↔**********

SHORT TITLE: Juveniles; removing certain persons from custody of the Department of Corrections and the Department of Human Services; requiring creation of separate agency for certain juveniles; codification; emergency.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

SENATE BILL NO. 1126 By: Hendrick

AS INTRODUCED

An Act relating to juveniles; requiring certain persons be tried as adults for certain offenses; providing certain exception for sentencing of certain persons; authorizing use of jails; authorizing certain expungement of records; providing for extended jurisdiction; authorizing municipal courts to take certain action; removing confidentiality for certain persons; requiring certain persons remain in the custody of the Department of Corrections and the Department of Human Services; requiring creation of a separate agency for certain persons; establishing the Youthful Offender Commission; providing for membership, appointment, term and meetings; making new agency subject to legislative approval and appropriation; requiring certain plan and budget; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 650 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding any other provisions of law requiring persons under eighteen (18) years of age to be subject to juvenile

proceedings for criminal acts, any person fourteen (14) through twenty-two (22) years of age who shall commit any criminal act on or after July 1, 1995, shall be subject to adult proceedings for arrest, prosecution and trial, and, upon conviction, shall be sentenced to the custody of the Youth Offender Agency established pursuant to this act; except, however, persons convicted of the following offenses shall be sentenced to the Department of Corrections:

1. Murder;

2. Kidnapping;

3. Robbery with a dangerous weapon;

4. Rape in the first degree;

5. Rape by instrumentation;

6. Use of a firearm or other offensive weapon while committing a felony;

7. Arson in the first degree;

8. Burglary with explosives;

9. Shooting with intent to kill;

10. Discharging a firearm from a vehicle;

11. Intimidating a witness;

12. Manslaughter in the first degree;

13. Nonconsensual sodomy; or

14. Manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, or dispense a controlled dangerous substance.

B. For purposes of this act, notwithstanding any other provisions of law prohibiting persons under eighteen (18) years of age from being placed in any adult jail or in contact with adult prisoners, any person fourteen (14) through twenty-two (22) years of age arrested for an alleged criminal offense may be placed in an adult jail or lock-up facility; provided, however, said person shall be separated from prisoners twenty-three (23) years of age or older

only to the extent that said person shall not be within the sight or sound of those prisoners twenty-three (23) years of age or older.

C. For purposes of this act, any person fourteen (14) through twenty-two (22) years of age convicted of any crime, except those offenses listed in paragraphs 1 through 14 of subsection A of this section, shall have the right to expunge any criminal records occurring on or after July 1, 1995 through the date the person reaches twenty-three (23) years of age. The court may extend jurisdiction over any person beyond twenty-two (22) years of age if the terms and conditions of any sentence have not been completed by the time the person reaches his twenty-third (23rd) birthday. In no event shall the court extend jurisdiction beyond twenty-four (24) years of age.

D. For purposes of this act, municipal courts shall have authority to arrest, prosecute and try persons fourteen (14) through twenty-two (22) years of age for violations of ordinances; provided, however, the municipality shall provide procedures for expungement of records upon the person reaching twenty-three (23) years of age, and provided, further, when a person fourteen (14) through twenty-two (22) years of age is placed in any jail or lock-up facility, such person shall be separated by sight and sound from persons twenty-three (23) years of age or older.

E. Nothwithstanding any other provisions of law requiring records of persons under eighteen (18) years of age be confidential, all records for persons fourteen (14) through twenty-two (22) years of age shall be maintained as provided for adults who have been arrested or convicted of criminal offenses.

F. On and after July 1, 1995, all children aged thirteen (13) years or younger adjudicated delinquent or adjudicated in need of supervision shall be placed in the care, custody, and supervision of the Department of Human Services as provided by law until released

or upon the conviction for any criminal offense within the scope of this act.

G. On and after July 1, 1995, all persons aged twenty-two (22) years or younger in the custody of the Department of Corrections or supervised by the Department under a sentence of probation shall remain in the care, custody, and supervision of the Department of Corrections as provided by law until released.

H. The Department of Institutions, Social and Rehabilitative Services, the Oklahoma Commission on Children and Youth, the Office of Juvenile Justice System Oversight, the Office of Planning and Coordination for Services to Children and Youth, the Office of Juvenile Justice, the Oklahoma Association of Youth Services Agencies, the Department of Human Services, the Department of Corrections, the Pardon and Parole Board, the Department of Mental Health and Substance Abuse Services, the State Department of Education, and the Supreme Court of the State of Oklahoma are hereby directed to and shall cooperate, coordinate and assist in the planning, design and implementation of the Youth Offender Agency and its philosophy, programs, services, treatments, educational methods and goals, and, if deemed appropriate, punishment of persons assigned to said agency, subject to legislative approval and appropriations as provided in this act. Said agency shall be fully operational by July 1, 1995, if approved and funded.

I. There is hereby created the Youthful Offender Commission which shall be composed of five (5) members to be appointed by the Governor with the advice and consent of the Senate. At least two members shall be registered Republican and at least two members shall be registered Democrat. The Youth Offender Commission shall govern the Youth Offender Agency and shall appoint and remove the director of such agency, who shall act as the chief executive officer of the agency.

J. Members of the Youth Offender Commission shall serve an initial term of office as follows:

One member shall serve for five (5) years;

One member shall serve for four (4) years;

One member shall serve for three (3) years;

One member shall serve for two (2) years; and

One member shall serve for one (1) year.

K. Thereafter, at the expiration of the initial term, or termination of the member's service for any reason, the Governor shall appoint a successor with the advice and consent of the Senate for a term of five (5) years, or for the remainder of an unexpired term. The Governor may remove any commission member for misconