. Any vacancy on the transition team shall be filled by the transition coordinators in the same manner as the original appointment. Upon request of the transition coordinators, the Department of Human Services shall provide support staff and equipment necessary to assist the transition team in fulfilling its duties pursuant to this section. All employees of the Department of Human Services who are assigned or transferred pursuant to this section shall retain leave, sick and annual time earned and any retirement and longevity benefits which have accrued during their tenure with the Department of Human Services. The salaries of the employees of the Department of Human Services who are assigned or transferred pursuant to this section shall not be reduced as a direct and immediate result of the assignment or transfer.

C. The transition coordinators shall:

1. Insofar as authorized and provided by this act in conjunction with the Department of Central Services, Office of State Finance, Office of Personnel Management, the Department of Human Services, and staff of the Legislature as designated by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, oversee and administer the orderly transfer of responsibility, liabilities, property, records, personnel and any outstanding financial obligations or encumbrances to the Office of Juvenile Affairs from the Department of Human Services;

2. During the transition planning period, investigate and review programs currently assigned or managed by the Department of

Human Services or any other agency insofar as such programs relate to responsibilities of the Office of Juvenile Affairs and evaluate:

- a. if such programs are effective and necessary,
- b. whether any such program is duplicative of or overlapping other programs, and
- c. whether any such program should be combined or coordinated with other programs or should be transferred to the Office of Juvenile Affairs;

3. During the transition planning period, review statutory provisions concerning juvenile justice and juvenile delinquency prevention to determine if such provisions should be amended, repealed or recodified to implement the provisions of the Oklahoma Juvenile Reform Act;

4. Whenever the transition coordinators deem it appropriate, confer with the Attorney General or assistants of the Attorney General in connection with all legal matters and questions;

5. Assist the Office of Juvenile Affairs Study Commission and the legislative task force created pursuant to Section 5 of this act as required to fulfill their mission and purpose specified by this section; and

6. Take such other actions as may be reasonably necessary and appropriate to effectuate the orderly transition of programs and functions as provided by this act.

D. The transition coordinators shall submit a budget request with the Office of State Finance for fiscal year 1996 for the Office of Juvenile Affairs pursuant to Section 41.29 of Title 62 of the Oklahoma Statutes.

E. By February 1, 1995, the transition coordinators shall submit a final written report of findings and recommendations to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Cabinet Secretary of Health and Human Services and the Board of Juvenile Affairs. The written report shall include:

1. A proposal for the organizational framework of the Office of Juvenile Affairs;

2. A listing of positions, other than the positions provided for in Section 9 of this act, that the transition coordinators recommend be transferred to the Office of Juvenile Affairs from the Department of Human Services;

3. A list of services which may need to be provided pursuant to contract with the Department of Human Services or other agencies;

4. A list of liabilities proposed to be transferred;

5. A proposal for resolution of pending legal matters affecting the Office of Juvenile Affairs;

6. A list of known legal matters pending at the time the final report is submitted;

7. A recommendation concerning the placement of positions in the unclassified service;

8. A fiscal analysis and statement of impact of implementation to the budget of the Department of Human Services;

9. Transfer and implementation costs for the Office of Juvenile Affairs;

10. A proposed implementation schedule for orderly transfer of specified functions, programs and resources to the Office of Juvenile Affairs; and

11. Such other information as may be deemed necessary by the transition coordinators.

F. 1. It is the intent of the Legislature that the separation of certain functions and programs into the Office of Juvenile Affairs occur without any unnecessary increase in the number of state employees or resources due to the merger and transfer of such programs and functions. Any projected increase in costs or personnel as a result of the transfer of programs and functions pursuant to this act shall be clearly identified as such in the final report. Any projected increases in the needs of the Office due to the growth or expansion of existing functions and programs or necessary to meet federal mandates as authorized by law shall be clearly identified in the final report and segregated from the costs of the separation.

2. Resources and full-time-equivalent employees currently dedicated to support services, including, but not limited to, personnel, data processing, accounting, financial and administrative functions, and any liabilities shall be transferred to the Office of Juvenile Affairs from the Department of Human Services in proportion to the programs and functions transferred, as provided for in the appropriation process of the Legislature.

G. 1. Each agency comprising the Juvenile Justice System, as defined by Section 1160.2 of Title 10 of the Oklahoma Statutes, shall cooperate with the transition coordinator by providing information and such other assistance as may be requested by the transition coordinators in the orderly transition and transfers required by the provisions of this act.

2. Each agency listed comprising the Juvenile Justice System, as defined by Section 1160.2 of Title 10 of the Oklahoma Statutes, shall designate at least one employee to assist the transition coordinators, when so requested, in the orderly transition and transfers required by the provisions of this act.

H. The Legislature shall review the report developed by the transition coordinators during the First Session of the 45th Oklahoma Legislature. Final authority relating to the transfer or receipt of duties, responsibilities, programs, liabilities, assets, resources and personnel pursuant to this act shall reside with the Legislature.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.2 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. 1. To study and make recommendations to the Legislature regarding the additional transfer of services for children in this state to the Office of Juvenile Affairs, there is hereby created the Office of Juvenile Affairs Study Commission.

2. The Study Commission shall be composed of ten (10) members, five of whom shall be appointed by the President Pro Tempore of the Senate, and five of whom shall be appointed by the Speaker of the House of Representatives. Nonlegislative members shall serve without compensation but may be reimbursed by the

appointing authority for travel pursuant to the State Travel Reimbursement Act. Legislative members shall be reimbursed pursuant to Section 456 of Title 74 of the Oklahoma Statutes.

3. The Study Commission shall:

- a. initially examine existing functions within each agency of the state having children's services responsibility including but not limited to duplication of jurisdiction and services, oversight responsibility and intergovernmental relationships between agencies,
- b. consider children's services reorganization or consolidation into a single agency, and
- c. make such other examinations and reviews of children's services in this state as will enable the Study Commission to adequately address the children's services in this state and improvements thereto.

4. The Speaker and President Pro Tempore shall each designate a member of the Study Committee who shall serve as co-chairpersons.

5. The first meeting of the Study Commission shall be on or before September 15, 1994. Staffing for the Study Commission shall be provided by the Oklahoma Commission on Children and Youth, by the staff of the Oklahoma House of Representatives and by the staff of the Oklahoma State Senate. The transition team and the transition coordinators shall assist the Study Commission, upon request by the co-chairpersons.

6. The Department of Mental Health and Substance Abuse Services, the State Department of Health, the Commission on Children and Youth, the Department of Human Services, the State Board of Education and all other agencies having children's services responsibilities in this state are directed to fully cooperate with the Study Commission and to provide information, proposals, expertise and resources as requested by the Study Commission.

7. The Study Commission is hereby directed to present to the Governor, to the Speaker of the House of Representatives and to the President Pro Tempore of the Senate, on or before January 15, 1995, a written comprehensive legislative report of its findings and recommendations.

B. 1. There is hereby created a legislative task force to study the need and advisability of establishing and maintaining a residential care and rehabilitative facility meeting the specifications and criteria established by paragraph 2 of this subsection to be used exclusively for the custody of children adjudicated delinquent. The legislative task force shall be composed of at least three members of the House of Representatives appointed by the Speaker and at least three members of the State Senate appointed by the President Pro Tempore.

2. The type of facility the legislative task force shall consider would:

- a. be primarily a nonsecure facility having as its primary purpose the rehabilitation of children adjudicated delinquent,
- b. adopt and utilize a sociological model of discipline that emphasizes behavior change and life skills development in a carefully designed normative culture,
- c. establish a vocational-technical education program,
- d. establish academic programs, including but not limited to special education courses, intermediate education courses, pregeneral equivalent diploma (GED) courses, general equivalent diploma (GED) courses, and college preparatory courses,
- e. establish a career development program,
- f. establish intramural and interscholastic sports programs,
- g. establish recreational programs,
- h. provide health care services, and

- i. be designed and managed so as to minimize the institutional atmosphere and prepare the child for reintegration into the community.

3. The legislative task force shall examine existing state facilities or any existing federal facilities which may be available for use as such a residential care and rehabilitative facility.

4. The legislative task force shall prepare a report by February 1, 1995, detailing the advisability of establishing such a residential care and rehabilitative facility, estimated purchase cost, location of existing facilities which are available for use for such facility, any renovation costs, and such other information deemed necessary.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.3 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created, on February 1, 1995, the Board of Juvenile Affairs which shall consist of seven (7) members who shall be appointed by the Governor with the advice and consent of the Senate.

B. One member shall be appointed from each of the six congressional districts as defined and in existence on February 1, 1995, and the seventh member shall be appointed from the state at large. The terms of office of two members shall expire on March 15, 1997, and each six (6) years thereafter; the terms of three members shall expire on March 15, 1999, and each six (6) years thereafter; the terms of two members shall expire on March 15, 2000, and each six (6) years thereafter.

C. 1. The Governor shall appoint the first Board on February 1, 1995.

2. Thereafter an appointment shall be made by the Governor within ninety (90) days after a vacancy has occurred due to resignation, death, or any cause resulting in an unexpired term. In the event of a vacancy on the Board due to resignation, death, or for any cause resulting in an unexpired term, if not filled within ninety (90) days following such vacancy, the Board may

appoint a provisional member to serve in the interim until the Governor makes an appointment.

3. A member may be reappointed to succeed himself for one additional term.

D. To be eligible for appointment to the Board a person shall:

1. Be a citizen of the United States;
2. Be a resident of this state;
3. Be a qualified elector of this state; and
4. Not have been convicted of a felony pursuant to the laws of this state, the laws of any other state, or the laws of the United States.

E. The Board shall be composed of:

1. One member who shall have training or experience in social work;
2. One member who shall have training or experience in juvenile or criminal justice or related behavior sciences;
3. One member who shall be an attorney licensed by this state who shall be selected from lists submitted by each of the two offices of county indigent defender;
4. One member who shall be selected from a list submitted by the Oklahoma Commission on Children and Youth;
5. One member who shall be an attorney licensed by this state who shall be selected from a list submitted by the District Attorneys Council;
6. One member who shall be an educator within a public school system of this state; and
7. One member who shall be from the public at large.

F. 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.

G. 1. The Board shall hold meetings as necessary at a place and time to be fixed by the Board. The Board shall elect, at its first meeting, one of its members to serve as chair and another of its members to serve as vice-chair. At the first meeting in each calendar year thereafter, the chair and vice-chair for the ensuing

year shall be elected. Special meetings may be called by the chair or by five members of the Board by delivery of written notice to each member of the Board. A majority of members serving on the Board shall constitute a quorum of the Board.

2. Members of the Board shall receive necessary travel expenses according to the provisions of the State Travel Reimbursement Act, but shall receive no other compensation. Travel expenses shall be paid from funds available to the Office of Juvenile Justice of the Department of Human Services until July 1, 1995. Beginning July 1, 1995, travel expenses shall be paid from funds available to the Office of Juvenile Affairs.

3. The initial meeting of the Board shall be called by the transition coordinators by February 15, 1995.

H. The Board shall:

1. Adopt and promulgate rules for its government and may adopt an official seal for the Office of Juvenile Affairs;

2. Appoint and fix the compensation of the Executive Director of the Office of Juvenile Affairs;

3. Be the rulemaking body for the Office of Juvenile Affairs;

4. Review and approve the budget request of the Office of Juvenile Affairs to the Governor;

5. Assist the Office of Juvenile Affairs in conducting periodic reviews and planning activities related to the goals, objectives, priorities, and policies of the Office; and

6. Provide a public forum for receiving comments and disseminating information to the public and the regulated community regarding goals, objectives, priorities, and policies of the Office of Juvenile Affairs at least quarterly. The Board shall have the authority to adopt nonbinding resolutions requesting action by the Office of Juvenile Affairs in response to comments received or upon the Board's own initiative.

I. 1. As the rulemaking body of the Office of Juvenile Affairs, the Board is specifically charged with the duty of promulgating rules which will implement the duties and responsibilities of the Office pursuant to this act.

2. Effective July 1, 1995, any administrative policies adopted by the Commission for Human Services related to personnel and other administrative issues and any rules promulgated relating to the custody, care and supervision of children adjudicated to be delinquent or in need of supervision shall be and remain in effect until amended or new rules are promulgated by the Board of Juvenile Affairs.

3. Any rules adopted by the Commission for Human Services related to personnel and other administrative issues and the custody, care and supervision of children adjudicated to be delinquent or in need of supervision and subject to review by the Legislature during the First Session of the 45th Oklahoma Legislature may be finally adopted and promulgated by the Board of Juvenile Affairs pursuant to the Administrative Procedures Act.

4. Starting April 1, 1995, the Board of Juvenile Affairs shall conduct an internal review of current permanent and emergency rules relating to the custody, care and supervision of children adjudicated to be delinquent or in need of supervision to determine whether such rules need to be amended, or repealed, reinstated, or recodified. By January 1, 1997, the Board shall have adopted permanent rules to implement the programs and functions within its jurisdiction and shall submit such rules for legislative review pursuant to Article I of the Administrative Procedures Act.

5. The Board of Juvenile Affairs shall develop performance standards for programs implemented, either directly or pursuant to contract, by the Department of Juvenile Justice.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.4 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. On or before July 1, 1995, the Board of Juvenile Affairs shall appoint the Executive Director of the Office of Juvenile Affairs. The Executive Director shall serve at the pleasure of the Board. If an Executive Director is not appointed or does not assume office by July 1, 1995, the Division Administrator of the Office of Juvenile Justice serving as transition coordinator shall

serve as Executive Director until an Executive Director is appointed and assumes office.

B. The Director of the Office of Juvenile Affairs shall be qualified for such position by character, ability, education, training, and successful administrative experience in the corrections or juvenile justice field; shall have earned a master's degree or other advanced degree from an accredited college or university with a major field of study in at least one of the following: Corrections, juvenile justice, juvenile delinquency, criminal justice, law, police science, criminology, psychology, sociology, administration, education, or a related social science, and three (3) years' work experience in corrections or juvenile justice, or a bachelor's degree in the degree areas specified in this subsection and four (4) years' progressively responsible work experience in corrections or juvenile justice.

C. Effective July 1, 1995, the Executive Director shall provide for the administration of the Office of Juvenile Affairs and shall:

1. Be the executive officer and supervise the activities of the Office of Juvenile Affairs;

2. Pursuant to legislative authorization employ, discharge, appoint or contract with, and fix the duties and compensation of such assistants, attorneys, law enforcement officers, probation officers, psychologists, social workers, medical professionals, administrative, clerical and technical, investigators, aides and such other personnel, either on a full-time, part-time, fee or contractual basis, as in his judgment and discretion shall be deemed necessary in the performance or carrying out of any of the purposes, objectives, responsibilities, or statutory provisions relating to the Office of Juvenile Affairs, or to assist the Executive Director in the performance of his official duties and functions;

3. Establish internal policies and procedures for the proper and efficient administration of the Office of Juvenile Affairs;

and

4. Exercise all incidental powers which are necessary and proper to implement the purposes of the Office of Juvenile Affairs pursuant to this act.

D. In the event of the Executive Director's temporary absence, the Executive Director may delegate the exercise of such powers and duties to a designee during the Executive Director's absence. In the event of a vacancy in the position of Executive Director, the Board of Juvenile Affairs may designate an interim or acting Executive Director who is authorized to exercise such powers and duties until a permanent Executive Director is employed.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.5 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 1994, there is hereby created the Office of Juvenile Affairs. Within the Office of Juvenile Affairs there is hereby created:

1. The Department of Juvenile Justice which shall be responsible for programs and services for children alleged or adjudicated to be delinquent or in need of supervision. The Executive Director of the Office of Juvenile Affairs shall appoint a Deputy Director of the Department of Juvenile Justice to serve as the administrative head of the Department; and

2. Such other Departments specifically established by law.

B. Until July 1, 1995, the transition team for the Office of Juvenile Affairs shall:

1. Assist the transition coordinators in the performance of duties pursuant to the provisions of Section 4 of this act relating to transitional authority;

2. Assist the Board of Juvenile Affairs, as necessary, in the promulgation of rules necessary to implement the programs and functions within the jurisdiction of the Office of Juvenile Affairs; and

3. Initiate a search for appropriate and adequate office space needed for purposes of implementing its jurisdictional duties provided by this act to be leased at such time as provided

by the Legislature. Until such time as specified by the Legislature, space shall be provided to the Office of Juvenile Affairs to the extent necessary to implement its jurisdictional duties provided by this act in the state building in which the Department of Human Services is located, Sequoyah Building, Oklahoma Capitol Complex, Oklahoma City, Oklahoma.

C. Effective July 1, 1995, the Office of Juvenile Affairs shall be a Merit System agency and all employees of the Office of Juvenile Affairs shall be classified employees who are subject to the Oklahoma Personnel Act and the Merit System of Personnel Administration, except as otherwise provided in Sections 840.8 and 840.10 of Title 74 of the Oklahoma Statutes.

D. Effective July 1, 1995, within its jurisdictional areas of responsibility, the Office of Juvenile Affairs, acting through the Executive Director, or persons authorized by law, rule or designated by the Executive Director to perform such acts, shall have the power and duty to:

1. Advise, consult, cooperate and enter into agreements with agencies of the state, municipalities and counties, other states and the federal government, and other persons;

2. Enter into agreements for, accept, administer and use, disburse and administer grants of money, personnel and property from the federal government or any department or agency thereof, or from any state or state agency, or from any other source, to promote and carry on in this state any program within its jurisdictional area of responsibility;

3. Require the establishment and maintenance of records and reports;

4. Establish a system of training for personnel in order to assure uniform statewide application of law and rules;

5. Enforce the provisions of this act and rules promulgated thereunder and orders issued pursuant thereto;

6. Charge and receive fees pursuant to fee schedules promulgated by the Board of Juvenile Affairs;

7. Conduct studies, research and planning of programs and functions, pursuant to the authority granted by this act;

8. Enter into interagency agreements;

9. Provide administrative and support services to the Board of Juvenile Affairs as necessary to assist the Board in the performance of their duties;

10. Establish and maintain such facilities and institutions as are necessary or convenient for the operation of programs for children under the jurisdiction of the Office of Juvenile Affairs;

11. Lease, from time to time, any real property which the Executive Director shall determine advisable to more fully carry into effect the operation of the Office of Juvenile Affairs in accordance with applicable state statutes. All such leases for real property shall be subject to the provisions of Section 63 of Title 74 of the Oklahoma Statutes;

12. Purchase or lease any equipment, supplies or materials pursuant to the Oklahoma Central Purchasing Act;

13. Contract for professional services;

14. Acquire, construct, extend, and operate any and all facilities of all kinds which in the judgment of the Executive Director and the approval of the Legislature shall be necessary or convenient to carry out the duties of the Office of Juvenile Affairs, as authorized by law; and

15. Exercise all incidental powers which are necessary and proper to implement and administer the purposes of this act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.6 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 1995, in addition to other responsibilities specified by law, the Department of Juvenile Justice shall:

1. Be the state planning and coordinating agency for statewide juvenile justice and delinquency prevention services;

2. Provide court intake, probation and parole for delinquent children; and

3. Collect and disseminate information and engage in juvenile justice or delinquency prevention activities relating to the provisions of this act.

B. Effective July 1, 1995, within the Department of Juvenile Justice there shall be created:

1. The Division of Advocate Defender;

2. The Division of the Parole Board which shall consist of the Parole Review and Hearing Board transferred to the Department of Juvenile Justice pursuant to subsection E of this section; and

3. Such other divisions prescribed by the Executive Director of the Office of Juvenile Affairs or by law.

C. 1. Effective July 1, 1995, the following programs are established within the Department of Juvenile Justice:

a. programs for community intervention and diversion projects to prevent juvenile delinquency,

b. state programs for children who are potentially delinquent and/or who are adjudicated delinquent,

c. programs for community disciplinary projects,

d. programs of juvenile crime restitution,

e. the Serious and Habitual Juvenile Offender Program,

f. regimented juvenile training programs, and

g. such other programs prescribed by the Executive Director of the Office of Juvenile Justice or by law.

2. Beginning July 1, 1995, The Office of Juvenile Affairs, in cooperation with the courts, shall develop programs which can be used directly by the Department of Juvenile Justice or can be used in communities with the assistance of the Department of Juvenile Justice to divert juveniles at risk of becoming delinquent from the formal court process. Such programs shall be implemented by the Department of Juvenile Justice beginning July 1, 1995. Such programs shall include, but not be limited to:

1. Alternative diversion programs for first-time offenders;

2. Teen court programs, subject to the requirements and procedures provided in Section 1114 of Title 10 of the Oklahoma Statutes; and

3. Teen substance abuse schools.

D. 1. Beginning July 1, 1995, the Department of Juvenile Justice, in its role as coordinator for delinquency prevention services, shall:

- a. establish guidelines for juvenile delinquency prevention and diversion programs for use in local communities, including but not limited to:
 - (1) counseling programs,
 - (2) recreational programs,
 - (3) job skills workshops,
 - (4) community public improvement projects,
 - (5) mediation programs,
 - (6) programs to improve relationships between juveniles and law enforcement personnel,
 - (7) diagnostic evaluation services,
 - (8) substance abuse prevention programs, and
 - (9) independent living skills and self-sufficiency planning programs, and
- b. provide that personnel shall be available in each county of the state to assist local communities in developing and implementing community programs to prevent delinquency and to divert children who have committed delinquent acts from committing further delinquent or criminal acts. The Department of Juvenile Justice shall provide this service in each county either directly or by contract.

2. As used in this section:

- a. "alternative diversion programs for first-time offenders" means programs for juveniles who have been identified by law enforcement personnel, the district attorney, or the court as having committed acts which are not serious enough to warrant adjudication through the juvenile court process, but which do indicate a need for intervention to prevent further development toward juvenile delinquency,
- b. "teen court programs" means programs which provide an alternative judicial forum for cases involving

- juvenile offenders, in which teenage participants, under the supervision of an adult coordinator, serve in various capacities within the courtroom, including jurors, lawyers, bailiffs and judges. The teen court hears cases involving juvenile offenders who are referred to the teen court by the district attorney or the district court and assesses sentences such as participation in community work projects, counseling or rehabilitation programs, and
- c. "teen substance abuse schools" means any program approved by the court that provides educational, motivational and behavior modification instruction for juveniles who have chemical dependency problems.

E. 1. On July 1, 1995, the following programs or divisions shall be transferred, along with funding allocations, from the Department of Human Services to the Department of Juvenile Justice within the Office of Juvenile Affairs:

- a. the Residential Services Unit of the Office of Juvenile Justice,
- b. the Quality Assurance Monitoring Unit of the Office of Juvenile Justice,
- c. the Contract Management/Youth Services Unit of the Office of Juvenile Justice,
- d. the Psychological Unit of the Office of Juvenile Justice,
- e. the Juvenile Services Unit,
- f. all field and supervisory staff for court-related juvenile services,
- g. all institutional staff for institutions transferred from the Department of Human Services to the Office of Juvenile Affairs,
- h. all staff assigned to the community residential programs of the Office of Juvenile Justice,
- i. the Management Services Unit of the Office of Juvenile Justice,
- j. the Programs Unit of the Office of Juvenile Justice,

- k. all staff of the business office of the Office of Juvenile Justice,
- l. the Planning and Information Unit of the Office of Juvenile Justice,
- m. all staff of the Office of Juvenile Justice assigned to serve as the liaison to the Federal Court Monitor of the Office of Juvenile Justice, and
- n. the Parole Review and Hearing Board within the Office of the General Counsel of the Department of Human Services.

2. The classified and unclassified employees who are transferred from the Department of Human Services to the Office of Juvenile Affairs on July 1, 1995, shall be subject to the following provisions:

- a. classified employees transferred to the Office of Juvenile Affairs shall remain subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. The transfer of such employees shall be made pursuant to Section 530:10-11-74 of the Oklahoma Administrative Code,
- b. unclassified employees transferred to the Office of Juvenile Affairs shall remain in the unclassified service and shall serve at the pleasure of the Executive Director. Except for positions that remain in the unclassified service pursuant to law, the positions occupied by unclassified employees so transferred shall become part of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act, whenever they become vacant. Nothing in this section shall prohibit the unclassified employees from making application and competing for these or any other positions in the classified service the same as any other applicant for open competitive appointment,

c. all employees who are transferred to the Office of Juvenile Affairs shall retain leave, sick and annual time earned and any retirement and longevity benefits which have accrued during their tenure with the agency from which transferred. The salaries of employees who are transferred shall not be reduced as a direct and immediate result of the transfer. The transfer of personnel among the state agencies shall be coordinated with the Office of Personnel Management.

F. Effective July 1, 1995, custody, care and supervision of children adjudicated to be delinquent or in need of supervision and any monies and funds received on behalf of such children are hereby transferred from the Department of Human Services to the Office of Juvenile Affairs. Records in the custody of the Department of Human Services on the transfer date relating to delinquent children and children in need of supervision shall be transferred to the Department of Juvenile Justice.

G. Effective July 1, 1995, all powers, duties, records, property, assets, monies and funds of the Office of Juvenile Justice shall be transferred to the Office of Juvenile Affairs. Effective July 1, 1995, liabilities of the Office of Juvenile Justice shall be transferred to the Office of Juvenile Affairs as provided for in the appropriation process of the Legislature. Any additional administrative support or costs incurred by the Office of Juvenile Affairs as a result of the transfer required by this section shall be borne by the Office of Juvenile Affairs.

H. The Office of Juvenile Justice shall be abolished by the Commission for Human Services after such transfer has been completed.

I. The Director of State Finance is hereby directed to coordinate the transfer of assets, funds, allotments, purchase orders, liabilities, outstanding financial obligations or encumbrances provided for in this section. The Department of Central Services is hereby directed to coordinate the transfer of property and records provided for in this section.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.7 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. By July 1, 1995, the Office of Juvenile Affairs shall establish and maintain a fair, simple and expeditious system for resolution of grievances of all persons committed to the Office of Juvenile Affairs regarding the substance or application of any written or unwritten policy, rule of the Board of Juvenile Affairs or of an agent or contractor of the Office of Juvenile Affairs or any decision, behavior or action by an employee, agent or contractor or by any other person committed to the Office of Juvenile Affairs.

B. Effective July 1, 1995, there is hereby established within the Department of Juvenile Justice the Division of Advocate Defender. The administrative officer of the Division of Advocate Defender shall be the Advocate General, who shall be an attorney with a minimum of three (3) years' experience as an attorney. The Executive Director of the Office of Juvenile Affairs shall employ such other personnel as may be necessary to carry out the purposes of this section. Such personnel may be dismissed only for cause.

C. Effective July 1, 1995, the duties and responsibilities of the Advocate General are as follows:

1. Supervise personnel assigned to children's institutions and facilities as student defender/representatives;
2. Monitor and review grievance procedures and hearings;
3. Investigate grievances of juveniles and staff grievances related to juveniles which are not resolved at the facility level;
4. Report to the Department of Human Services allegations of abuse or neglect of juveniles who are in the custody of the Office of Juvenile Affairs and placed in a private facility in accordance with the provisions of Section 843 of Title 21 of the Oklahoma Statutes or juveniles placed in facilities operated by the Office of Juvenile Affairs; or

5. Coordinate any hearings or meetings of administrative review committees conducted as a result of unresolved grievances or as a result of investigations;

6. Make recommendations to the Deputy Director of the Department of Juvenile Justice, and provide regular or special reports regarding grievance procedures, hearings and investigations to the Executive Director of the Office of Juvenile Affairs, the Office of Juvenile System Oversight and other appropriate persons as necessary;

7. Forward to the Office of Juvenile Systems Oversight, for the information of the Executive Director of the Office of Juvenile Systems Oversight, a copy of the final report of a complaint which is not resolved, through the system for resolution of grievances established by the Office of Juvenile Affairs, in the favor of the complainant; and

8. Perform such other duties as required by the Executive Director of the Office of Juvenile Affairs.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.8 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. During the 1995 fiscal year, the Department of Human Services through the Office of Juvenile Justice shall oversee the expansion of the number of preadjudicatory secure detention beds available in this state. This duty shall be assumed by the Office of Juvenile Affairs effective July 1, 1995. During the 1995 and 1996 fiscal years the number of such beds shall be increased by one hundred nine beds or by the number necessary to result in a total of two hundred sixty-five such beds by July 1, 1996. It is the intent of the Legislature to establish such beds on a geographic basis throughout the state in order to provide more accessibility to services for all regions of the state.

Therefore, such beds shall be established as follows: In Oklahoma County thirty-seven beds, in Tulsa County twenty-six beds, in Cleveland County twelve beds, in Lincoln County ten beds, in Comanche County six beds, in Custer County six beds, in Texas

County six beds and in Talihina in LeFlore County six beds. The six beds in Comanche County shall be regional detention beds and out-of-county placements shall be given priority for these beds. The beds established by this subsection shall be operated in accordance with Section 1108 of Title 10 of the Oklahoma Statutes.

B. During the 1995 fiscal year, the Department of Human Services through the Office of Juvenile Justice shall convert thirty-two of the beds at the Central Oklahoma Juvenile Center for use as regimented juvenile training program beds pursuant to Section 1401 of Title 10 of the Oklahoma Statutes. The duty for operation of the regimented juvenile training program at the center shall be assumed by the Office of Juvenile Affairs effective July 1, 1995, when the facility is transferred to the Office of Juvenile Affairs.

C. During the 1995 fiscal year, the Department of Human Services through the Office of Juvenile Justice shall establish a regional juvenile facility in the southwestern part of the state. The facility shall include six transitional beds and sixty-four medium secure beds for such programs as the Department determines will most appropriately and effectively provide required services; provided, no more than thirty-two beds shall be used for any one type of program. It is the intent of the Legislature that the Department locate an existing facility that can be remodeled and used for this purpose. The responsibility for operation of such beds shall be assumed by the Office of Juvenile Affairs beginning July 1, 1995.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.9 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. It is the intent of the Legislature that the program established pursuant to this section benefit the state by providing a two-phase regimented juvenile training program under which certain adjudicated juveniles are subject to a controlled and regimented environment that affirms dignity of self and respect for others; promotes the value of education, work, and

self-discipline; and develops useful skills and abilities that can be applied when the juvenile is reintegrated into the community.

B. 1. The Department of Human Services through the Office of Juvenile Justice shall establish, maintain, and operate a regimented juvenile training program. Juveniles eligible for participation in the program shall be assessed and deemed appropriate for the program by the Department of Human Services. The juveniles eligible for the program shall include only juveniles adjudicated delinquent and placed in the custody of the Department of Human Services.

2. A juvenile may be eliminated from the program upon a determination by the Office of Juvenile Justice that a physical or mental condition will prevent full participation in the program by such offender.

C. The regimented juvenile training program shall consist of two phases, which shall be administered as follows:

1. Phase I: An intensive physical training and discipline phase in a secure facility, consisting of not more than thirty-two beds, or a nonsecure facility, for a period of not more than ninety (90) days and administered by the Office of Juvenile Justice. The Office may operate Phase I at Department facilities or contract for such services;

2. Phase II: A community reintegration phase for juveniles who have completed Phase I of the program, which is administered by the Office, as follows:

- a. if appropriate juvenile diversion services are available, the Department of Human Services may contract for such services, and
- b. if appropriate diversion services are not available, the juvenile shall be subject to a period of supervision under the Office of Juvenile Justice;

3. A juvenile in the regimented juvenile training program shall be required to participate in the reintegration phase for a period to be determined by the Office of Juvenile Justice;

4. In addition to the requirements set forth in this subsection, juveniles shall be required to participate in a job

training and educational component, as deemed appropriate by the Office of Juvenile Justice. The educational component shall include classroom work comprised of basic academic and/or vocational instruction.

D. If a juvenile fails to progress through or complete the initial phase of the regimented juvenile training program, the Office may reassign the juvenile to another appropriate facility. In addition, if a juvenile fails to progress through or complete the second phase of the program, the Office may return the juvenile to Phase I of the program for completion of all or part of the earlier phase; except that a juvenile shall not be returned for participation in the initial phase more than once.

E. The Department of Human Services shall establish standards, which shall be enforced by the Office of Juvenile Justice, for the regimented juvenile training program and each of the phases thereof described in this section. Supportive services deemed necessary by the Office shall be made available under the phases of the regimented juvenile training program, as deemed appropriate by the Department.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.10 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Sections 13 through 17 of this act shall be known and may be cited as the "Delinquency and Youth Gang Intervention and Deterrence Act".

B. The Legislature recognizes that the economic cost of crime to the state and communities continues to drain existing resources, and the cost to victims, both economic and psychological, is traumatic and tragic. The Legislature further recognizes that many adults in the criminal justice system were once delinquents in the juvenile justice system. The Legislature also recognizes that the most effective juvenile delinquency programs are programs that not only prevent children from entering the juvenile justice system, but also meet local community needs and have substantial community involvement and support.

Therefore, it is the belief of the Legislature that one of the best investments of scarce resources available to combat crime is to counteract the negative social and economic factors that contribute to criminal and delinquent behavior by engaging youth, at an early age, in positive programs and opportunities at the local, neighborhood and community level.

C. For the purpose of reducing the likelihood of later involvement in criminal or delinquent activities, the intent of the Legislature in enacting the Delinquency and Youth Gang Intervention and Deterrence Act is to provide for school, school-related and after-school programs for children in grades 1 through 12, and their families, who live in at-risk school districts, neighborhoods and communities and to aid all communities in developing delinquency prevention and early intervention programs and activities.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.11 of Title 10, unless there is created a duplication in numbering, reads as follows:

For the purposes of the Delinquency and Youth Gang Intervention and Deterrence Act:

1. "At-risk school districts, neighborhoods and communities" means that within the school district, neighborhood or community the incidence of reported juvenile crime or referrals for juvenile court intakes, or some combination of both such incidence and referrals as approved by the Office of Juvenile Justice, is significantly higher than the statewide statistical mean for such incidence, referrals or combination;

2. "School, school-related or after-school programs and activities" includes delinquency prevention or early intervention programs and activities that occur during or outside of regular school hours; and

3. "Delinquency prevention and early intervention programs and activities" includes but is not limited to the following for participating youth: Intensive school and school-related programs, such as tutoring and other educational services,

vocational training and counseling, employment services, recreational opportunities, and counseling services, such as family counseling, mental health counseling, substance abuse outpatient treatment, education programs, and programs and services involving the families of participating youth.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.12 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. From funds appropriated or otherwise available for that purpose, the Department of Human Services through its Office of Juvenile Justice shall:

1. Issue requests for proposals and contract with eligible entities for delinquency prevention and early intervention programs; and

2. Provide information and technical assistance to school districts, neighborhood and community organizations, and agencies within the children and youth service system, as that term is defined by the Serious and Habitual Juvenile Offender Act, for the purpose of assisting them to make application for federal, state and private grants for delinquency prevention and early intervention programs.

B. The Office of Juvenile Justice, with the assistance of and information provided by the Oklahoma Commission on Children and Youth and the Oklahoma State Bureau of Investigation, shall establish criteria for:

1. Identifying at-risk neighborhoods, school districts, communities and specific areas within school districts and communities for the purposes of determining eligibility for any grants for at-risk areas available pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act; and

2. Determining eligibility for communities seeking other grants pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act.

The Oklahoma Commission on Children and Youth and the Oklahoma State Bureau of Investigation shall provide the Office of Juvenile

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Justice with information and assistance, as requested by the Office, for the purpose of establishing the criteria required by this section.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.13 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Commission for Human Services shall establish the proposal submission and education procedures and criteria and shall promulgate rules as necessary for the implementation of the Delinquency and Youth Gang Intervention and Deterrence Act.

B. In order to be eligible for an at-risk grant contract pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act the proposal shall, at minimum:

1. Be a joint proposal made by an at-risk school district, neighborhood organization, municipality or county and one or more agencies or organizations within the children and youth service system. If a school district is not a joint participant in the proposal, the proposal shall document and describe the active participation in and support of the local school district in the program and activities for which the proposal is submitted;

2. Be for programs and activities for children not less than six (6) years of age, or in grades 1 through 12, whichever is applicable;

3. Describe the respective roles and responsibilities for the administration and operation of the program and activities, including but not limited to the designation of the entity responsible for the receipt and expenditure of any funds awarded pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act;

4. Specifically identify the area within a school district or community or the neighborhood where the programs and activities will be implemented;

5. Describe how the program will coordinate and cooperate with programs and services administered by the Department of Human Services, the State Department of Education, and other state or

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local agencies, such as law enforcement, courts and other agencies within the children and youth service system; and

6. Provide the program and activities on-site in a school, community center, or similar location within the neighborhood or identified area of the school district or community.

C. In order to be eligible for any other grant contract pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act, the proposal shall, at a minimum:

1. Describe the respective roles and responsibilities for the administration and operation of the program and activities, including but not limited to the designation of the entity responsible for the receipt and expenditure of any funds awarded pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act; and

2. Describe how the program will coordinate and cooperate with programs and services administered by the Department of Human Services, the State Department of Education, and other state or local agencies, such as law enforcement, courts and other agencies within the children and youth service system.

D. Each entity which receives a contract pursuant to this section shall submit an annual evaluation report to the Department of Human Services, by a date subsequent to the end of the contract period as established by the Department, documenting the extent to which the program objectives have been met and any other information required by the Department.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.14 of Title 10, unless there is created a duplication in numbering, reads as follows:

Effective July 1, 1995, the responsibility for implementation of the Delinquency and Youth Gang Intervention and Deterrence Act shall be transferred to the Department of Juvenile Justice.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.15 of Title 10, unless there is created a duplication in numbering, reads as follows:

Sections 18 through 29 of this act shall be known and may be cited as the "Youthful Offender Act".

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.16 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. For the purposes of the Youthful Offender Act:

1. "Youthful offender" means a person:

- a. thirteen (13), fourteen (14), fifteen (15), sixteen (16) or seventeen (17) years of age who is charged with murder in the first degree and certified as a youthful offender as provided by Section 22 of this act,
- b. fifteen (15), sixteen (16), and seventeen (17) years of age and charged with a crime listed in subsection A of Section 23 of this act, and
- b. fourteen (14), fifteen (15), sixteen (16), or seventeen (17) years of age and certified as a youthful offender as provided by Section 24 of this act.

2. "Sentenced as a youthful offender" means the imposition of a court order making disposition of a youthful offender as provided by Section 26 of this act.

B. It is the purpose of the Youthful Offender Act to better ensure the public safety by holding youths accountable for the commission of serious crimes, while affording courts methods of rehabilitation for those youths the courts determine, at their discretion, may be amenable to such methods. It is the further purpose of the Youthful Offender Act to allow those youthful offenders whom the courts find to be amenable to rehabilitation by the methods prescribed in this act to be placed in the custody or under the supervision of the Office of Juvenile Affairs for the purpose of accessing the rehabilitative programs provided by that Office and thereby, upon good conduct and successful completion of such programs, avoid conviction for a crime.

It is further the intention of the Legislature to extend the provisions of the Youthful Offender Act to provide for the continuation of a youthful offender in the custody of or under the supervision of the Office of Juvenile Affairs until age twenty-three (23) as resources become available for such purpose.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.17 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by the Youthful Offender Act, a child who is charged with having violated any state statute or municipal ordinance other than those enumerated in Sections 22 and 23 of this act shall not be tried in a criminal action or a youthful offender proceeding but in a juvenile proceeding.

B. If, during the pendency of a criminal or quasi-criminal charge against any person, it shall be ascertained that the person was a child at the time of committing the alleged offense, the district court or municipal court shall transfer the case, together with all the papers, documents and testimony connected therewith, to the juvenile division of the district court. The division making such transfer shall order the child to be taken forthwith to the place of detention designated by the juvenile division, to that division itself, or release such child to the custody of some suitable person to be brought before the juvenile division.

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

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.18 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. When a person is certified to stand trial as an adult or a youthful offender as provided by the Youthful Offender Act, the

accused person shall have all the statutory and constitutional rights and protections of an adult accused of a crime. All proceedings shall be as for a criminal action and the provisions of Title 22 of the Oklahoma Statutes shall apply, except as provided for in the Youthful Offender Act.

B. Proceedings against a youthful offender shall be heard by a judge of the district court having juvenile docket responsibility, provided, the trial of a youthful offender may be heard by the judge of the district court having juvenile docket responsibility or by any other division of the court which would have trial jurisdiction of an adult charged with the same offense.

C. Upon arrest and detention of a person subject to the provisions of Section 22 or 23 of this act, or upon certification of a child as a youthful offender, the person has the same right to be released on bail as would an adult in the same circumstances and, if detained, shall be detained in a juvenile detention facility.

D. Upon a verdict of guilty or entry of a plea of guilty or nolo contendere by a youthful offender who has been certified for the imposition of an adult sentence as provided by Section 25 of this act the person may be detained as an adult and, if incarcerated, may be incarcerated with the adult population.

E. A child or youthful offender shall be tried as an adult in all subsequent criminal prosecutions, and shall not be subject to the jurisdiction of the juvenile court or youthful offender processes in any further proceedings if:

1. The child or youthful offender has been certified to stand trial as an adult pursuant to any certification procedure provided by law; or

2. The youthful offender has been certified for the imposition of an adult sentence as provided by Section 25 of this act and is subsequently convicted of the alleged offense or against whom the imposition of judgment and sentencing has been deferred.

F. Except as provided by Section 23 of this act, a person who has been prosecuted and sentenced as a youthful offender shall be

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prosecuted as a youthful offender in all subsequent criminal proceedings until the youthful offender has attained eighteen (18) years of age.

All proceedings for the commission of a crime committed after a youthful offender has reached eighteen (18) years of age shall be adult proceedings.

G. When a person who has been sentenced as a youthful offender is placed in the custody or under the supervision of the Office of Juvenile Affairs, if the youthful offender has not been previously discharged by the court, within the thirty (30) days immediately preceding the date on which the youthful offender becomes twenty (20) years of age, the court shall hold a review hearing and shall make further orders regarding the youthful offender as provided by Section 27 of this act.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.19 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Any person thirteen (13), fourteen (14), fifteen (15), sixteen (16) or seventeen (17) years of age who is charged with murder in the first degree shall be held accountable for his acts as if he were an adult; provided, the person may be certified as a youthful offender as provided by this section.

B. 1. Upon the filing of an adult criminal information against such accused person, a warrant shall be issued which shall set forth the rights of the accused person, and the rights of the parents, guardian or next friend of the accused person to be present at the preliminary hearing, to have an attorney present and to make application for certification of such accused person as a youthful offender to the juvenile division of the district court for the purpose of prosecution as a youthful offender.

2. The warrant shall be personally served together with a certified copy of the information on the accused person and on a custodial parent, guardian or next friend of the accused person.

3. When personal service of a custodial parent, guardian or next friend of the accused person cannot be effected, service may

be made by certified mail to such person's last-known address, requesting a return receipt from the addressee only. If delivery is refused, notice may be given by mailing the warrant and a copy of the information on the accused person by regular first class mail to the address where the person to be notified refused delivery of the notice sent by certified mail. Where the address of a custodial parent, guardian or next friend is not known, or if the mailed warrant and copy of the information on the accused person is returned for any reason other than refusal of the addressee to accept delivery, after a thorough search of all reasonably available sources to ascertain the whereabouts of a custodial parent, guardian or next friend has been conducted, the court may order that notice of the hearing be given by publication one time in a newspaper of general circulation in the county. In addition, the court may order other means of service of notice that the court deems advisable or in the interests of justice.

4. Before service by publication is ordered, the court shall conduct an inquiry to determine whether a thorough search has been made of all reasonably available sources to ascertain the whereabouts of any party for whom notice by publication is sought.

C. 1. The accused person shall file a motion for certification as a youthful offender before the start of the criminal preliminary hearing. Upon the filing of such motion, the complete juvenile record of the accused shall be made available to the district attorney and the accused person.

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

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

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

2. Whether the offense was against persons, and, if personal injury resulted, the degree of personal injury;

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

4. The sophistication and maturity of the accused person and his capability of distinguishing right from wrong as determined by consideration of his psychological evaluation, home, environmental situation, emotional attitude and pattern of living;

5. The prospects for adequate protection of the public if the accused person is processed through the youthful offender system;

6. The likelihood of reasonable rehabilitation of the accused person if he is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court; and

7. Whether the offense occurred while the accused person was escaping or on escape status from an institution for youthful offenders or delinquent children.

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

E. Upon completion of the criminal preliminary hearing, if the accused person is certified as a youthful offender to the juvenile division of the district court for the purpose of prosecution as a youthful offender, then all court records relative to the accused person and this charge shall be expunged and any mention of the accused person shall be removed from public record.

F. An order certifying a person as a youthful offender or denying the request for certification as a youthful offender shall be a final order, appealable when entered.

G. If the accused person is prosecuted as an adult and is subsequently convicted of the alleged offense or against whom the imposition of judgment and sentencing has been deferred, the

person may be incarcerated with the adult population and shall be prosecuted as an adult in all subsequent criminal proceedings.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.20 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Any person fifteen (15), sixteen (16) or seventeen (17) years of age who is charged with:

1. Murder in the second degree;
 2. Kidnapping;
 3. Manslaughter in the first degree;
 4. Robbery with a dangerous weapon or attempt thereof;
 5. Robbery with a firearm or attempt thereof;
 6. Rape in the first degree or attempt thereof;
 7. Rape by instrumentation or attempt thereof;
 8. Sodomy;
 9. Lewd molestation;
 10. Arson in the first degree or attempt thereof;
 11. Burglary in the first degree;
 12. Shooting with intent to kill;
 13. Aggravated assault and battery of a police officer;
 14. Discharging a firearm, crossbow or other weapon from a vehicle pursuant to subsection B of Section 652 of Title 21 of the Oklahoma Statutes;
 15. Intimidating a witness;
 16. Trafficking in illegal drugs;
 17. Assault and battery with a deadly weapon;
 18. Maiming; and
 19. The commission of a felony after three or more prior adjudications as a delinquent,
- shall be held accountable for his acts as a youthful offender.

B. After a preliminary investigation conducted by the Office of Juvenile Affairs or a juvenile bureau, whichever is applicable for the county, the district attorney may file a petition alleging the person to be a delinquent or may file a youthful offender information against the accused person.

C. 1. Upon the filing of youthful offender information against such alleged youthful offender, a warrant shall be issued which shall set forth the rights of the accused person, and the rights of the parents, guardian or next friend of the accused person to be present at the preliminary hearing, and to have an attorney present.

2. The warrant shall be personally served together with a certified copy of the information on the alleged youthful offender and on a custodial parent, guardian or next friend of the accused person.

3. When personal service of a custodial parent, guardian or next friend of the alleged youthful offender cannot be effected, service may be made by certified mail to such person's last-known address, requesting a return receipt from the addressee only. If delivery is refused, notice may be given by mailing the warrant and a copy of the information on the accused person by regular first class mail to the address where the person to be notified refused delivery of the notice sent by certified mail. Where the address of a custodial parent, guardian or next friend is not known, or if the mailed warrant and copy of the information on the accused person is returned for any reason other than refusal of the addressee to accept delivery, after a distinct and meaningful search of all reasonably available sources to ascertain the whereabouts of a custodial parent, guardian or next friend has been conducted, the court may order that notice of the hearing be given by publication one time in a newspaper of general circulation in the county. In addition, the court may order other means of service of notice that the court deems advisable or in the interests of justice.

4. Before service by publication is ordered, the court shall conduct an inquiry to determine whether a thorough search has been made of all reasonably available sources to ascertain the whereabouts of any party for whom notice by publication is sought.

D. 1. The accused person may file a motion for certification to the juvenile system before the start of the criminal preliminary hearing:

- a. upon the filing of such motion, the complete juvenile record of the accused shall be made available to the district attorney and the accused person,
- b. at the conclusion of the state's case at the criminal preliminary hearing, the accused person may offer evidence to support the motion for certification as a child.

2. If no motion to certify the accused person to the juvenile system has been filed, at the conclusion of the criminal preliminary hearing the court may on its own motion hold a hearing on the matter of the certification of the accused youthful offender to the juvenile system.

3. The court shall rule on the certification motion before ruling on whether to bind the accused over for trial. When ruling on the certification motion, the court shall give consideration to the following guidelines:

- a. the seriousness of the alleged offense to the community, and whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner,
- b. whether the offense was against persons or property, greater weight being given to offenses against persons, and if personal injury resulted, the degree of personal injury,
- c. the sophistication and maturity of the juvenile and his capability of distinguishing right from wrong as determined by consideration of his psychological evaluation, home, environmental situation, emotional attitude and pattern of living,
- d. the record and previous history of the accused person, including previous contacts with community agencies, law enforcement agencies, schools, juvenile courts and other jurisdictions, prior periods of probation or prior commitments to juvenile institutions,

- e. the prospects for adequate protection of the public,
- f. the likelihood of reasonable rehabilitation of the juvenile if he is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court, and
- g. whether the offense occurred while the youthful offender was escaping or in an escape status from an institution for delinquent children.

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

5. An order certifying a person or denying such certification to the juvenile system shall be a final order, appealable when entered.

E. Upon conviction, sentence may be imposed as a sentence for a youthful offender as provided by Section 26 of this act. If the youthful offender sentence is imposed as an adult sentence, the juvenile may be incarcerated with the adult population.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.21 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. If a child age fourteen (14) is charged with an offense listed in Section 23 of this act, or a child age sixteen (16) or seventeen (17) years of age is charged with a felony weapons offense, possession of an illegal drug with intent to distribute, distribution of an illegal drug or rape in the second degree, the court on its own motion or at the request of the district attorney shall conduct a preliminary hearing to determine whether or not there is prosecutive merit to the complaint. If the court finds that prosecutive merit exists, it shall continue the hearing for a sufficient period of time to conduct an investigation and further hearing to determine if the child should be held accountable for

his acts as if he were a youthful offender if he should be found to have committed the alleged act or omission.

Consideration shall be given to:

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

2. Whether the offense was against persons or property, greater weight being given to offenses against persons, and if personal injury resulted, the degree of personal injury;

3. The sophistication and maturity of the juvenile and his capability of distinguishing right from wrong as determined by consideration of his psychological evaluation, home, environmental situation, emotional attitude and pattern of living;

4. The record and previous history of the accused person, including previous contacts with community agencies, law enforcement agencies, schools, juvenile courts and other jurisdictions, prior periods of probation or prior commitments to juvenile institutions;

5. The prospects for adequate protection of the public;

6. The likelihood of reasonable rehabilitation of the juvenile if he is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court; and

7. Whether the offense occurred while the juvenile was escaping or in an escape status from an institution for delinquent children.

After such investigation and hearing, the court may in its discretion proceed with the juvenile proceeding, or it shall state its reasons in writing and shall certify that such child shall be held accountable for his acts as a youthful offender and shall be held for proper criminal proceedings for the specific offense charged. The trial of a youthful offender may be heard by the judge of the district court having juvenile docket responsibility or by any other division of the court which would have trial jurisdiction of an adult charged with the same offense. The juvenile proceeding shall not be dismissed until the youthful

offender proceeding has commenced and if no youthful offender proceeding commences within thirty (30) days of the date of such certification, unless stayed pending appeal, the court shall proceed with the juvenile proceeding and the certification shall lapse.

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

B. Prior to the entry of any order of adjudication, any child in custody shall have the same right to be released upon bail as would an adult under the same circumstances. Subsequent to the entry of an order that a child stand trial as a youthful offender, said child shall have all the statutory and constitutional rights and protections of an adult accused of a crime but shall, while awaiting trial and for the duration of the trial, be detained in a juvenile detention facility. Upon conviction, the person may be sentenced as a youthful offender. If a child is certified to stand trial as a youthful offender, the court shall make every effort to avoid duplication of the preliminary hearing and the prosecutorial hearing in the juvenile certification process. The parties may jointly stipulate to the court that the record for the prosecutorial merit hearing in the juvenile proceeding be used for all or part of the preliminary hearing.

C. An order either certifying a person as a child pursuant to subsection A of this section or denying such certification shall be a final order, appealable when entered.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.22 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Whenever the district attorney believes that there is no reasonable expectation that the accused person would reasonably

complete a plan of rehabilitation and the public would not be adequately protected if the person were to be sentenced as a youthful offender, and should receive an adult sentence, the district attorney shall file a motion for consideration of the imposition of the sentence as for an adult if the person is convicted:

1. Not less than ten (10) days prior to the trial; or
2. At the time of a guilty plea or plea of nolo contendere.

B. Upon the filing of such motion and prior to the trial or before the entry of the plea of guilty or nolo contendere the court shall hold a hearing to determine the matter.

C. 1. The court shall order an investigation to be conducted unless waived by the youthful offender with approval of the court. Any such investigation required shall be conducted by the Department of Juvenile Justice.

2. At the hearing the court shall consider:

- a. whether the offense was committed in an aggressive, violent, premeditated or willful manner,
- b. whether the offense was against persons or property, greater weight being given for offenses against persons and, if personal injury resulted, the degree of injury,
- c. the sophistication and maturity of the juvenile and his capability of distinguishing right from wrong as determined by consideration of his psychological evaluation, home, environmental situation, emotional attitude and pattern of living,
- d. the record of the person including previous involvements with law enforcement agencies or courts, or prior periods of probation or prior commitments to institutions for delinquent behavior, and the previous history of the person with community agencies and schools,
- e. the prospects for adequate protection of the public,
- f. the likelihood of reasonable rehabilitation of the youthful offender if he is found to have committed

the alleged offense, by the use of procedures and facilities currently available to the court if the accused person is processed through the youthful offender system, and

- g. whether the offense occurred while the person was escaping from a secure facility for youthful offenders or delinquent children.

D. After the hearing and consideration of the report of the investigation, the court shall certify the person as eligible for the imposition of an adult sentence only if it finds by clear and convincing evidence that there is no reasonable expectation that the accused person would reasonably complete a plan of rehabilitation and the public would not be adequately protected if the person were to be sentenced as a youthful offender.

E. If the person has been certified as eligible to be sentenced as an adult, the court shall, upon a verdict of guilty or the entry of a plea of guilty or nolo contendere, impose sentence as provided by law for an adult for punishment of the offense committed, subject to the power and authority of the court to suspend or delay sentence, defer judgment, or otherwise structure, limit, or modify sentence as provided in Title 22 of the Oklahoma Statutes or the Youthful Offender Act. When sentence is imposed pursuant to this paragraph, the person shall be treated as an adult for purposes of supervision, incarceration and in all subsequent criminal proceedings.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.23 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Upon a verdict of guilty or a plea of guilty or nolo contendere of a youthful offender and prior to the imposition of a youthful offender sentence by the court:

1. A youthful offender presentence investigation shall be conducted unless waived by the youthful offender with approval of the court. Any presentence investigation required shall be conducted by the Department of Juvenile Justice; and

2. The court shall conduct a hearing and shall consider:
 - a. whether the offense was committed in an aggressive, violent, premeditated or willful manner,
 - b. whether the offense was against persons or property, greater weight being given to offenses against persons when personal injury resulted and the degree of injury,
 - c. the sophistication and maturity of the juvenile and his capability of distinguishing right from wrong as determined by consideration of his psychological evaluation, home, environmental situation, emotional attitude and pattern of living,
 - d. the record of the person including previous involvements with law enforcement agencies or courts, or prior periods of probation or prior commitments to institutions for delinquent behavior, and the previous history of the person with community agencies and schools,
 - e. the prospects for adequate protection of the public,
 - f. the likelihood of reasonable rehabilitation of the youthful offender by the use of procedures and facilities currently available to the court if the accused person is processed through the youthful offender system, and
 - g. whether the offense occurred while the person was escaping from a secure facility for youthful offenders or delinquent children.

B. After the hearing and consideration of the report of the presentence investigation, the court may defer, delay or sentence the person as a youthful offender and without entering a judgment of guilty, defer further proceedings for a period not to exceed ten (10) years and enter a dispositional order regarding the youthful offender. The court may make the following dispositional orders regarding a youthful offender:

1. Place the youthful offender under the supervision of the Office of Juvenile Affairs; and

2. Place the youthful offender in the custody of the Office of Juvenile Affairs.

In addition to or in lieu of the placement of the youthful offender in the custody of or under the supervision of the Office of Juvenile Affairs, the court may issue orders with regard to the youthful offender as provided by law for the disposition of a child adjudicated delinquent.

C. Placement of a youthful offender in the custody or under the supervision of the Office of Juvenile Affairs as provided in this section shall be for a determinate period of time not to exceed ten (10) years provided, said determinate period shall not exceed the amount of time of a sentence of an adult convicted of the same offense.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.24 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Whenever a youthful offender is placed in the custody of or under the supervision of the Office of Juvenile Affairs, the Office shall within thirty (30) days prepare and file with the court a written rehabilitation plan for the youthful offender. The rehabilitation plan shall include but not be limited to:

1. When the youthful offender is placed in the custody of the Office of Juvenile Affairs, the placement of the youthful offender;

2. Clearly stated, measurable objectives which the youthful offender is expected to achieve; and

3. The services that will be provided to the youthful offender by the Department of Juvenile Justice to assist the youthful offender to achieve the objectives.

B. Whenever a youthful offender is placed in the custody or under the supervision of the Office of Juvenile Affairs as provided by the Youthful Offender Act, the court shall conduct a semiannual review based upon written reports of the youth's conduct, progress and condition. Written reports concerning the conduct, progress and condition of a youthful offender shall be

submitted to the court prior to scheduled reviews by the Department of Juvenile Justice. Such reports shall include a written report of the youthful offender with respect to the rehabilitation plan. Copies of those reports shall be provided by the agency to the youthful offender, his counsel, parent or guardian if the youthful offender is less than eighteen (18) years of age, and the district attorney. The court shall consider any timely written response to the agency report before concluding its review.

C. The court may schedule a semiannual review for hearing in open court, after notice, at its discretion and may schedule such other hearings, after notice, as the court deems necessary. The court shall hold a review hearing for good cause shown, upon the motion of the district attorney, the Department of Juvenile Justice, or the youthful offender for the purpose of making a determination as to:

- a. the discharge of the youthful offender, or
- b. a change in the custody status of the youthful offender. For the purpose of this section, "change in the custody status" means a revocation of an order of probation or supervision, revocation of parole, or a transfer of custody or supervision to the Department of Corrections.

D. If the youthful offender has not been previously discharged, the court shall hold a review hearing within the thirty (30) days immediately preceding the date the youthful offender becomes twenty (20) years of age.

E. A review hearing shall be conducted in open court after notice to the youth, his counsel, parent or guardian if the youthful offender is less than eighteen (18) years of age, the Department of Juvenile Justice, and the appropriate district attorney.

F. At the conclusion of any review hearing in open court and after consideration of all reports and other evidence properly submitted to the court, the court may:

1. Order the youthful offender discharged without a court judgment of guilt, and order the verdict or plea of guilty or plea of nolo contendere expunged from the record as provided in paragraphs 1 through 5 of subsection C of Section 991c of Title 22 of the Oklahoma Statutes and dismiss the charge with prejudice to any further action if the court finds that the youthful offender has reasonably completed the rehabilitation plan and objectives and that such dismissal will not jeopardize public safety;

2. Revoke an order of probation and place the youthful offender in the custody of the Office of Juvenile Affairs;

3. Revoke a community supervision placement by the Department of Juvenile Justice; or

4. Enter a judgment of guilt and proceed as provided in Section 991a of Title 22 of the Oklahoma Statutes, including transfer of the youthful offender to the custody or supervision of the Department of Corrections for the remainder of the youthful offender sentence, if the court finds that the youthful offender has:

- a. injured or endangered the life or health of another person by his violent behavior,
- b. escaped or attempted to escape from an institution or other secure facility,
- c. committed a crime while in the custody or under the supervision of the Department of Juvenile Justice as shown by a
 - (1) judgment entered following a verdict of guilty or a plea of guilty or nolo contendere, or
 - (2) by proof upon the motion of the district attorney and after a hearing sufficient to establish a preponderance of evidence that the youth committed a crime while in the custody or under the supervision of the Office of Juvenile Affairs, or
- d. failed substantially to comply with a written plan of rehabilitation or failed substantially to achieve

reasonable treatment objectives and is within thirty (30) days of his twentieth birthday.

G. For the purpose of calculating time served to be applied toward any sentence imposed upon a youthful offender, in the event a youthful offender has been placed in the custody of the Office of Juvenile Affairs, he shall receive credit for the time spent in the custody of the Office of Juvenile Affairs. Upon commitment to the Department of Corrections, a youthful offender shall also receive other credits as provided by law, if any, as any adult inmate.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.25 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Whenever a youthful offender is committed to the custody of the Office of Juvenile Affairs, the Department of Juvenile Justice may:

1. Place the youthful offender in a state training school or other institution or facility maintained by the state for delinquents or youthful offenders;

2. Place the youthful offender in a group home or community residential facility; or

3. Place the youthful offender under community supervision prior to or after a period in one or more of the facilities referred to in paragraphs 1 and 2 of this subsection. The Department of Juvenile Justice may place a youthful offender in his own home, or an independent living or other similar living arrangement within the community of the residence of the youthful offender only upon the approval of the court; provided the court shall not prohibit the reintegration of the youthful offender into the community except upon finding that the youthful offender has not reasonably completed the rehabilitation plan objectives established as preconditions for reintegration into the community and that the public would not be adequately protected if the youthful offender is reintegrated into the community.

B. The Department of Juvenile Justice shall be responsible for the care and control of a youthful offender placed in the custody of the Office of Juvenile Affairs, and shall have the duty and the authority to provide food, clothing, shelter, ordinary medical care, education, discipline and in an emergency to authorize surgery or other extraordinary care. Said medical care, surgery and extraordinary care shall be charged to the appropriate agency where the youthful offender qualifies for said care under law, rule, regulation or administrative order or decision. Nothing in this section shall abrogate the right of a youthful offender to any benefits provided through public funds nor the parent's statutory duty or responsibility to provide said necessities; further, 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.

C. A youthful offender in the custody of the Office of Juvenile Affairs shall:

1. Be entitled to all the rights afforded juvenile delinquents pertaining to the conditions and restrictions in facilities where delinquents may be placed, including any due process afforded delinquents in regard to movement from a nonsecure to a secure placement;

2. Have access to the same or comparable programs and services available to a delinquent in the custody of or under the supervision of the Office of Juvenile Affairs; and

3. As appropriate to the age and circumstances of the youthful offender, be provided education, employment, and employment skills and vocational and technical or higher education services, apprenticeship programs and similar opportunities.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.26 of Title 10, unless there is created a duplication in numbering, reads as follows:

- A. Upon the motion of a person who has been convicted and sentenced as a youthful offender, with the recommendation of the

sentencing court, the Governor may grant a full and complete pardon and restore citizenship to any person who has been convicted and sentenced as a youthful offender and who has completed the sentence or been discharged from parole.

B. Upon the motion of a person convicted as a youthful offender, and three (3) years after the expiration of the sentence of the youthful offender, the court may set aside the conviction if:

1. The court has previously found that the person has reasonably complied with the rehabilitation plan and objectives;

2. The person was discharged from supervision by the Office of Juvenile Affairs, or was granted early discharge from such supervision by the court; or

3. The person has completed the sentence imposed as a result of his first conviction as a youthful offender and has no subsequent convictions.

If a conviction is set aside pursuant to this subsection, the person shall thereafter be released from all penalties and disabilities resulting from the offense for which he was convicted, including but not limited to, any disqualification for any employment or occupational license, or both, created by any other provision of law. The court may in addition order any law enforcement agency to produce all files and records pertaining to said arrest and conviction of the youthful offender and shall order the clerk of the court to destroy or obliterate the entire file and record of the case, including docket sheets, index entries, court records, summons, warrants or records in the office of the clerk or which have been produced by a law enforcement agency in which the name of the youthful offender is mentioned. The court may order probation officers and counselors to destroy all records, reports, and social and clinical studies relating to said youthful offender that are in their possession except when said documents are necessary to maintain state or federal funding.

SECTION 30. AMENDATORY 10 O.S. 1991, Section 1102, as last amended by Section 2, Chapter 342, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1102), is amended to read as follows:

Section 1102. A. 1. 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 of the county in which a child:

- a. resides,
- b. is found, or
- c. was abused, neglected or deprived or found to be in need of supervision,

shall have jurisdiction of any child who is or is alleged to be abused, neglected or deprived or in need of supervision and shall have jurisdiction of the parent, guardian, legal custodian, legal guardian or stepparent of said child, regardless of where the parent, guardian, legal custodian, legal guardian or stepparent is found; and shall have jurisdiction of any other adult person living in the home of such child. For any child who is or is alleged to be delinquent, the district court of the county where the cause of action arose shall have jurisdiction of the child and of the parent, guardian, legal custodian, legal guardian or stepparent of said child, regardless where the parent, guardian, legal custodian, legal guardian or stepparent is found; and shall have jurisdiction of any other adult person living in the home of such child.

2. When jurisdiction shall have been obtained over a child who is or is alleged to be in need of supervision 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 upon the court's own motion, motion by the district attorney or motion by the Department, as provided in subsection B of Section 1139 of this title. 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 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. 1. ~~A municipal court, if authorized by the governing body of the municipality,~~ may enter into an interlocal cooperation agreement with the district court pursuant to the Interlocal Cooperation Act, Sections 1001 through 1008 of Title 74 of the Oklahoma Statutes, 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, curfews, possession of nonintoxicating beverages as defined in Section 163.2 of Title 37 of the Oklahoma Statutes, possession of alcoholic beverages as defined in Section 506 of Title 37 of the Oklahoma Statutes, disorderly conduct and public intoxication. A

the district court judicial district or districts in which the contracting municipality is situated. The chief juvenile judge of the district court judicial district is hereby authorized to enter into the interlocal cooperation agreement as provided for in this section for and on behalf of said judicial district. Provided, if there is no chief juvenile judge in the judicial district, then the presiding judge of the judicial administrative district that includes the contracting judicial district may enter into the agreement for and on behalf of said judicial district.

2. Notwithstanding any other provision of this title, a child under eighteen (18) years of age who is taken into custody for the alleged violation of a municipal ordinance relating to one or more of the offenses listed in paragraph 1 of this subsection, and who can be prosecuted in municipal court for such offense pursuant to jurisdiction assumed by the municipal court under paragraph 1 of this subsection, may be temporarily detained by the municipality in a municipal juvenile facility certified by the Oklahoma Commission for Human Services, but only under the following conditions:

- a. the municipality shall immediately take all reasonable steps to attempt to locate the child's parent, legal guardian, legal custodian, or attorney and determine if said parent, legal guardian, legal custodian, or attorney is willing to appear at the municipal juvenile facility and assume personal custody of the child upon the child's release from such facility,
- b. the child shall be released to the personal custody of his or her parent, legal guardian, legal custodian, or attorney as soon as practicable and upon the written promise of such parent, legal guardian, legal custodian, or attorney to return the child to municipal court to answer the municipal charges on the date and at the time set by the municipal court,

- c. the child shall be detained in the municipal juvenile facility for no longer than twenty-four (24) hours; provided, if no parent, legal guardian, legal custodian, or attorney appears at the municipal juvenile facility and assumes personal custody of the child within said twenty-four-hour period, then custody or release of the child shall be determined pursuant to the provisions of Section 1107 of this title,
- d. the child shall not be held in any jail, adult lockup, or adult detention facility unless total separation exists between juveniles and adult spatial areas,
- e. the child shall be provided with adequate fresh drinking water,
- f. the child shall be provided with adequate food not less than three times in a twenty-four-hour period,
- g. the child shall be provided with adequate bathroom facilities and bedding, and
- h. the child shall be provided with any necessary medical care and treatment.

Prior to the temporary detention of any child under authority of this subsection, the municipal juvenile facility shall be certified by the Oklahoma Commission for Human Services under the applicable certification standards set by said Commission, and each member of the staff of the municipal juvenile facility shall have satisfactorily completed a training program provided or approved by the Department of Human Services. In furtherance of this subsection, the Oklahoma Commission for Human Services is directed to and shall establish standards for the certification of municipal juvenile facilities, with said standards to include, but not be limited to, the conditions set forth in subparagraphs a through h, inclusive, of this paragraph, and the Department of Human Services is directed to and shall provide or approve an appropriate training program for staff members of such facilities. In lieu of operating a municipal juvenile facility with trained

municipal employees, the municipality may contract with an independent public or private facility properly certified by the Oklahoma Commission for Human Services for performance of the detention services authorized by this paragraph. For the purposes of this section, a "municipal juvenile facility" shall mean a secure facility entirely separate from any jail, adult lockup, or other adult facility, or spatially separate if contained inside any jail, adult lockup, or other adult facility which is certified by the Oklahoma Commission for Human Services for use for the temporary detention of juveniles as authorized by the provisions of this paragraph. The provisions of this paragraph shall not restrict or limit the use of municipal juvenile facilities for detention of juveniles who are detained pursuant to other provisions of law.

3. Pursuant to an interlocal cooperation agreement between a municipality and the district court, as authorized by paragraph 1 of this subsection, a child under eighteen (18) years of age may be charged ~~and~~, prosecuted ~~and~~, if convicted, fined for violating such a municipal ordinance relating to one or more of the offenses listed in paragraph 1 of this subsection; 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~~ ninety (90) 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. The municipal court may also impose costs as authorized by law.

4. All municipal arrest ~~and~~ records, prosecution records, court records, and court proceedings 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, curfews, possession of nonintoxicating beverages as defined in Section 163.2 of Title 37 of the Oklahoma Statutes, possession of alcoholic beverages as defined in Section 506 of Title 37 of the Oklahoma Statutes, disorderly conduct or public intoxication~~ one or more of the offenses listed in paragraph 1 of this subsection shall be kept confidential and shall not be open to public inspection except by order of the municipal court or as otherwise provided by Sections 1125 through 1125.4 of this title and Section 620.6 of this title.

F. Funds generated from fines paid pursuant to an interlocal cooperation agreement between a ~~municipal court~~ municipality and the district court pursuant to subsection E of this section shall be earmarked and used by the municipality ~~to~~ only for the following purposes:

1. To fund local programs which address problems of juvenile crime;
2. To fund the costs of prosecutions authorized pursuant to subsection E of this section;
3. To fund the costs of detention authorized pursuant to subsection E of this section; and
4. To fund administrative costs related to local programs that address problems of juvenile crime or related to the prosecution, detention, or punishment authorized pursuant to subsection E of this section.

Such earmarked funds shall not be used by the municipality for any ~~administrative costs of the municipal court other than administrative costs for the programs provided for in purpose~~ other than the purposes set forth in paragraphs 1 through 4 of this subsection.

SECTION 31. AMENDATORY 10 O.S. 1991, Section 1103, as amended by Section 17, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, 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

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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 by the preliminary inquiry that no further action be taken and if agreed to by the district attorney, 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)".

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 pursuant to the Inpatient Mental Health Treatment of Children Act.

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

E. A district attorney may defer filing a petition alleging a child to be delinquent for a period of ninety (90) days if the child participates in a teen court program or a first-time offender program, as defined in Section 1114 of this title. If the child successfully completes the program, the district attorney shall not file the petition. A case for which a petition is not filed shall not become a part of the child's records for any purpose.

SECTION 32. AMENDATORY 10 O.S. 1991, Section 1104.2, as last amended by Section 4, Chapter 342, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1104.2), is amended to read as follows:

Section 1104.2 A. Any person sixteen (16) or seventeen (17) years of age who is charged with murder, kidnapping, robbery with a dangerous weapon, rape in the first degree, rape by instrumentation, use of firearm or other offensive weapon while committing a felony, arson in the first degree, burglary with explosives, burglary in the first or second degree after three or more adjudications for committing either burglary in the first degree or burglary in the second degree, shooting with intent to kill, discharging a firearm, crossbow or other weapon from a vehicle pursuant to subsection B of Section 652 of Title 21 of the Oklahoma Statutes, intimidating a witness, manslaughter in the first degree, ~~nonconsensual~~ sodomy, ~~or~~ trafficking in illegal drugs, manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, or dispense a controlled dangerous substance, or assault and battery with a deadly weapon, shall be considered as an adult.

B. Any person thirteen (13), fourteen (14) or fifteen (15) years of age who is charged with murder in the first degree shall be considered as an adult.

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

~~B.~~ D. 1. Upon the filing of an information against such accused person, a warrant shall be issued which shall set forth the rights of the accused person, and the rights of the parents, guardian or next friend of the accused person to be present at the preliminary hearing, to have an attorney present and to make application for certification of such accused person as a child to the juvenile division of the district court. The warrant shall be personally served together with a certified copy of the information on the accused person and on a custodial parent, guardian or next friend of the accused person.

2. When personal service of a custodial parent, guardian or next friend of the accused person cannot be effected, service may be made by certified mail to such person's last-known address, requesting a return receipt from the addressee only. If delivery is refused, notice may be given by mailing the warrant and a copy of the information on the accused person by regular first class mail to the address where the person to be notified refused delivery of the notice sent by certified mail. Where the address of a custodial parent, guardian or next friend is not known, or if the mailed warrant and copy of the information on the accused person is returned for any reason other than refusal of the addressee to accept delivery, after a distinct and meaningful search of all reasonably available sources to ascertain the whereabouts of a custodial parent, guardian or next friend has been conducted, the court may order that notice of the hearing be given by publication one time in a newspaper of general circulation in the county. In addition, the court may order other

means of service of notice that the court deems advisable or in the interests of justice.

3. Before service by publication is ordered, the court shall conduct an inquiry to determine whether a distinct and meaningful search has been made of all reasonably available sources to ascertain the whereabouts of any party for whom notice by publication is sought.

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

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

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

1. Whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;
2. Whether the offense was against persons or property, greater weight being given for retaining the accused person within the adult criminal system for offenses against persons, especially if personal injury resulted;
3. The record and past history of the accused person, including previous contacts with law enforcement agencies and juvenile or criminal courts, prior periods of probation and commitments to juvenile institutions; and
4. The prospects for adequate protection of the public if the accused person is processed through the juvenile system.

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

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

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

SECTION 33. AMENDATORY Section 1, Chapter 205, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1104.3), is amended to read as follows:

Section 1104.3 Whenever a person ~~sixteen (16) or seventeen (17)~~ under eighteen (18) years of age, who has fled from another state, is taken into custody, that person shall be considered an adult only for the purposes of detention if:

1. The person has been charged with commission of an offense in the other state which is considered a felony in that state; and
2. The person is certified as an adult in that state for the purpose of criminal prosecution for said felony or has reached the statutory age of majority in that state; and
3. The other state is seeking the return of the individual to its jurisdiction provided written or electronically transmitted confirmation is received within forty-eight (48) hours from the state seeking the return of the person.

SECTION 34. AMENDATORY 10 O.S. 1991, Section 1107, as last amended by Section 2 of Enrolled House Bill No. 2299 of the 2nd Session of the 44th Oklahoma Legislature, 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 for any criminal offense~~, 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. By an employee of the court without a court order, 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;

3. 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 or there is probable cause to believe the child has committed a crime or is in violation of the terms of his probation, parole or order of the court; and

~~3.~~ 4. By order of the district court pursuant to subsection F of this section when the child is in need of medical treatment or other action in order to protect the child's health or welfare and the parent, guardian or person having custody or control of the child is unwilling or unavailable to consent to such medical treatment or other action.

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 by the peace officer or the court. At the hearing provided for in this subsection, the court shall advise the parent or legal guardian of the child in writing of:

1. The procedures which will be followed with regard to determining custody of the child;
2. The right of the parent or guardian to testify and present evidence at court hearings;
3. The right to be represented by an attorney at court hearings;
4. The consequences of failure to attend any hearings which may be held; and
5. The right and procedure for appealing the findings of a court on custody issues.

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. A child who has been taken into custody as otherwise provided by this title who appears to be a child in need of mental health treatment may be admitted to a mental health facility on an emergency psychiatric basis or for an inpatient mental health evaluation or inpatient mental health treatment only in accordance with the provisions of the Inpatient Mental Health Treatment of Children Act, Section 5-501 et seq. of Title 43A of the Oklahoma Statutes.

F. 1. A child may be taken into custody pursuant to an order of the court specifying that the child is in need of medical treatment or other action to protect the child's health or welfare and the parent, guardian or person having custody or control of a child is unwilling or unavailable to consent to such medical treatment or other action.

2. If the child is in need of immediate medical treatment or other action to protect the child's health or welfare, the court may issue an emergency ex parte order upon application of the district attorney of the county in which the child is located. The application for an ex parte order may be verbal or in writing and shall be supported by facts sufficient to demonstrate to the court that there is reasonable cause to believe that the child is in need of immediate medical treatment or other action to protect the child's health or welfare. The emergency ex parte order shall be in effect until a full hearing is conducted. A copy of the application, notice for full hearing and a copy of any ex parte order issued by the court shall be served upon such parent, guardian or person having custody or control of the child. Within twenty-four (24) hours of the filing of the application the court shall schedule a full hearing on the application, regardless of whether an emergency ex parte order had been issued or denied.

3. Except as otherwise provided by paragraph 2 of this section, whenever a child is in need of medical treatment to protect the child's health or welfare, or whenever any other action is necessary to protect the child's health or welfare, and the parent, guardian or person having custody or control is unwilling or unavailable to consent to such medical treatment or other action, the court, upon application of the district attorney of the county in which the child is located, shall hold a full hearing within five (5) days of filing the application. Notice of the hearing and a copy of the application shall be served upon the parent, guardian or person having custody or control of the child.

4. At any hearing held pursuant to this subsection, the court may grant any order or require such medical treatment or other action as is necessary to protect the health or welfare of the child.

5. a. The parent, guardian or person having custody or control of the child shall be responsible for such medical expenses as ordered by the court.

b. 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 subsection for any child found in need of such medical treatment shall have any liability, civil or criminal.

SECTION 35. AMENDATORY 10 O.S. 1991, Section 1107.1, as last amended by Section 3 of Enrolled House Bill No. 2299 of the 2nd Session of the 44th Oklahoma Legislature, 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 1505 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 in need of supervision or who is or appears to be a child in need of mental health treatment as defined by the Inpatient Mental Health Treatment of Children Act, Section 5-501 et seq. of Title 43A of the Oklahoma Statutes, shall be confined in any jail, adult lockup, or adult detention facility. No child shall be

transported or detained in association with criminal, vicious, or dissolute persons.

3. Except as otherwise authorized by this section a child who has been taken into custody as a deprived child, a child in need of supervision, or who appears to be a child in need of mental health treatment, may not be placed in any detention facility pending court proceedings, but must be placed in shelter care or foster care or, with regard to a child who appears to be a child in need of mental health treatment, a mental health facility in accordance with the provisions of the Inpatient Mental Health Treatment of Children Act, 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~~ shall be placed in secure detention unless:

1. The child is an escapee from any delinquent placement;

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;

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

4. The child is detained for the commission of a crime that would constitute a serious act as defined by Section 1160.2 of this title;

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

6. The child is currently charged with a felony act as defined by Section 1160.2 of this 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 1160.3 of this 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.

4. Nothing in this section shall preclude detaining in a county jail or other adult detention facility a person provided for in Section 1104.3 of this title if written or electronically transmitted confirmation is received from the state seeking return of the individual that the person is a person provided for in Section 1104.3 of this title and if, during the time of detention, the person is detained in a facility meeting the requirements of subsection D of Section 1108 of this title.

5. Nothing in this section shall preclude detaining a person, whose age is not immediately ascertainable and who is being detained for the commission of a felony, in a jail certified by the State Department of Health, a police station or similar law enforcement office for up to twenty-four (24) hours for the purpose of determining whether or not the person is a child, if:

- a. there is a reasonable belief that the person is eighteen (18) years of age or older,
- b. there is a reasonable belief that a felony has been committed by the person,
- c. a court order for such detention is obtained from a judge of the district court within six (6) hours of initially detaining the person,
- d. there is no juvenile detention facility that has space available for the person and that is within thirty (30) miles of the jail, police station, or law enforcement office in which the person is to be detained, and
- e. during the time of detention the person is detained in a facility meeting the requirements of subparagraph f of paragraph 1 of this subsection.

The time limitation provided for in this paragraph shall include the time the person is detained prior to the issuance of the court order.

The time limitation provided for in this paragraph shall not include the actual travel time required for transporting the person to the jail, police station, or similar law enforcement office. If the time limitation established by this paragraph is

exceeded, this circumstance shall not constitute a defense in any subsequent delinquency or criminal proceeding.

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, Section 40 et seq. of this title, providing that the use of the juvenile detention facility meets the requirements of Section 1101 through 1505A of this title. 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 36. AMENDATORY 10 O.S. 1991, Section 1108, as amended by Section 2, Chapter 320, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1108), is amended to read as follows:

Section 1108. A. Provision shall be made for the temporary detention of children in a juvenile detention facility or the court may arrange for the care and custody of such children temporarily in private homes, subject to the supervision of the court, or the court may provide shelter or may enter into a contract with any institution or agency to receive, for temporary care and custody, children within the jurisdiction of the court. The Department of Human Services shall not be ordered to provide detention unless said Department has designated and is operating detention services or facilities.

~~County~~ B. Except as provided in subsection C or D of this section, transportation of juveniles to and from secure detention for purposes of admission, interfacility transfer, discharge, medical or dental attention, court appearance or placement designated by the Department shall be the responsibility of detention centers. Transportation and vehicle related costs shall be provided through a contract between the Department and each

detention center. No private contract for transportation services shall be entered into by a detention center unless the private contractor demonstrates to the satisfaction of the Department that such contractor is able to obtain insurance or provide self-insurance to indemnify the Department against possible lawsuits and meets the requirements of subparagraphs a, b and d of paragraph 4 of subsection E of this section. The Department of Human Services shall not be ordered to provide transportation for a juvenile who is detained in or is destined for secure detention.

C. The office of the sheriff of the sending county shall be responsible for providing transportation of juveniles to secure detention for purposes of admission, unless the transportation is ordered by the court or is authorized by the district attorney for the sending county. If the transportation is ordered or authorized, the detention center shall be responsible for the transportation. If the office of the sheriff provides the transportation, the Department of Human Services shall provide reimbursement to the sheriff for necessary and actual expenses for transporting juveniles who are detained in or destined for a regional detention center as follows:

1. A fee for the cost of personal services at the rate of Four Dollars (\$4.00) per hour;
2. Mileage reimbursement for each mile actually traveled at the rate established in the State Travel Reimbursement Act;
3. Meals for transporting personnel, not to exceed Three Dollars (\$3.00) per meal; and
4. Meals for juveniles being transported, not to exceed Three Dollars (\$3.00) per meal.

The Department of Human Services shall process and mail reimbursement claims within sixty (60) days of receipt.

D. In counties with populations of five hundred thousand or more that have duly constituted juvenile bureaus, county sheriffs, their designee, private contractors under contract with the Department of Human Services for transportation services, or juvenile court officers shall provide for the transportation of juveniles to and from secure detention for purposes of admission,

interfacility transfer, discharge, medical or dental attention or,
court appearance, or placement designated by the Department. No
private contract for transportation services shall be entered into
by the Department unless the private contractor demonstrates to
the satisfaction of the Department that such contractor is able to
obtain insurance or provide self-insurance to indemnify the
Department against possible lawsuits and meets the requirements of
subparagraphs a, b and d of paragraph 4 of subsection ~~B~~ E of this
section. The Department of Human Services shall not be ordered to
provide transportation for a juvenile who is detained in or is
destined for secure detention. The Department of Human Services
shall provide reimbursement to the entity transporting juveniles
for necessary and actual expenses for transporting juveniles who
are detained in or destined for a regional detention center as
follows:

1. A fee for the cost of personal services at the rate of
Eight Dollars (\$8.00) per hour;

2. Mileage reimbursement for each mile actually traveled at
the rate established in the State Travel Reimbursement Act;

3. Meals for transporting personnel, not to exceed ~~Five~~
~~Dollars (\$5.00)~~ Six Dollars (\$6.00) per meal; and

4. Meals for juveniles being transported, not to exceed ~~Five~~
~~Dollars (\$5.00)~~ Six Dollars (\$6.00) per meal.

The Department of Human Services shall process and mail
reimbursement claims within sixty (60) days of receipt.

~~B~~ E. 1. After July 1, 1983, "juvenile detention facility"
shall mean a secure facility, entirely separate from any prison,
jail, adult lockup, or other adult facility, for the temporary
care of children. All juvenile detention facilities shall be
required to meet standards for certification promulgated by the
Oklahoma Commission for Human Services. "Alternatives to secure
detention" means those services and facilities which are included
in the State Plan for the Establishment of Juvenile Detention
Services adopted by the Commission for Human Services pursuant to
subsection ~~C~~ F of this section and which are used for the

temporary detention of juveniles in lieu of secure detention in a juvenile detention facility.

2. The board of county commissioners of every county shall provide for the temporary detention of a child who is or who may be subject to secure detention and may construct a building or rent space for such purpose. The boards of county commissioners shall provide for temporary detention services and facilities in accordance with the provisions of the State Plan for the Establishment of Juvenile Detention Services adopted pursuant to subsection Ⓔ F of this section and in accordance with Section 11 of this act. The boards of county commissioners are hereby authorized to create multi-county trust authorities for the purpose of operating juvenile detention facilities.

3. In order to operate the juvenile detention facilities designated in the State Plan for the Establishment of Juvenile Detention Services and in Section 11 of this act, the boards of county commissioners in the designated host counties shall:

- a. operate the juvenile detention facility through a statutorily constituted juvenile bureau subject to the supervision of the district court; or
- b. operate the juvenile detention facility by employing a manager who may employ personnel and incur other expenses as may be necessary for its operation and maintenance; or
- c. contract with a public agency, private agency, federally recognized tribe, or single or multi-county trust authority for the operation of the juvenile detention facility. In the event any board of county commissioners contracts with a public or private agency or a federally recognized tribe, pursuant to the provisions of this section, the Department is authorized to directly contract with and pay such public or private agency or federally recognized tribe for provision of detention services. Any contract with a federally

recognized tribe shall become effective upon approval by the board of county commissioners.

4. Management contracts for privately operated detention facilities shall be negotiated with the firm found most qualified by the board of county commissioners. However, no private management contract shall be entered into by the board unless the private contractor demonstrates to the satisfaction of the board:

- a. that the contractor has the qualifications, experience, and personnel necessary to implement the terms of the contract;
- b. that the financial condition of the contractor is such that the term of the contract can be fulfilled;
- c. that the ability of the contractor to obtain insurance or provide self-insurance to indemnify the county against possible lawsuits and to compensate the county for any property damage or expenses incurred due to the private operation of the juvenile detention facility; and
- d. that the contractor has the ability to comply with applicable court orders and rules of the Department of Human Services.

5. All counties to be served by a regional juvenile detention facility may, upon the opening of such facility, contract with the operators for the use of the facility for the temporary detention of children who are subject to secure detention; provided, however, a jail, adult lockup, or other adult detention facility may be used for the secure detention of a child as provided for in Section 1107.1 of this title.

6. Expenses incurred in carrying out the provisions of this section shall be paid from the general fund of the county or from other public funds lawfully appropriated for such purposes or from private funds that are available for such purposes. A county may also issue bonds for the construction of detention facilities.

7. The operation of a juvenile detention facility by a county shall constitute a quasi-judicial function and is also hereby declared to be a function of the State of Oklahoma for purposes of

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the Eleventh Amendment to the United States Constitution. In addition, no contract authorized by the provisions of this section for the providing of transportation services or for the operation of a juvenile detention facility shall be awarded until the contractor demonstrates to the satisfaction of the county that the contractor has obtained liability insurance with the limits specified by the Governmental Tort Claims Act against lawsuits arising from the operation of the juvenile detention facility by the contractor, or if the contract is for the providing of transportation services, the contractor has obtained liability insurance with the limits specified by the Governmental Tort Claims Act against lawsuits arising from the transportation of juveniles as authorized by subsection A of this section.

~~C.~~ F. The Oklahoma Commission for Human Services, from monies appropriated for that purpose, shall develop, adopt, and implement a plan for secure juvenile detention services and alternatives to secure detention, to be known as the State Plan for the Establishment of Juvenile Detention Services, which shall provide for the establishment of juvenile detention facilities and services with due regard for appropriate geographical distribution and existing juvenile detention programs operated by statutorily constituted juvenile bureaus. Said plan may be amended or modified by the Commission as necessary and appropriate.

1. The Oklahoma Commission for Human Services shall establish procedures for the letting of contracts or grants, including grants to existing juvenile detention programs operated by statutorily constituted juvenile bureaus, and the conditions and requirements for the receipt of said grants or contracts for juvenile detention services and facilities as provided in this section and Section 200.6 of Title 56 of the Oklahoma Statutes. A copy of such procedures shall be made available to any member of the general public upon request. All such grants or contracts shall require the participation of local resources in the funding of juvenile detention facilities. A contract for services shall be based upon a formula approved by the Commission which shall set

the contract amount in accordance with the services offered and the degree of compliance with standards for certification.

2. The Oklahoma Commission for Human Services shall establish standards for the certification of detention services and juvenile detention facilities. Such standards may include, but not be limited to: Screening for detention; education and recreation opportunities for juveniles in secure detention; and accreditation by the American Correctional Association. As a condition of continuing eligibility for grants or contracts, secure juvenile detention services and facilities shall be certified by the Commission within two (2) years of the date of the initial grant or contract.

~~D.~~ G. The State Department of Health, with the assistance of the Department of Human Services, shall establish standards for the certification of jails, adult lockups, and adult detention facilities used to detain juveniles. Such standards shall include but not be limited to: Separation of juveniles from adults; supervision of juveniles; and health and safety measures for juveniles. The Department of Health is authorized to inspect any jail, adult lockup, or adult detention facility for the purpose of determining compliance with such standards. After July 1, 1985, no jail, adult lockup, or other adult detention facility shall be used to detain juveniles unless such jail, adult lockup, or other adult detention facility complies with the standards established by the Department of Health and is designated as a place for the detention of juveniles by the judge having juvenile docket responsibility in the county from a list of eligible facilities supplied by the Department of Health.

1. The State Department of Health shall forward copies of proposed standards developed pursuant to the provisions of this paragraph to county commissioners, district attorneys, members of the Oklahoma Judiciary and members of the Oklahoma Legislature for their review and comment.

2. After consideration of all comments received and not later than January 1, 1985, the State Board of Health shall approve standards pursuant to the provisions of this paragraph. In all

other respects, the development and approval of the standards provided for in this paragraph shall comply with the provisions of the Administrative Procedures Act.

~~E.~~ H. The State Board of Health shall adopt rules providing for the routine recording and reporting of the use of any adult jail, lockup or other adult facility for the detention of any person under the age of eighteen (18).

1. For the purpose of ensuring the uniformity and compatibility of information related to the detention of persons under age eighteen (18), said rules shall be reviewed and approved by the Oklahoma Commission on Children and Youth prior to their adoption by the Board; and

2. Said records of detention shall be reviewed during each routine inspection of adult jails, lockups or other adult detention facilities inspected by the State Department of Health and a statistical report of said detentions shall be submitted to the Oklahoma Commission on Children and Youth at least every six (6) months in a form approved by the Commission.

SECTION 37. AMENDATORY 10 O.S. 1991, Section 1109, as amended by Section 22, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1109), is amended to read as follows:

Section 1109. A. No information gained by ~~questioning a~~ custodial interrogation of a child nor any evidence subsequently obtained as a result of such ~~information~~ interrogation shall be admissible into evidence against the child unless the ~~questioning~~ custodial interrogation about any alleged offense by any law enforcement officer or investigative agency, or employee of the court, or employee of the Department is done in the presence of the parents, guardian, attorney, or legal custodian of the child. No such ~~questioning~~ custodial interrogation 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. As used in this section, "custodial interrogation" means questioning of a child while that child is in law enforcement custody or while that child is being deprived of freedom of action in any significant way by a law enforcement officer, employee of the court, or employee of the Department. The term "custodial interrogation" shall not be deemed to mean questioning of a child by a public school administrator or teacher, so long as such questioning is not being conducted on behalf of a law enforcement officer, an employee of the court or an employee of the Department. Any information gained from noncustodial questioning of a child by a public school administrator or teacher concerning a wrongful act committed on public school property shall be admissible into evidence against the child.

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, 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, 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 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 38. AMENDATORY 10 O.S. 1991, Section 1111, as last amended by Section 1, Chapter 302, O.S.L. 1993 (10 O.S. Supp. 1993, 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. Any victim or relative or legal guardian of a victim of a juvenile criminal act shall be considered to have a direct interest in the case and shall be notified of all court hearings involving that particular juvenile criminal act as provided by Section ~~2~~ 215.33 of ~~this act~~ Title 19

of the Oklahoma Statutes. 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 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; provided, the court shall not exclude any relative or legal guardian of a victim from the hearing during testimony of the victim. 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 and in need of supervision 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 39. AMENDATORY 10 O.S. 1991, Section 1112, as amended by Section 7, Chapter 342, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1112), is amended to read as follows:

Section 1112. A. Except as otherwise provided, a child who is charged with having violated any state statute or municipal ordinance other than those enumerated in Section 1104.2 of this title, shall not be tried in a criminal action but in a juvenile proceeding. If, during the pendency of a criminal or quasi-criminal charge against any person, it shall be ascertained that the person was a child at the time of committing the alleged offense, the district court or municipal court shall transfer the case, together with all the papers, documents and testimony connected therewith, to the juvenile division of the district court. The division making such transfer shall order the child to be taken forthwith to the place of detention designated by the juvenile division, to that division itself, or release such child to the custody of some suitable person to be brought before the juvenile division. However, nothing in this act shall be construed to prevent the exercise of concurrent jurisdiction by another division of the district court or by municipal courts in cases involving children wherein the child is charged with the violation of a state or municipal traffic law or ordinance.

B. Except as otherwise provided by law, if a child is charged with delinquency as a result of an offense which would be a felony if committed by an adult, the court on its own motion or at the request of the district attorney shall conduct a preliminary hearing to determine whether or not there is prosecutive merit to the complaint. If the court finds that prosecutive merit exists, it shall continue the hearing for a sufficient period of time to conduct an investigation and further hearing to determine ~~the prospects for reasonable rehabilitation of the child~~ if the child should be held accountable for his acts as if he were an adult if he should be found to have committed the alleged act or omission.

Consideration shall be given to:

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

2. Whether the offense was against persons or property, greater weight being given to transferring the accused person to the adult criminal justice system for offenses against persons especially if personal injury resulted;

3. The sophistication and maturity of the juvenile and his capability of distinguishing right from wrong as determined by consideration of his psychological evaluation, home, environmental situation, emotional attitude and pattern of living;

4. The record and previous history of the ~~juvenile~~ accused person, including previous contacts with community agencies, law enforcement agencies, schools, juvenile or criminal courts and other jurisdictions, prior periods of probation or prior commitments to juvenile institutions;

5. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile if he is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court; and

6. Whether the offense occurred while the juvenile was escaping or in an escape status from an institution for delinquent children.

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

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

C. Prior to the entry of any order of adjudication, any child in custody shall have the same right to be released upon bail as would an adult under the same circumstances. Subsequent to the entry of an order that a child stand trial as an adult, said child shall have all the statutory and constitutional rights and protections of an adult accused of a crime but shall, while awaiting trial and for the duration of the trial, be detained in a jail cell or ward entirely separate from prisoners who are eighteen (18) years of age or over. Upon conviction, the juvenile may be incarcerated with the adult population. If, prior to the entry of any order of adjudication, the child becomes eighteen (18) years of age, the child may be detained in a county jail or released on bail. If a child is certified to stand trial as an adult, the court shall make every effort to avoid duplication of the adult preliminary hearing and the prosecutorial hearing in the juvenile certification process. The parties may jointly stipulate to the court that the record for the prosecutorial merit hearing in the juvenile proceeding be used for all or part of the preliminary hearing.

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

E. An order either certifying a person as a child pursuant to subsection B of this section or denying such certification shall be a final order, appealable when entered.

SECTION 40. AMENDATORY 10 O.S. 1991, Section 1114, as last amended by Section 1, Chapter 10, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1114), is amended to read as follows:

Section 1114. A. If the court finds that the allegations of a petition alleging a child to be deprived are supported by the evidence, and finds that it is in the best interest of the child and the public that ~~he~~ the child be made a ward of the court, the court shall sustain the petition, and shall make an order of adjudication finding the child to be deprived and shall adjudge the child as a ward of the court.

B. If the court finds that the allegations of a petition alleging a child to be delinquent or in need of supervision are supported by the evidence, 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 and shall adjudge the child as a ward of the court.

C. A court may defer delinquency adjudication proceedings for ninety (90) days if the child:

1. Is alleged to have committed or attempted to commit a delinquent offense that if committed by an adult would be a misdemeanor or that if committed by an adult would be grand larceny of property valued at One Hundred Dollars (\$100.00) or less;

2. Waives the privilege against self-incrimination and testifies, under oath, that the allegations are true;

3. Has not been previously adjudicated a delinquent; and

4. Presents to the court an oral or written request to attend a Teen Court program.

D. The Teen Court program must be approved by the court.

E. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the Teen Court program has been successfully completed.

F. The court may require a child who requests a Teen Court program to pay a fee, as determined by the court, not to exceed Twenty Dollars (\$20.00) to cover the costs of administration. The

fee shall be deposited in the court clerk's official depository account. Eighty percent (80%) of the costs so paid shall be distributed to the organization sponsoring the Teen Court to be used for Teen Court operating expenses. The remaining twenty percent (20%) of said cost shall be paid by the court clerk to the court fund.

G. A case dismissed under subsections C through F of this section shall not be part of the child's records for any purpose.

H. A court may defer delinquency proceedings for ninety (90) days for any child that has not been previously adjudicated delinquent, if the child and, if required by the court, the parent or legal guardian of the child agree to participate in an alternative diversion program for first-time offenders that has been approved by the court. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the alternative diversion program for first-time offenders has been successfully completed. A case dismissed pursuant to this subsection shall not be part of the child's records for any purpose.

I. A court may defer delinquency proceedings for ninety (90) days for any child that has not been previously adjudicated delinquent, if the child agrees to participate in a military mentor program that has been approved by the court. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the military mentor program has been successfully completed. A case dismissed pursuant to this subsection shall not be part of the child's records for any purpose.

J. As used in this section:

1. "Alternative diversion programs for first-time offenders" means programs for juveniles who have been identified by law enforcement personnel, the district attorney, or the court as having committed acts which are not serious enough to warrant adjudication through the juvenile court process, but which do indicate a need for intervention to prevent further development toward juvenile delinquency. The program shall be administered,

pursuant to contact with the Department of Human Services, by organizations designated as youth services agencies in accordance with Section 609 of this title;

2. "Teen Court program" means a program which provides an alternative judicial forum for cases involving juvenile offenders, in which teenage participants, under the supervision of an adult coordinator, serve in various capacities within the courtroom, including jurors, lawyers, bailiffs and judges. The Teen Court hears cases involving juvenile offenders who are referred to the Teen Court by the district attorney or the district court and assesses sentences such as participation in community work projects, counseling or rehabilitation programs; and

3. "Military mentor program" means a program administered by the Oklahoma Military Department as provided in Section 1116 of this title.

SECTION 41. AMENDATORY 10 O.S. 1991, Section 1116, as last amended by Section 1 of Enrolled House Bill No. 1858 of the 2nd Session of the 44th Oklahoma Legislature, 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 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 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 order the child to participate in a military mentor program administered by the Oklahoma Military Department, if such program:

- a. is staffed by National Guard personnel who are trained by the Oklahoma Military Department pursuant to training standards established by the Department of Human Services and meets screening requirements established by the Department of Human Services,
- b. provides for adequate supervision of the child, and
- c. is designed to develop useful skills and abilities of the child and/or integrate the child into community service activities or public works projects.

The Department of Human Services and the Oklahoma Military Department are hereby authorized to enter into an agreement to provide for the effective development and implementation of this paragraph.

5. The court may commit the child to the custody of the Department; provided, any order adjudicating a ~~the~~ child to be delinquent and committing the child to the Department shall be for an indeterminate period of time; provided, on or after the adoption of placement guidelines by the Juvenile Placement Guidelines Committee and approval of the guidelines by the Legislature, if the child is a serious juvenile offender or a habitual juvenile offender, as defined in the Serious and Habitual Juvenile Offender Act, the order shall be for a determinate period of time established by the court within the range authorized by the placement guidelines, not to extend beyond such child's nineteenth birthday.

~~5.~~ 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.

~~6.~~ 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. The court may order the parents or custodial parent of any child living with the parents or custodial parent at the time of the criminal or delinquent act of the child to remit the amount of restitution ordered by the court. The court may consider any hardship of such order on the parents or custodial parent of the child. The parents or custodial parent may be represented by an attorney in the matter of the order for remittance of the restitution by the parents or custodial parent. Provided however, if the court orders the parents or custodial parent to remit the amount of restitution as provided for in this paragraph, in addition to any other dispositional orders of the court, the court shall order the child to perform community service for the number of hours commensurate with the number of hours it would require under federal or state minimum wage to earn the amount paid by such child's parents or custodial parent under the order to remit restitution,

- d. order the child to pay the fine which would have been imposed had such child been convicted of such crime as an adult. Any such fine collected pursuant to this paragraph shall be deposited in a special Work Restitution Fund to be established by the court to allow children otherwise unable to pay restitution to work in community service projects in the private or public sector to earn money to compensate their victims,
- e. 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,
- 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, make the following orders:
sanction detention in the residence of the child or facility designated by the Department of Human Services 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 e of this paragraph shall be subject to said guidelines,
- g. 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,
- h. on and after the adoption of placement guidelines by the Juvenile Placement Guidelines Committee and

approval of such guidelines by the Legislature, the provisions of subparagraphs a through g of this paragraph shall be subject to said guidelines.

~~7.~~ 8. The court may dismiss the petition or otherwise terminate its jurisdiction at any time for good cause shown.

~~8.~~ 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. 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.

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

D. 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.

E. The court ~~may~~ shall 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, if the court determines the child or parents, or both the child and parents, are able to pay such costs. 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.

F. The court may revoke or modify a disposition order and may order redispotion. The child whose disposition is being considered for revocation or modification at said hearing shall have the right to be represented by counsel, to present evidence in his own behalf and to be confronted by witnesses against him. Any revocation, modification or redispotion of the court in whole or in part shall be subject to review on appeal, as in other appeals of criminal cases. Bail may be allowed pending appeal. On or after the adoption of placement guidelines by the Juvenile Placement Guidelines Committee and approval of such guidelines by the Legislature, the court may make specific orders concerning the

placement of said juvenile if the juvenile is committed to the Department.

SECTION 42. AMENDATORY 10 O.S. 1991, Section 1116.1, as last amended by Section 3, Chapter 373, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1116.1), is amended to read as follows:

Section 1116.1 A. 1. Every disposition order regarding a child adjudicated to be deprived, delinquent or in need of supervision shall be reviewed by the court at least once every six (6) months until such time as the conditions which caused the child to be adjudicated have been corrected or the parental rights of said parent or parents are terminated and a final adoption decreed.

2. A dispositional order removing a child from the custody of the parents of the child shall be reviewed at a hearing by the court at least once every six (6) months until such time as the child is returned to the custody of his parents. No later than eighteen (18) months after placing a child in foster care and every twelve (12) months thereafter, the court making the original order of adjudication shall conduct a dispositional hearing to consider whether the child should be returned to his parents or other family member; the child should be continued in foster care for a specified period; the rights of the parents of the child should be terminated and the child placed for adoption or legal guardianship; or whether the child, because of exceptional circumstances, should remain in foster care on a long-term basis as a permanent plan or with a goal of independent living.

3. The provisions of this section shall also apply to a child who has been removed from the home of the lawful parent or parents of the child after the child has been returned to that home until such time as the court orders the case closed.

B. 1. The agency having supervision of the case or, if the child has been removed from the custody of its parents, the legal custodian of such child shall cause to be prepared for each review hearing required herein a written report concerning each child who is the subject of such review.

2. Said report shall include but not be limited to a summary of the physical, mental, and emotional condition of the child, the conditions existing in the home or institution where the child has been placed, and the child's adjustment thereto, a report on the child's progress in school and, if the child has been placed outside his home, the visitation exercised by the lawful parents of such child.

3. If the Department is the legal custodian of the child, the report also shall include any efforts on the part of the parent or parents to correct the conditions which caused the child to be adjudicated. The report shall specifically recommend, giving reasons therefor, whether or not the parental rights of the parent or parents of the child should be terminated and the child placed for adoption, whether or not the child should remain in the home or if placed outside the home of the child's lawful parents, whether or not the child should remain outside the home or be returned to the home from which the child was removed. If it is determined that the child should be placed for adoption, foster parents may be considered eligible to adopt the child.

C. At each such review hearing, the court shall specifically inquire as to the nature and extent of services being provided the child and parent or parents of the child and shall direct additional services be provided if necessary to protect the child from further physical, mental, or emotional harm or to correct the conditions that led to the adjudication.

In any review order, the court shall further make a determination:

1. As to whether or not reasonable efforts have been made to provide for the return of the child to the child's own home. If reasonable efforts have failed or are not feasible, the court shall make a finding that the efforts to reunite the family have failed, or are not feasible, and reasonable efforts are being made to secure an alternate permanent placement for the child; and

2. Where appropriate, when the child is age sixteen (16) or older, that services are being provided that will assist the child in making the transition from foster care to independent living.

D. The attorney representing a child whose case is being reviewed may submit a report to the court for presentation at the review hearing to assist the court in reviewing the placement or status of the child. The legal custodian shall not deny to a child the right of access to counsel and shall facilitate such access.

E. The Department shall notify the court having jurisdiction, the appropriate review board, the appropriate district attorney and the attorney and court-appointed special advocate of the child, if any, whenever the placement of ~~the~~ a child in the custody of the Department is changed and shall inform said court and attorney regarding the location of the child unless placement modification results from an emergency situation, in which case the notification required by this subsection shall be within one (1) business day after the change of placement. As used in this subsection, "emergency situation" means a placement change requested by a person having actual custody of a child, if the request is made at a time when the business offices of the parties to be notified are closed, or a placement for emergency medical treatment.

F. The Department ~~may~~ shall not move any deprived child from one foster home or institution to another, if the child has already been moved once since the last court hearing, without first obtaining the approval of the court following a hearing into the reasons and necessity for moving the child. However, the Department may move any child due to an emergency, in which case a hearing shall be conducted, if requested in writing, within ten (10) days following the moving of the child concerning the reasons and necessity for moving the child.

SECTION 43. AMENDATORY 10 O.S. 1991, Section 1121, is amended to read as follows:

Section 1121. A. In any hearing concerning the status of a child, the court shall have authority to adjudge the parent or parents who have been served with notice of the hearing liable and accountable for the care and maintenance of any child or children, and to order the payment of funds for the care and maintenance of

the child, including, but not limited to, all or some part of placement services, medical care and mental health services, as authorized by law. The court shall have all powers incident to such orders necessary for their enforcement, including the power and authority to require bond or other security for the payment of such order; and may resort to execution and the power of punishment for contempt for noncompliance with such order.

B. The court shall have the right to increase, decrease, or otherwise modify its orders for care and maintenance, as the conditions or needs of the child or children may require and the ability of the person or persons held to pay may afford. The court may order support payments to be made direct to the person, organization or institution having the care and custody of the child or children, or directly to the clerk of the court.

C. All such funds ordered and paid to the clerk shall be accounted for; provided, that when payments are made in advance for any child, and custody of the court is terminated before the end of the period, then the clerk may refund, by proper voucher, the unused or unaccrued portion of such payment; or the refund may be authorized and paid on claim properly verified and approved by the judge.

SECTION 44. AMENDATORY 10 O.S. 1991, Section 1138, as last amended by Section 8, Chapter 342, O.S.L. 1993 (10 O.S. Supp. 1993, 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, establish, maintain and continuously refine and develop a balanced and comprehensive state program for children who are potentially delinquent or are delinquent.

B. ~~Whenever~~ Except as provided in subsection C of this section, whenever a child who has been adjudicated by the court as a delinquent child has been committed to the Department, the Department shall provide for placement pursuant to any option authorized by paragraphs 1 through 7 of this subsection; provided, nothing in this subsection shall be construed to establish a priority in regard to the selection of an option or to mandate the exclusive use of one particular option:

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

- a. exhibited seriously violent, aggressive or assaultive behavior,
- b. committed a serious felony constituting violent, aggressive and assaultive behavior,
- c. habitually committed ~~serious~~ delinquent acts if such acts would constitute felonies if committed by an adult,
- d. committed multiple serious delinquent acts, or
- e. violated any condition of probation or parole,

to the extent that it is necessary for the protection of the public. For purposes of placement, all deferred prosecutions for serious, habitual, violent, aggressive or assaultive crimes shall count toward placement decisions;

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;

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

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;

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

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

7. Place the child as provided by ~~Section 1135.1 of this title~~ the Inpatient Mental Health Treatment of Children Act, if the delinquent child has been found by a court to be in need of mental health treatment.

C. Subject to the placement guidelines developed by the Juvenile Placement Guidelines Committee, if approved by the Legislature, the court shall have the authority to require secure placement of a serious juvenile offender or habitual juvenile offender, as defined in the Serious and Habitual Juvenile Offender Act, adjudicated delinquent and committed to the Office of Juvenile Affairs. If the court orders a placement that is not in conformity with the placement guidelines, the reason for such placement shall be included in the record and shall be an appealable order.

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

SECTION 45. AMENDATORY 10 O.S. 1991, Section 1139, as last amended by Section 4 of Enrolled House Bill No. 2299 of the 2nd Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 1139. A. Except as otherwise provided by law, all children adjudicated delinquent and committed to the Department of Human Services shall be discharged at such time as the Department determines there is a reasonable probability that it is no longer necessary, either for the rehabilitation and treatment of the child, or for the protection of the public, that the Department retain legal custody. Following a hearing, the court may also order that a child adjudged delinquent and committed to the Department shall be discharged by the Department provided the child is on parole status and the court deems the discharge in the best interest of the child and public. The Department shall give a fifteen-day notice to the court and the district attorney before discharging from legal custody any child committed and confined in a secure facility.

B. Except as otherwise provided by law, all children adjudged delinquent and committed to the Department of Human Services and

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

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

D. The court may retain jurisdiction over a child adjudged delinquent beyond the age of seventeen (17) years to the extent necessary for the child to complete payment of restitution or court costs. The court may institute contempt proceedings pursuant to Sections 565 through 567 of Title 21 of the Oklahoma Statutes against any person adjudged delinquent and ordered to pay restitution or court costs who neglects or refuses to pay such restitution or court costs.

E. After placement guidelines are developed by the Juvenile Placement Guidelines Committee and approved by the Legislature, all children adjudicated delinquent and committed to the Office of Juvenile Affairs who are serious juvenile offenders or habitual juvenile offenders, as defined in the Serious and Habitual Juvenile Offender Act, shall remain in the custody of the Office of Juvenile Affairs for a period of time determined by the court in conformity with the placement guidelines and shall not be

discharged from custody at an earlier time unless the court determines there is a reasonable probability that it is no longer necessary, either for the rehabilitation and treatment of the child, or for the protection of the public, that the Office of Juvenile Affairs retain legal custody. Following a hearing, the court may also order that any such child shall be discharged by the Department of Juvenile Justice of the Office of Juvenile Affairs provided the child is on parole status and the court deems the discharge in the best interest of the child and public. The Department of Juvenile Justice shall give a fifteen-day notice to the district attorney before discharging from legal custody any child committed and confined in a secure facility.

SECTION 46. AMENDATORY 10 O.S. 1991, Section 1203, is amended to read as follows:

Section 1203. ~~(a)~~ A. The director, under the general supervision of the judge, shall organize, direct and develop the administrative work of the court, including the social, financial and clerical work, and ~~he~~ the director shall perform such other duties as to children as any judge of the court shall direct. The technical and professional employees shall have charge of cases assigned to them for investigation or treatment and shall perform such other duties as may be assigned to them by the director.

~~(b)~~ B. To assure uniformity of procedures and care throughout the state, each juvenile bureau shall perform its statutory duties for children alleged or adjudicated to be in need of supervision or delinquent in accordance with the procedures and guidelines promulgated by the Commission for Human Services and implemented by the Office of Juvenile Justice of the Department of Human Services.

C. All information obtained in discharge of official duty by any officer or other employee of the court shall be privileged and shall not be disclosed to anyone other than the judge and others entitled under this Act to receive such information, unless and until otherwise ordered by the judge.

SECTION 47. AMENDATORY 10 O.S. 1991, Section 1211, is amended to read as follows:

Section 1211. A. The Supreme Court ~~may~~ is authorized to establish by rule, education and training requirements for judges, associate judges, special judges, and referees who have juvenile court docket responsibility. The Administrative Director of the Courts shall be responsible for developing and administering procedures and rules for such courses for judicial personnel.

B. All judges having juvenile docket responsibility shall, as their dockets permit, attend training pertinent to issues relating to juveniles. The Administrative Office of the Courts shall monitor the attendance of judges having juvenile docket responsibility at such training.

C. District attorneys and assistant district attorneys whose duties include responsibility for the juvenile court docket shall complete education and training courses in juvenile justice. The District Attorneys Council shall be responsible for developing and administering procedures and rules for such courses for district attorneys and assistant district attorneys.

SECTION 48. AMENDATORY 10 O.S. 1991, Section 1401, as amended by Section 16, Chapter 299, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1401), is amended to read as follows:

Section 1401. A. The Office 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, and the youth camp located at Lake Tenkiller, and all property, equipment and supplies related thereto. All contracts, leases, or other agreements entered into by the Department of Human Services on behalf of the Center shall be administered by the Office of Juvenile Justice.

B. The Central Oklahoma Juvenile Center shall maintain the following facilities for delinquent children:

1. A medium security training school with a bed-space capacity for a maximum of thirty-two (32) children;
2. A nonsecure transitional cottage with a bed-space capacity for a maximum of six (6) children;

3. ~~A nonsecure drug and alcohol treatment facility, with a bed-space capacity for a maximum of sixteen (16) children;~~

4. ~~A nonsecure facility for a property offender program, with a bed-space capacity for a maximum of twenty-four (24) children~~
regimented juvenile training program with a bed-space capacity for a maximum of thirty-two (32) children; and

5. Facilities and bed-space capacity for programs that are consistent with providing statewide juvenile justice and delinquency prevention services.

C. 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, the Administrator of 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.

D. The Department 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, and 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.

E. 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 49. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507.27 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established until June 1, 1996, the Juvenile Placement Guidelines Committee. The Committee shall undertake a full, good faith and thorough study, analysis and evaluation of the placement policies for juveniles within this state and develop uniform sanctions and appropriate adjudication standards for juveniles who have committed felony and misdemeanor crimes. In performing this function, the Committee shall consider risk assessment criteria developed by the Department of Human Services and sanction guidelines developed by the Serious and

Habitual Juvenile Offender Program prior to the effective date of this act.

B. The Juvenile Placement Guidelines Committee shall consist of seventeen (17) members appointed as follows:

1. One member shall be an associate or district court judge having juvenile docket responsibility, to be appointed by the Chief Justice of the Supreme Court;

2. One member shall be a district attorney or assistant district attorney, to be appointed by the District Attorneys Council;

3. One member shall be a practicing attorney having substantial experience representing juvenile defendants, to be appointed by the Oklahoma Bar Association;

4. One member shall be an active law enforcement officer, to be appointed by the Cabinet Secretary for the Department of Safety and Security;

5. One member shall be either an attorney from the Oklahoma Indigent Defense System or a county indigent defender, to be appointed by the members of the Oklahoma Indigent Defense System Board;

6. Two members shall be appointed by the President Pro Tempore of the Senate;

7. Two members shall be appointed by the Speaker of the House of Representatives;

8. Two members shall be appointed by the Governor;

9. One member shall be the Director of the Victim's Compensation Board or a designee;

10. One member shall be a judge of the Oklahoma Court of Criminal Appeals, to be appointed by the judges of the Oklahoma Court of Criminal Appeals;

11. One member shall be the Administrative Director of the Courts or a designee;

12. One member shall be a member of the Commission on Children and Youth, to be appointed by the members of the Commission;

13. Until July 1, 1995, one member shall be the Division Administrator of the Office of Juvenile Justice or a designee. Effective July 1, 1995, the member shall be the Executive Director of the Office of Juvenile Affairs or a designee; and

14. One member shall be the Chairman of the Pardon and Parole Board or a designee.

C. Each member of the Juvenile Placement Guidelines Committee initially appointed shall make his appointment known to the President Pro Tempore of the Senate and the Speaker of the House of Representatives by September 1, 1994. Appointed members shall serve at the pleasure of the appointing authority.

D. The Juvenile Placement Guidelines Committee may divide into subcommittees in furtherance of its purposes.

E. Any vacancies in the appointive membership of the Juvenile Placement Guidelines Committee shall be filled in the same manner as the original appointment.

F. Within fifteen (15) days from the initial appointment of membership for the Juvenile Placement Guidelines Committee, the Chairman and Vice Chairman of the Committee shall be elected by the membership of the Committee from the membership of the Committee.

G. Other officers may be elected to serve the Committee for terms of office as may be designated by the Committee members. The Chairman of the Committee or his designee shall preside at meetings.

H. The Committee shall meet at least one time per month and at such other times as may be set by the Chairman of the Committee. The first meeting of the Committee shall be called by the Division Administrator of the Office of Juvenile Justice.

I. Members of the Committee shall receive no salary; however, all members of the Committee shall be reimbursed for their actual and necessary travel expenses as follows:

1. Committee members employed by the state shall be reimbursed by their respective employing agency pursuant to the State Travel Reimbursement Act;

2. Any other Committee member shall receive reimbursement pursuant to the State Travel Reimbursement Act from funds of the Department of Human Services until July 1, 1995, and from funds of the Office of Juvenile Affairs beginning July 1, 1995; and

3. If any Committee members are members of the Legislature, such members shall be reimbursed pursuant to Section 456 of Title 74 of the Oklahoma Statutes.

J. 1. The purposes of the Juvenile Placement Guidelines Committee shall be to consider and recommend placement policies and procedures for juveniles who have committed misdemeanor and felony crimes to assure the maximum protection of the people of the State of Oklahoma and the appropriate placement for juvenile offenders. The duties of the Committee in preparing recommendations shall be as follows:

- a. to recommend policies that assure the protection of the public from juveniles committing felony and misdemeanor crimes,
- b. to recommend policies that assure the fair, consistent and appropriate placement of the juvenile in relation to the seriousness of the offense committed by the juvenile,
- c. to coordinate placement policies,
- d. to review current placement practices for juveniles in relation to facility resources, including but not limited to the capacity of local and state secure and nonsecure facilities,
- e. to recommend policies that assure appropriate sanctions for juvenile offenders for whom secure placement is not appropriate, including but not limited to: community service programs, restitution, probation, payment of fines, rehabilitation, and special treatment programs,
- f. to systematically collect and analyze the data obtained from studies, research and the empirical experience of public and private agencies concerning juvenile placement processes,

- g. to systematically collect and analyze information concerning juvenile placement actually imposed,
- h. to systematically collect and analyze information regarding effectiveness of juvenile placement actually imposed,
- i. to recommend guidelines for determining when secure placement is appropriate for serious juvenile offenders and habitual juvenile offenders,
- j. to recommend a presumptive or fixed period of secure placement for serious juvenile offenders and habitual juvenile offenders if commitment to a secure facility is proper, based on appropriate combination of reasonable offense and offender characteristics,
- k. to recommend a presumptive or fixed period of placement for serious juvenile offenders and habitual juvenile offenders that are not placed in a secure facility,
- l. to recommend guidelines for the disposition orders provided for in paragraph 6 of subsection A of Section 1116 of Title 10 of the Oklahoma Statutes,
- m. to create fiscal projections for implementation of proposed changes to placement guideline policies,
- n. to consider present fiscal limitations within the juvenile justice system in the State of Oklahoma,
- o. to consider public policy relating to placement policy,
- p. to consider factors relevant to appropriate juvenile placement, including but not limited to: severity of offense, criminal history of the juvenile offender, aggravating and mitigating circumstances of the offense, performance under probationary supervision, deterrence, reformation, prevention of recidivism, effective capacity of state and local secure and nonsecure facilities and other placement sanctions available, and

q. to perform any other act necessary to complete the specific purposes of the Committee.

2. The Juvenile Placement Guidelines Committee shall:

- a. prepare a report on the Committee findings concerning Oklahoma juvenile placement policies,
- b. draft recommended juvenile placement guidelines and submit the recommended draft to the President Pro Tempore of the Senate and the Speaker of the House of Representatives not later than November 1, 1995, and
- c. submit a summary of recommended changes to existing juvenile placement policy and project the impact of those changes on correctional resources and public policy. The summary shall be submitted to the President Pro Tempore of the Senate and the Speaker of the House of Representatives with the recommended draft of sentence policy changes.

K. The juvenile placement guidelines and any amendments thereto must be approved by the Legislature prior to implementation. The Legislature shall either approve or disapprove the sentencing guidelines as presented to the Legislature without making any modifications.

L. Meetings of the Juvenile Placement Guidelines Committee shall comply with the provisions of the Oklahoma Open Meeting Act.

M. A majority of the members serving on the Committee shall constitute a quorum and a majority present at a meeting may act for the Committee.

N. The Committee shall keep minutes of meetings and voting records on file pursuant to the Oklahoma Open Records Act.

O. Prior to July 1, 1995, the Department of Human Services shall provide staff assistance to the Committee as necessary to assist the Committee in the performance of its duties. Beginning July 1, 1995, the Office of Juvenile Affairs shall provide staff assistance to the Committee as necessary to assist the Committee in the performance of its duties.

SECTION 50. AMENDATORY 21 O.S. 1991, Section 443, as amended by Section 12, Chapter 276, O.S.L. 1993 (21 O.S. Supp. 1993, Section 443), is amended to read as follows:

Section 443. A. Any person having been imprisoned in a county or city jail or detained in a juvenile detention facility awaiting charges on a felony offense or prisoner awaiting trial or having been sentenced on a felony charge to the custody of the Department of Corrections who escapes from a juvenile detention facility while actually confined therein or escapes from a county or city jail, either while actually confined therein, while permitted to be at large as a trusty, or while awaiting transportation to a Department of Corrections facility for execution of sentence, is punishable by imprisonment of not less than one (1) year nor more than seven (7) years.

B. Any person who is an inmate in the custody of the Department of Corrections who escapes from said custody, either while actually confined in a correctional facility, while assigned to the house arrest program authorized by Section 510.2 of Title 57 of the Oklahoma Statutes or other alternative to incarceration authorized by law, while assigned to the Preparole Conditional Supervision Program as authorized by Section 365 of this title or while permitted to be at large as a trusty, shall be punishable by imprisonment of not less than two (2) years nor more than seven (7) years.

C. For the purposes of this section, an inmate assigned to the house arrest program, other alternative to incarceration authorized by law, or to the Preparole Conditional Supervision Program shall be considered to have escaped if the inmate cannot be located within a twenty-four hour period or if he fails to report to a correctional facility or institution, as directed.

D. For the purposes of this section, if the individual who escapes has felony convictions for offenses other than the offense for which he was serving imprisonment at the time of his escape, those previous felony convictions may be used for enhancement of punishment pursuant to the provisions of Section 51 of Title 21 of the Oklahoma Statutes. The fact that any such convictions may

have been used to enhance punishment in the sentence for the offense for which he was imprisoned at the time of the escape shall not prevent such convictions from being used to enhance punishment for the escape.

SECTION 51. AMENDATORY Section 3, Chapter 309, O.S.L. 1993 (21 O.S. Supp. 1993, Section 1271.1), is amended to read as follows:

Section 1271.1 A. Whenever a person under eighteen (18) years of age is detained or arrested by a law enforcement officer and is carrying any weapon or firearm prohibited by Section 1272 of ~~Title 21 of the Oklahoma Statutes, every~~ this title, each such prohibited weapon and firearm may be confiscated and forfeited to the ~~confiscating~~ State of Oklahoma by the law enforcement authority. Such confiscation and forfeiture shall not require that criminal charges be filed against the minor.

B. However, when a weapon or firearm confiscated pursuant to the provisions of this section has been taken by a minor without the permission of the owner, the weapon or firearm shall be returned to the owner pursuant to the procedures provided in Section 1321 of Title 22 of the Oklahoma Statutes, provided the possession of such weapon or firearm by ~~an adult~~ the owner is not otherwise prohibited by law.

C. Any weapon or firearm confiscated and forfeited by any law enforcement authority may be sold at public auction, or when no longer needed as evidence in the criminal proceeding the confiscating authority may lease any firearm confiscated and forfeited by law pursuant to this section to any law enforcement agency for a period of one (1) year. Such lease may be renewed each year thereafter at the discretion of such authority to assist in the enforcement of the laws of this state or its political subdivisions. Any weapon or firearm deemed by the confiscating authority to be inappropriate for lease or sale shall be destroyed.

D. For purposes of this section, the term "confiscate" shall not be construed to prohibit any parent, guardian or other adult person from removing or otherwise seizing from any minor any

weapon or firearm in the minor's possession. Provided however, no school authority shall return any weapon or firearm removed or otherwise seized from any minor to any person, and shall immediately deliver such weapon or firearm to a law enforcement authority for prosecution and forfeiture.

SECTION 52. AMENDATORY 21 O.S. 1991, Section 1273, as amended by Section 2, Chapter 309, O.S.L. 1993 (21 O.S. Supp. 1993, Section 1273), is amended to read as follows:

Section 1273. A. It shall be unlawful for any person within this state, to sell or give to any minor any of the arms or weapons designated in Section 1272 of this title; provided, the provisions of this section shall not prohibit a parent from giving his or her minor child a rifle or shotgun for participation in hunting animals or fowl, hunter safety classes, target shooting, skeet, trap or other recognized sporting events, except as provided in subsection B of this section.

B. It shall be unlawful for any parent or guardian to intentionally, knowingly, or recklessly permit his or her minor child to possess any of the arms or weapons designated in Section 1272 of this title, including any rifle or shotgun, if such parent is aware of a substantial risk that such minor will use the weapon to commit a felony offense or if the minor has either been adjudicated a delinquent or has been convicted as an adult for a felony listed as an exception to the definition of a nonviolent offense in Section 571 of Title 57 of the Oklahoma Statutes.

C. It shall be unlawful for any minor to possess any of the arms or weapons designated in Section 1272 of this title, except rifles or shotguns used for participation in hunting animals or fowl, hunter safety classes, target shooting, skeet, trap or other recognized sporting event. Provided, the possession of rifles or shotguns authorized by this section shall not authorize the possession of such weapons by a minor who is subject to the provisions of Section 1283 of this title.

D. Any person violating this section shall, upon conviction, be punishable as provided in Section 1276 of this title, provided, any minor violating this section shall be subject to adjudication

as a delinquent. In addition, any adult or minor person violating this section shall be liable for civil damages for any injury or death to any person resulting from being shot by a minor.

E. As used in this section, "minor" means a person under eighteen (18) years of age.

SECTION 53. AMENDATORY 21 O.S. 1991, Section 1283, as last amended by Section 1 of Enrolled Senate Bill No. 969 of the 2nd Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 1283. A. It shall be unlawful for any person convicted of any felony in any court of this state or of another state or of the United States to have in his possession or under his immediate control, or in any vehicle which he is operating, or in which he is riding as a passenger, any pistol, imitation or homemade pistol, machine gun, sawed-off shotgun or rifle, or any other dangerous or deadly firearm which could be easily concealed on the person, in personal effects or in an automobile; provided any person elected or appointed as a peace officer who has previously been convicted of any felony in any court of a state or of the United States, and who has received a full and complete pardon from the proper authority and has been subsequently certified by the Oklahoma Council on Law Enforcement Education and Training, pursuant to Section 3311 of Title 70 of the Oklahoma Statutes, and is actively employed as a full-time peace officer on the effective date of this act, shall be permitted to possess a weapon specified in this section for the sole purpose of performing duties of a peace officer. For the purposes of this section, "sawed-off shotgun or rifle" shall mean any shotgun or rifle which has been shortened to any length.

B. Any person who has previously been convicted of a nonviolent felony in any court in the State of Oklahoma, and who has received a full and complete pardon from the proper authority shall be permitted to possess a weapon specified in this section to the extent necessary for the pursuit of gunsmithing or firearm repair, provided such person has graduated from a gunsmithing school conducted by an institution whose accreditation is

recognized by the Oklahoma State Regents for Higher Education and who is engaged in the occupation of gunsmithing or firearm repair.

C. In addition to the prohibitions of subsection A of this section, it shall be unlawful for any person supervised by the Department of Corrections or any division thereof to have in his possession or under his immediate control, or in his residence, or in any passenger vehicle which he is operating or in which he is riding as a passenger, any firearm, including any imitation or homemade firearm, while such person is under probation, parole or inmate status.

D. It shall be unlawful for any person previously adjudicated as a delinquent child for the commission of an offense, which would have constituted a felony offense of burglary or arson or a felony offense involving the use of force, violence or a deadly weapon, or an attempt or conspiracy to commit any such offense, to have in said person's possession or immediate control, or have in any vehicle which he or she is driving or in which said person is riding as a passenger, any pistol, imitation or homemade pistol, machine gun, sawed-off shotgun or rifle, or any other dangerous or deadly firearm which could be easily concealed on the person, in personal effects or in an automobile, within ten (10) years after such adjudication.

SECTION 54. AMENDATORY 22 O.S. 1991, Section 60.1, as amended by Section 1, Chapter 42, O.S.L. 1992 (22 O.S. Supp. 1993, Section 60.1), is amended to read as follows:

Section 60.1 As used in Section 60 et seq. of this title and in the Domestic Abuse Reporting Act, Sections 40.5 and 40.6 of this title and Section 150.12B of Title 74 of the Oklahoma Statutes:

1. "Domestic abuse" means any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor age ~~sixteen (16)~~ thirteen (13) years or ~~seventeen (17) years~~ older against another adult, emancipated minor or minor child who are family or household members;

2. "Stalking" means the willful, malicious, and repeated following of a person by an adult, emancipated minor, or minor

~~sixteen (16)~~ thirteen (13) years of age or older, with the intent of placing the person in reasonable fear of death or great bodily injury;

3. "Harassment" means a knowing and willful course or pattern of conduct by an adult, emancipated minor, or minor ~~sixteen (16)~~ thirteen (13) years of age or older, directed at a specific person which seriously alarms or annoys the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial distress to the person. "Harassment" shall include, but not be limited to, harassing or obscene telephone calls in violation of Section 1172 of Title 21 of the Oklahoma Statutes; and

4. "Family or household members" means spouses, ex-spouses, present spouses of ex-spouses, parents, children, persons otherwise related by blood or marriage, persons living in the same household or who formerly lived in the same household, or persons who are the biological parents of the same child, regardless of their marital status, or whether they have lived together at any time. This shall include the elderly and handicapped.

SECTION 55. AMENDATORY 22 O.S. 1991, Section 60.2, as last amended by Section 15, Chapter 325, O.S.L. 1993 (22 O.S. Supp. 1993, Section 60.2), is amended to read as follows:

Section 60.2 A. A victim of domestic abuse, a victim of stalking, a victim of harassment, any adult or emancipated minor household member on behalf of any other family or household member who is a minor or incompetent, or any minor age sixteen (16) or seventeen (17) years may seek relief under the provisions of Section 60 et seq. of this act title.

1. Such person may seek relief by filing a petition for protective order with the district court in either the county in which the victim resides or the county in which the defendant resides.

2. When the abuse occurs when the court is not open for business, such person may request an emergency temporary order of protection as provided by Section 40.3 of this title.

B. The petition forms shall be provided by the clerk of the court and shall be in substantially the following form:

IN THE DISTRICT COURT IN AND FOR _____ COUNTY

STATE OF OKLAHOMA

_____)
 Plaintiff)
)
 vs.) Case No. _____
)
 _____)
 Defendant)

PETITION FOR PROTECTIVE ORDER

Plaintiff, being sworn, states:

1. (Check one or more)

 / The defendant caused or attempted to cause serious physical harm to _____.

 / The defendant threatened _____ with imminent serious physical harm.

 / The defendant has stalked or harassed _____.

2. The incident causing the filing of this petition occurred on or about _____.

(date)

(Describe what happened:)

3. The victim and the defendant are related as follows:

(check one)

 / married

- divorced
- parent and child
- persons related by blood
- persons related by marriage
- present spouse of an ex-spouse
- persons living in the same household
- persons formerly living in the same household
- biological parents of the same child
- not related

4. (Answer this question only if the plaintiff is filing on behalf of someone else, minor or incompetent)

The plaintiff and the victim are related as follows:

- married
- divorced
- parent and child
- persons related by blood
- persons related by marriage
- present spouse of an ex-spouse
- persons living in the same household
- persons formerly living in the same household
- biological parents of the same child

5. (Check A or B)

(A) The victim is in immediate and present danger of abuse from

the defendant and an emergency ex parte order is necessary to protect the victim from serious harm. The plaintiff requests the following relief in the emergency ex parte order: (check one or more)

- order the defendant not to abuse or injure the victim.
- order the defendant not to visit, assault, molest or otherwise interfere with the victim.
- order the defendant not to threaten the

victim.

 / order the defendant to cease stalking the victim.

 / order the defendant to cease harassment of the victim.

 / order the defendant to leave the residence located at _____ on or before _____.

 / order the defendant who is a minor child to leave the residence located at _____ by immediately placing the defendant in the temporary custody of the Department of Human Services. Circle age of defendant: Thirteen (13), fourteen (14), fifteen (15), sixteen (16), or seventeen (17) years.

 / _____
(describe other relief that plaintiff requests)

(B) / The plaintiff does not request an emergency ex parte order.

6. Plaintiff requests the following order to be made by the court following notice to the defendant and a hearing: (check one or more)

 / order the defendant not to abuse or injure the victim.

 / order the defendant not to visit, assault, molest or otherwise interfere with the victim.

 / order the defendant not to threaten the victim.

 / order the defendant to cease stalking the victim.

 / order the defendant to cease harassment of the victim.

 / order the defendant to leave the residence located at _____ on or before _____.

 / order the defendant who is a minor child to leave the residence located at _____ by immediately placing the defendant in the temporary custody of the Department of Human Services. Circle age of defendant: Thirteen (13), fourteen (14), fifteen (15), sixteen (16), or seventeen (17) years.

 / _____
(describe other relief that plaintiff requests)

 / order the defendant to pay attorney fees of

the plaintiff in the sum of _____ on or before _____.

_____/ order the defendant to pay the court costs of this action in the sum of _____ on or before _____.

7. ____/ Victim is a resident of the county wherein this petition is filed.

____/ Defendant is a resident of the county wherein this petition is filed.

8. Plaintiff has stated the truth, the whole truth and nothing but the truth in this petition.

Plaintiff

Witness my hand and seal,

affixed on the ____ day of _____, 19__.

Court Clerk, Deputy Court Clerk,
or Notary Public

C. No filing fee shall be charged the plaintiff at the time the petition is filed. The court may assess court costs and filing fees to either party at the hearing on the petition.

D. The plaintiff shall prepare the petition as set forth above or, at the request of the plaintiff, the clerk of the court or the victim-witness coordinator shall prepare or assist the plaintiff in preparing the same.

SECTION 56. AMENDATORY 22 O.S. 1991, Section 60.3, as last amended by Section 16, Chapter 325, O.S.L. 1993 (22 O.S. Supp. 1993, Section 60.3), is amended to read as follows:

Section 60.3 A. If a plaintiff requests an emergency ex parte order pursuant to Section 60.2 of this title, the court shall hold an ex parte hearing on the same day the petition is filed. The court may, for good cause shown at the hearing, issue any emergency ex parte order that it finds necessary to protect the victim from immediate and present danger of domestic abuse, stalking, or harassment. The emergency ex parte order shall be in effect until after the full hearing is conducted. An emergency ex parte order authorized by this section may include the following:

1. An order to the defendant not to abuse or injure the victim;

2. An order to the defendant not to visit, assault, molest, harass or otherwise interfere with the victim;
3. An order to the defendant not to threaten the victim;
4. An order to the defendant not to stalk the victim;
5. An order to the defendant not to harass the victim; ~~or~~
6. An order to the defendant to leave the residence; or
7. An order removing the defendant who is a minor child from the residence by immediately placing the child in the temporary custody of the Department of Human Services.

B. If a plaintiff requests an emergency temporary ex parte order of protection as provided by Section 40.3 of this title, the judge who is notified of the request by a peace officer may issue such order verbally to the officer or in writing when there is reasonable cause to believe that the order is necessary to protect the victim from immediate and present danger of domestic abuse. When the order is issued verbally the judge shall direct the officer to complete and sign a statement attesting to the order. The emergency temporary ex parte order shall be in effect until the close of business on the next day the court is open for business after the order is issued.

SECTION 57. AMENDATORY 22 O.S. 1991, Section 60.4, as last amended by Section 1, Chapter 379, O.S.L. 1992 (22 O.S. Supp. 1993, Section 60.4), is amended to read as follows:

Section 60.4 A. A copy of the petition, notice of hearing and a copy of any ex parte order issued by the court shall be served upon the defendant in the same manner as a summons. Ex parte orders shall be given priority for service by the sheriff's office and can be served twenty-four (24) hours a day. When the defendant is a minor child who is ordered removed from the residence of the victim, in addition to those documents served upon the defendant, a copy of the petition, notice of hearing and a copy of any ex parte order issued by the court shall be delivered with the child to the caretaker of the place where such child is taken into custody by the Department of Human Services.

B. Within ~~ten (10)~~ fifteen (15) days of the filing of the petition the court shall schedule a full hearing on the petition,

regardless of whether an emergency ex parte order has been previously issued, requested or denied. Provided, however, when a minor child has been removed from the residence and placed in the temporary custody of the Department of Human Services, the court shall schedule a full hearing on the petition within seventy-two (72) hours, regardless of whether an emergency ex parte order has been previously issued, requested or denied.

C. At the hearing, the court may grant any protective order to bring about the cessation of domestic abuse against the victim or stalking or harassment of the victim, including committing any minor child into the custody of the Department of Human Services.

D. Protective orders authorized by this section may include the following:

1. An order to the defendant not to abuse or injure the victim;
2. An order to the defendant not to visit, assault, molest, harass or otherwise interfere with the victim;
3. An order to the defendant not to threaten the victim;
4. An order to the defendant to cease stalking the victim;
5. An order to the defendant to cease harassment of the victim;
6. An order to the defendant to leave the residence;
7. An order awarding attorney fees; ~~and~~
8. An order awarding court costs; and
9. An order placing any minor child in the custody of the Department of Human Services.

E. After notice and hearing, protective orders authorized by this section may require the plaintiff or the defendant or both to undergo treatment or participate in the counseling services necessary to bring about cessation of domestic abuse against the victim. Either party or both may be required to pay all or any part of the cost of such treatment or counseling services. The court shall not be responsible for such cost.

F. When necessary to protect the victim and when authorized by the court, protective orders granted pursuant to the provisions of this section may be served upon the defendant by a peace

officer, sheriff, constable, or policeman or other officer whose duty it is to preserve the peace, as defined by Section 99 of Title 21 of the Oklahoma Statutes.

G. Any protective order issued pursuant to subsection C of this section shall not be for a fixed period but shall be continuous until modified or rescinded upon motion by either party or if the court approves any consent agreement entered into by the plaintiff and defendant. If a child has been removed from the residence of a parent or custodial adult because of repeated domestic abuse committed by the child and is placed in the custody of the Department of Human Services, the parent or custodial adult may refuse the return of such child to the residence, until the child demonstrates a cessation of abusive behavior.

H. No order issued under the Protection from Domestic Abuse Act, Section 60 et seq. of this title, shall in any manner affect title to real property, purport to grant to the parties a divorce or otherwise purport to determine the issues between the parties as to child custody, visitation, child support or division of property or any other like relief obtainable under Sections 101 et seq. of Title 43 of the Oklahoma Statutes.

SECTION 58. AMENDATORY 22 O.S. 1991, Section 60.5, is amended to read as follows:

Section 60.5 Within twenty-four (24) hours of the return of service of any ex parte or final protective order, the clerk of the issuing court shall send certified copies thereof to all appropriate law enforcement agencies designated by the plaintiff. A certified copy of any modification, cancellation or consent agreement concerning a final protective order shall be sent by the clerk of the issuing court to those law enforcement agencies receiving the original orders pursuant to this section.

SECTION 59. AMENDATORY 22 O.S. 1991, Section 60.6, as amended by Section 5, Chapter 42, O.S.L. 1992 (22 O.S. Supp. 1993, Section 60.6), is amended to read as follows:

Section 60.6 A. Except as otherwise provided by this section any person who has been served with an ex parte or final protective order and is in violation of such protective order,

upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by a term of imprisonment in the county jail of not more than one (1) year, or both such fine and imprisonment.

B. Any person who after a previous conviction of a violation of a protective order is convicted of a second or subsequent offense pursuant to the provisions of this section shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by a term of imprisonment in the county jail of not less than ten (10) days and not more than one (1) year. In addition to the term of imprisonment, the person may be punished by a fine of not less than Five Hundred Dollars (\$500.00) and not more than One Thousand Dollars (\$1,000.00).

C. 1. Any person who has been served with an ex parte or final protective order who violates said protective order and without justifiable excuse causes physical injury or physical impairment to the plaintiff or to any other person named in said protective order shall, upon conviction, be guilty of a misdemeanor and shall be punished by a term of imprisonment in the county jail for not less than ten (10) days nor more than one (1) year. In addition to the term of imprisonment, the person may be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00).

2. In determining the term of imprisonment required by this section, the jury or sentencing judge shall consider the degree of physical injury or physical impairment to the victim.

3. The provisions of this subsection shall not affect the applicability of Sections 644, 645, 647 and 652 of Title 21 of the Oklahoma Statutes.

D. The minimum sentence of imprisonment issued pursuant to the provisions of subsections B and C of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation, provided the court may subject any remaining penalty under the jurisdiction of the court to the statutory provisions for suspended sentences, deferred sentences or probation.

E. In addition to any other penalty specified by this section, the court may require a defendant to undergo the treatment or participate in the counseling services necessary to bring about the cessation of domestic abuse against the victim or to bring about the cessation of stalking or harassment of the victim.

F. Ex parte and final protective orders shall include notice of these penalties.

G. When a minor child violates the provisions of any protective order, the court may, if the violation is to be heard in a juvenile proceeding, order the child to participate in counseling services necessary to bring about the cessation of domestic abuse against the victim and order community service hours to be performed in lieu of any fine or imprisonment authorized by this section.

SECTION 60. AMENDATORY 51 O.S. 1991, Section 155, is amended to read as follows:

Section 155. The state or a political subdivision shall not be liable if a loss or claim results from:

1. Legislative functions;
2. Judicial, quasi-judicial, or prosecutorial functions;
3. Execution or enforcement of the lawful orders of any court;
4. Adoption or enforcement of or failure to adopt or enforce a law, whether valid or invalid, including, but not limited to, any statute, charter provision, ordinance, resolution, rule, regulation or written policy;
5. Performance of or the failure to exercise or perform any act or service which is in the discretion of the state or political subdivision or its employees;
6. Civil disobedience, riot, insurrection or rebellion or the failure to provide, or the method of providing, police, law enforcement or fire protection;
7. Any claim based on the theory of attractive nuisance;
8. Snow or ice conditions or temporary or natural conditions on any public way or other public place due to weather conditions,

unless the condition is affirmatively caused by the negligent act of the state or a political subdivision;

9. Entry upon any property where that entry is expressly or impliedly authorized by law;

10. Natural conditions of property of the state or political subdivision;

11. Assessment or collection of taxes or special assessments, license or registration fees, or other fees or charges imposed by law;

12. Licensing powers or functions including, but not limited to, the issuance, denial, suspension or revocation of or failure or refusal to issue, deny, suspend or revoke any permit, license, certificate, approval, order or similar authority;

13. Inspection powers or functions, including failure to make an inspection, review or approval, or making an inadequate or negligent inspection, review or approval of any property, real or personal, to determine whether the property complies with or violates any law or contains a hazard to health or safety, or fails to conform to a recognized standard;

14. Any loss to any person covered by any workers' compensation act or any employer's liability act;

15. Absence, condition, location or malfunction of any traffic or road sign, signal or warning device unless the absence, condition, location or malfunction is not corrected by the state or political subdivision responsible within a reasonable time after actual or constructive notice or the removal or destruction of such signs, signals or warning devices by third parties, action of weather elements or as a result of traffic collision except on failure of the state or political subdivision to correct the same within a reasonable time after actual or constructive notice.

Nothing herein shall give rise to liability arising from the failure of the state or any political subdivision to initially place any of the above signs, signals or warning devices. The signs, signals and warning devices referred to herein are those used in connection with hazards normally connected with the use of

roadways or public ways and do not apply to the duty to warn of special defects such as excavations or roadway obstructions;

16. Any claim which is limited or barred by any other law;

17. Misrepresentation, if unintentional;

18. An act or omission of an independent contractor or consultant or his employees, agents, subcontractors or suppliers or of a person other than an employee of the state or political subdivision at the time the act or omission occurred;

19. Theft by a third person of money in the custody of an employee unless the loss was sustained because of the negligence or wrongful act or omission of the employee;

20. Participation in or practice for any interscholastic or other athletic contest sponsored or conducted by or on the property of the state or a political subdivision;

21. Participation in any activity approved by a local board of education and held within a building or on the grounds of the school district served by that local board of education before or after normal school hours or on weekends;

22. Any court-ordered or Department of Corrections approved work release program; provided, however, this provision shall not apply to claims from individuals not in the custody of the Department of Corrections based on accidents involving motor vehicles owned or operated by the Department of Corrections;

~~22.~~ 23. The activities of the National Guard, the militia or other military organization administered by the Military Department of the state when on duty pursuant to the lawful orders of competent authority:

a. in an effort to quell a riot ~~or,~~

b. in response to a natural disaster or military attack, or

c. if participating in a military mentor program ordered by the court;

~~23.~~ 24. Provision, equipping, operation or maintenance of any prison, jail or correctional facility, or injuries resulting from the parole or escape of a prisoner or injuries by a prisoner to any other prisoner; provided, however, this provision shall not

apply to claims from individuals not in the custody of the Department of Corrections based on accidents involving motor vehicles owned or operated by the Department of Corrections;

~~24.~~ 25. Provision, equipping, operation or maintenance of any juvenile detention facility, or injuries resulting from the escape of a juvenile detainee, or injuries by a juvenile detainee to any other juvenile detainee;

~~25.~~ 26. Any claim or action based on the theory of manufacturer's products liability or breach of warranty, either expressed or implied;

~~26.~~ 27. Any claim or action based on the theory of indemnification or subrogation;

~~27.~~ 28. Any claim based upon an act or omission of an employee in the placement of children;

~~28.~~ 29. Acts or omissions done in conformance with then current recognized standards;

~~29.~~ 30. Maintenance of the state highway system or any portion thereof unless the claimant presents evidence which establishes either that the state failed to warn of the unsafe condition or that the loss would not have occurred but for a negligent affirmative act of the state; or

~~30.~~ 31. Any confirmation of the existence or nonexistence of any effective financing statement on file in the office of the Secretary of State made in good faith by an employee of the office of the Secretary of State as required by the provisions of Section 9-307.6 of Title 12A of the Oklahoma Statutes.

SECTION 61. AMENDATORY 56 O.S. 1991, Section 200.6, is amended to read as follows:

Section 200.6 A. There is hereby created in the State Treasury a revolving fund for the Department of Human Services to be designated the "Juvenile Detention Improvement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies appropriated to the Juvenile Detention Improvement Revolving Fund and monies which may otherwise be available to the Department of Human Services for use as provided for in this section.

B. All monies appropriated to the fund shall be budgeted and expended by the Department of Human Services for the purpose of providing funds to counties to renovate existing juvenile detention facilities, to construct new juvenile detention facilities, to operate juvenile detention facilities and otherwise provide for secure juvenile detention services and alternatives to secure detention as necessary and appropriate, in accordance with state-approved juvenile detention standards and the State Plan for the Establishment of Juvenile Detention Services provided for in Section 1108 of Title 10 of the Oklahoma Statutes. The participation of local resources shall be a requirement for the receipt by counties of said funds and the Department shall establish a system of rates for the reimbursement of secure detention costs to counties. The methodology for the establishment of said rates may include, but not be limited to, consideration of detention costs, the size of the facility, services provided and geographic location. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

1. ~~a. For counties having a population of less than four hundred fifty thousand (450,000) as shown by the last preceding Federal Decennial Census, the Department of Human Services shall provide not less than ninety percent (90%) of the approved operational cost for secure detention effective July 1, 1987. Beginning July 1, 1992 July 1, 1994, the rate of reimbursement of approved operating cost shall be eighty-five percent (85%) for the Department of Human Services-~~

~~b. For those counties having a population of four hundred fifty thousand (450,000) or more, the sharing cost for the provision of secure juvenile detention facilities shall be fifty percent (50%) for the Department of Human Services and fifty~~

~~percent (50%) and fifteen percent (15%) for the county.~~

- ~~e. The Department of Human Services shall reimburse operating per diem costs for said services, as approved, at the rate of ninety percent (90%) to be reduced to eighty-five percent (85%) effective July 1, 1992, to those counties having a population of four hundred fifty thousand (450,000) or more which:~~
- ~~(1) provide secure detention services for juveniles who have been adjudicated delinquent, placed in the custody of the Department of Human Services and who are awaiting placement by the Department, for each day that said county continues to provide such services beyond five~~
 - ~~(5) days after a dispositional order placing a juvenile in Department custody is issued, or~~
 - ~~(2) provide detention services to other counties.~~

2. The Department of Human Services shall approve only those applications for funds to renovate an existing juvenile detention facility or any other existing facility or to construct a new juvenile detention facility which contain proposed plans that are in compliance with state-approved juvenile detention standards.

3. The Department of Human Services shall approve only those applications or contracts for funds to operate juvenile detention facilities or otherwise provide for secure juvenile detention services and alternatives to secure detention which are in compliance with or which are designed to achieve compliance with the State Plan for the Establishment of Juvenile Detention Services provided for in Section 1108 of Title 10 of the Oklahoma Statutes.

4. The Department of Human Services shall, from appropriated state monies or from available federal grants, provide for payment pursuant to contract for transportation personnel and vehicle-related costs and reimburse for eligible travel costs for counties utilizing the juvenile detention facilities identified in the "State Plan for the Establishment of Juvenile Detention Services"

in accordance with the provisions of the State Travel Reimbursement Act and in accordance with Section 1108 of Title 10 of the Oklahoma Statutes.

5. No application for funds available pursuant to the provisions of this section may be filed when the construction of new facilities or the renovation of existing facilities was begun prior to July 20, 1982.

SECTION 62. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1210.563 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Contingent upon the provision of appropriated funds designated for Alternative Education Academies pilot programs, the State Board of Education is authorized to award one or more competitive grants for alternative education programs to school districts, nonprofit organizations, or entities formed by interlocal cooperative agreements pursuant to Section 5-117b of Title 70 of the Oklahoma Statutes. The grant awards shall be made to school districts located in counties with a high number of dropouts as reported by the Office of Accountability for the school year preceding the year for which the grant is being sought and a high number of referrals to the juvenile justice system or, if the grant award is to a nonprofit organization or entity formed by an interlocal cooperative agreement, the program to be funded shall serve students in school districts located in counties with a high number of dropouts and a high number of referrals to the juvenile justice system. Programs eligible for funding shall include but not be limited to programs provided:

1. Directly by a school district;

2. Pursuant to an interlocal cooperative agreement with another school district or districts or an area vocational and technical school district; or

3. Pursuant to contract with a nonprofit organization.

B. In order to be eligible for an Alternative Education Academy Grant, a program shall:

1. Allow class sizes and student/teacher ratios which are conducive to effective learning for at-risk students;
2. Incorporate appropriate structure, curriculum, and interaction and reinforcement strategies designed to provide effective instruction;
3. Include an intake and screening process to determine eligibility of students;
4. Demonstrate that teaching faculty are appropriately certified teachers;
5. Demonstrate that teaching faculty have been selected on the basis of a record of successful work with at-risk students or personal and educational factors that qualify them for work with at-risk students;
6. Reflect appropriate collaborative efforts with state agencies and local agencies serving youth;
7. Provide courses that meet the curricular standards adopted by the State Board of Education and remedial courses;
8. Offer individualized instruction;
9. State clear and measurable program goals and objectives;
10. Include counseling and social services components with the provision that providers of services are not required to be certified as school counselors;
11. Require a plan leading to graduation be developed for each child in the program;
12. Offer life skills instruction;
13. Provide opportunities for arts education to students, including Artists in Residence programs coordinated with the State Arts Council;
14. Provide a proposed annual budget;
15. Include an evaluation component including an annual written self-evaluation; and
16. Be appropriately designed to serve middle school, junior high school and secondary school students in grades six through twelve who are most at risk of not completing a high school education for a reason other than that identified in Section 13-101 of Title 70 of the Oklahoma Statutes.

C. Grant recipients shall have priority, if recommended by the Alternative Education Academy Grants Technical Assistance Center as provided for in subsection F of this section, and if funds are available, for annual renewal of grants by the State Board of Education in amounts and on conditions as provided in this section. If a district receives grants for an Alternative Education Academy program for three consecutive school years and if the program upon evaluation by the Technical Assistance Center meets the criteria set forth in subsection B of this section, funding shall be as follows:

1. Funding for the fourth consecutive school year shall be in an amount of fifty percent (50%) of the average amount of grants awarded for the program pursuant to this section for the first three (3) consecutive school years;

2. Funding for the fifth consecutive school year shall be awarded only if the program has been state-validated and replicated by another district; if funding is awarded, it shall be in the amount of twenty-five percent (25%) of the average amount of grants awarded to the program pursuant to this section for the first three (3) consecutive school years;

3. All grants for the fourth and fifth school years as provided above shall be matched with local funds or in-kind contributions. Programs which received grants continuously for five (5) consecutive school years shall not thereafter be eligible for grants pursuant to this section.

D. School districts that receive Alternative Education Academy Grants shall not use the grant funds to supplant budgeted district expenditures for existing alternative education programs. Provided, programs that have been funded in prior years by Alternative Approaches grants pursuant to Section 1210.561 of Title 70 of the Oklahoma Statutes may be funded through Alternative Education Academy Grants if included in the grant request and approved.

E. By September 15 of each school year, all revenue received and expended for students participating in alternative education academies created in subsection A of this section shall be

reported to the State Department of Education by major object codes and by program classifications pursuant to the Oklahoma Cost Accounting System as adopted by the State Board of Education pursuant to Section 5-135 of Title 70 of the Oklahoma Statutes.

F. Recipients of Alternative Education Academy Grants shall be subject to statutes and rules applicable to alternative education, including any exemptions from statutory or regulatory requirements authorized by statutes or rule.

G. 1. From funds appropriated for Alternative Education Academy Grants, the State Board of Education shall contract for technical assistance for operation of an Alternative Education Academy Grants Technical Assistance Center. The technical assistance provider shall be an entity located in Oklahoma that is officially recognized by the United States Department of Education to assess and facilitate dissemination of validated educational programs in Oklahoma. The technical assistance provider shall have priority, if its operations are deemed satisfactory by the State Board of Education and if funds are available, for annual renewal of the contract.

2. The duties of the technical assistance provider shall include, but shall not be limited to:

- a. recommending programs to the State Board of Education for Alternative Education Academy Grants,
- b. providing initial and ongoing training of personnel who will educate at risk populations through programs funded pursuant to this section,
- c. providing technical assistance to districts identified by the State Department of Education as eligible for initial grants pursuant to subsection A of this section,
- d. providing technical assistance to grant recipients to enhance probability of success of grant-funded programs,
- e. evaluating grant-funded programs for possible state validation as defined in Section 1210.561 of Title 70 of the Oklahoma Statutes,

- f. reporting to the State Board of Education the name and description of any program which receives state validation, and
- g. providing in-depth program analysis and evaluation of grant-funded programs to the State Board of Education and the Legislature no later than November 1 following the end of the school year in which one or more grant-funded programs were implemented.

H. The State Board of Education shall promulgate rules as necessary to administer the Alternative Education Academy Grants and the process by which the grant funding shall be allocated.

I. Any school district which does not participate in the Alternative Education Academy Grants created in this section may provide an alternative education program pursuant to the provisions of this section.

SECTION 63. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1210.564 of Title 70, unless there is created a duplication in numbering, reads as follows:

No later than August 1, 1994, the State Department of Education shall identify eight (8) school districts eligible to receive Alternative Education Academy Grants based on the criteria set out in subsection A of Section 62 of this act. The Department shall notify the eligible districts and require the districts to submit plans for Alternative Education Academy programs no later than November 1, 1994. The initial programs shall be implemented no later than the beginning of the second semester of the 1994-95 school year. The technical assistance provider shall provide assistance to the identified districts in assessing needs and designing programs. Two or more of the identified districts may submit one program plan if the plan will serve students in the cooperating districts. Identified districts that do not submit plans for and implement effective programs as determined by the technical assistance provider shall be penalized in an amount equal to five (5%) of the amount of State Aid the district received for the 1994-95 school year. The penalty shall be

enforced by reducing State Aid to the district during the following school year. The State Board of Education shall promulgate rules establishing an appeal process to the Board for districts which have been assessed a penalty.

SECTION 64. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1210.565 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. A certified teacher in a program funded by an Alternative Education Academy Grant shall be paid a five percent (5%) increment above the designated step for that teacher within the adopted salary schedule of the district.

B. Persons providing counseling or social services in a program funded by an Alternative Education Academy Grant shall not be required to be certified as school counselors by the State Board of Education.

SECTION 65. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1210.566 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. By July 1, 1994, the State Board of Education shall notify in writing every school district of the provisions of this act which relate to alternative education.

B. By December 1, 1994, every school district that serves middle school, junior high school and secondary school students shall conduct and report to the State Department of Education a needs assessment to identify those students in grades six through twelve who are most at risk of not completing a high school education for a reason other than that identified in Section 13-101 of Title 70 of the Oklahoma Statutes, including students under the age of nineteen (19) who reside in the district and have dropped out of school or are or have been suspended from school. Districts shall utilize data and information from juvenile justice agencies and the Office of Accountability in conducting the needs assessments. The results of the needs assessments shall be

reported to the State Department of Education in a format specified by the Department.

C. By May 1, 1995, every school district as specified in subsection B of this section shall develop and submit to the State Department of Education a proposed plan approved by the district board of education, for meeting the needs of the students at risk of not completing a high school education as identified through the needs assessment required in subsection B of this section by establishing, continuing or expanding alternative education programs. The district shall include parents, students, teachers, law enforcement representatives, judicial system representatives, social service representatives, area vocational-technical school district representatives, and others deemed appropriate by the board of education in the development of the proposed plan. If the school district overlaps an area vocational-technical school district or districts, the plan shall be coordinated with the board of education of each overlapped area vocational-technical school district.

D. The proposed plan shall be placed on file at the office of the school district superintendent where it shall be made available to the public on request.

E. By September 1, 1995, the State Board of Education shall prepare and submit to the Legislature and the Governor a proposed statewide plan, including a statement of needed funding, for the provision of alternative education to students in grades six through twelve who have been identified by school districts in their needs assessments as being at risk of not completing a high school education for a reason other than that identified in Section 13-101 of Title 70 of the Oklahoma Statutes. The plan should include provisions for cooperative agreements to provide services for students in alternative education programs and coordination with the State Board of Vocational and Technical Education.

SECTION 66. AMENDATORY 70 O.S. 1991, Section 3-104.2, as amended by Section 7, Chapter 324, O.S.L. 1992 (70 O.S. Supp. 1993, Section 3-104.2), is amended to read as follows:

Section 3-104.2 A. ~~Beginning with the 1992-93 school year,~~
~~as~~ As part of the requirements for receiving accreditation by the
State Board of Education, each school district board of education,
~~once every four (4) years,~~ shall adopt a Comprehensive Local
Education Plan once every four (4) years. The plan at a minimum
shall contain the following:

1. A school improvement plan as provided for in Section 5-
117.4 of ~~Title 70 of the Oklahoma Statutes~~ this title;
2. A staff development plan as provided for in Section 6-158
of ~~Title 70 of the Oklahoma Statutes~~ this title; and
3. A capital improvement plan as provided for in Section 18-
153 of ~~Title 70 of the Oklahoma Statutes~~ this title; and
4. An alternative education plan, as provided for in
subsection C of Section 65 of this act.

B. The Comprehensive Local Education Plan specified in
subsection A of this section shall be submitted by each school
district to the State Board of Education on or before May 10, 1993
and every four (4) years thereafter on or before May 10. Each
school district shall review and update the plans annually.
~~School districts may submit their 1992 Comprehensive Local
Education Plan on or before May 10, 1993, without penalty.~~

C. The State Board of Education shall promulgate rules ~~and
regulations~~ for monitoring compliance with the provisions of this
section by school districts. The State Department of Education
shall provide training for regional accreditation officers in
alternative education program compliance.

SECTION 67. NEW LAW A new section of law to be
codified in the Oklahoma Statutes as Section 14-103.1 of Title 70,
unless there is created a duplication in numbering, reads as
follows:

A. Contingent upon the provision of appropriated funds, the
State Board of Vocational and Technical Education is authorized to
award one or more competitive grants for dropout recovery programs
to area vocational-technical school districts. The grant awards
shall be made to area vocational-technical school districts
serving school districts that do not have intensive dropout

prevention programs and that have the greatest need for dropout prevention and recovery as reflected in reports of the Office of Accountability. The Dropout Recovery Grants shall emphasize dropout recovery, shall be in addition to any existing alternative education programs, and shall meet the criteria applicable to Alternative Education Academy Grants as set forth in subsection A of Section 62 of this act.

B. The State Board of Vocational and Technical Education shall provide or contract for technical assistance from appropriated funds. The State Board of Vocational and Technical Education shall provide or contract for in-depth program analysis and evaluation of grant funded programs to the State Department of Vocational and Technical Education and the Legislature no later than November 1 following the end of the school year in which one or more programs were implemented and funded through Dropout Recovery Grants.

C. Programs funded through Dropout Recovery Grants shall be subject to the funding cycle and limitations applicable to Alternative Education Academy Grants as set out in subsection C of Section 62 of this act.

D. By September 15 of each school year, all revenue received and expended for students participating in Dropout Recovery Grant programs created in subsection A of this section shall be reported to the State Department of Vocational and Technical Education.

E. The State Board of Vocational and Technical Education shall promulgate rules as necessary to administer the Dropout Recovery Grants and the process by which the grant funding shall be allocated.

F. By September 1, 1995, the State Board of Vocational and Technical Education shall prepare and submit to the Legislature and the Governor a proposed statewide plan, including a statement of needed funding, for the provision of vocational and technical education to students in grades six through twelve who have been identified by school districts in their needs assessments as being at risk of not completing a high school education for a reason other than that identified in Section 13-101 of Title 70 of the

Oklahoma Statutes, and who would benefit from vocational and technical education. The plan shall include the availability of technology education courses to the identified students, an outreach effort to students in grades eleven and twelve in vocational and technical courses, provision for cooperative agreements to provide services for students participating in alternative education programs, and coordination with the State Board of Education.

SECTION 68. AMENDATORY 70 O.S. 1991, Section 1-111, as amended by Section 5, Chapter 324, O.S.L. 1992 (70 O.S. Supp. 1993, Section 1-111), is amended to read as follows:

Section 1-111. A. A school day for any group of pupils shall consist of not less than six (6) hours devoted to school activities, except that a school day for nursery, early childhood education, kindergarten, first grade, ~~and~~ extended day program, and alternative education programs shall be as otherwise defined by law or as defined by the State Board of Education. Except for schools operating under an extended day schedule as provided for in Section 1-109 of this title, not more than one (1) school day shall be counted for attendance purposes in any twenty-four-hour period. Pupils absent from school in which they are regularly enrolled may be considered as being in attendance if the reason for such absence is to participate in scheduled school activities under the direction and supervision of a regular member of the faculty.

B. Beginning with the 1993-94 school year, the school day for kindergarten may consist of six (6) hours devoted to school activities.

SECTION 69. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1210.567 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Upon application of a district board of education, the State Board of Education shall authorize an abbreviated day schedule for an alternative school or alternative education program that is or will be administered by the district pursuant

to the provisions of this act. A student assigned to the alternative school or alternative education program who attends for a full abbreviated day shall be counted in attendance for purposes of computing average daily attendance and average daily membership for the district.

B. No later than August 1, 1994, the State Board of Education in consultation with the Oklahoma Commission for Teacher Preparation shall promulgate rules by which a certified teacher who is qualified to teach in an alternative education program or alternative school as determined by the district board of education offering the alternative education program or alternative school may be certified to teach subjects in which the teacher does not hold certification. The rules shall provide:

1. The certification may be granted only upon application of a district board of education offering an alternative education program or alternative school pursuant to the provisions of this act; and

2. The teacher's certification in subjects in which the teacher does not otherwise hold certification pursuant to the provisions of this section shall be valid only for purposes of teaching in the alternative education program or alternative school offered by the district board making application.

SECTION 70. AMENDATORY 70 O.S. 1991, Section 9-108, is amended to read as follows:

Section 9-108. The board of education of any school district furnishing transportation is hereby authorized to furnish, in addition to free transportation to and from school, transportation within or without the district for children attending the schools of that district, for the purpose of attending community, county, and state fairs that admit school children free, for purposes connected with summer youth activities upon approval of the school board governing said school district, for transporting pupils on planned school field trips to state correctional institutions pursuant to the provisions of Section 71 of this act, and for all other purposes approved by the State Board of Education.

Provided, that upon request therefor by the State Director of

Cooperative Extension Work in Agriculture and Home Economics (Service), or the State Director of Vocational and Technical Education, or the State Supervisor of Vocational Agriculture, the State Board of Education shall authorize any school district furnishing transportation to provide transportation for school children participating in educational contests and activities outside of the State of Oklahoma, or outside of the districts in which they reside, and two or more districts may enter into agreements for the furnishing of such transportation. The expense of any such additional transportation shall be paid by the children so transported, by the school activity or school organization receiving benefit from such transportation, or from other private sources. Money so collected shall not be chargeable to or become a part of the school district's finances.

SECTION 71. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1210.231 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. It is the intent of the Legislature that children residing in this state understand the seriousness of conviction for criminal behavior and the resulting punishment. The purpose of visits to correctional institutions provided for herein shall be to demonstrate to pupils the harmful effects of incarceration on the life of an inmate.

B. Public school districts may provide for at least one visit per school year for pupils in the eighth grade or a higher grade to a state correctional institution. Transportation shall be provided pursuant to Section 9-108 of Title 70 of the Oklahoma Statutes. The State Department of Education shall promulgate rules to implement the provisions of this section.

SECTION 72. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1210.232 of Title 70, unless there is created a duplication in numbering, reads as follows:

The Department of Corrections shall provide for the safe conduct of tours of state correctional institutions that are

organized pursuant to Section 71 of this act. The Department may prohibit, delay or cancel tours if it finds that a security risk exists at the scheduled institution.

SECTION 73. AMENDATORY 74 O.S. 1991, Section 1221, is amended to read as follows:

Section 1221. A. The State of Oklahoma acknowledges federal recognition of Indian Tribes recognized by the Department of Interior, Bureau of Indian Affairs.

B. The State of Oklahoma recognizes the unique status of Indian Tribes within the federal government and shall work in a spirit of cooperation with all federally recognized Indian Tribes in furtherance of federal policy for the benefit of both the State of Oklahoma and Tribal Governments.

C. The Governor, or his named designee, is authorized to negotiate and enter into cooperative agreements on behalf of this state with federally recognized Indian Tribal Governments within this state to address issues of mutual interest. Such agreements shall become effective upon approval by the Joint Committee on State-Tribal Relations. If such agreements involve trust responsibilities, approval by the Secretary of the Interior or his designee shall be required.

D. The governing board of the political subdivision of this state is authorized to negotiate and enter into intergovernmental cooperative agreements in behalf of the political subdivision, with the federally recognized Indian Tribal Governments within this state to address issues of mutual interest. Such agreements shall be effective upon approval by the Joint Committee on State-Tribal Relations and the Governor, or his named designee; provided, agreements for juvenile detention facilities made pursuant to Section 1108 of Title 10 of the Oklahoma Statutes shall become effective upon approval by the board of county commissioners.

E. An executed original of every agreement approved pursuant to this section shall be filed with the Secretary of State.

SECTION 74. NONCODIFICATION Section 1 of this act shall not be codified in the Oklahoma Statutes.

SECTION 75. REPEALER Sections 3 and 4, Chapter 359, O.S.L. 1992 (10 O.S. Supp. 1993, Sections 1161.1 and 1161.2), are hereby repealed.

SECTION 76. Sections 1 through 17 and 30 through 73 shall become effective July 1, 1994.

SECTION 77. Sections 18 through 29 shall become effective July 1, 1996.

SECTION 78. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-2-L9951 SD/KSM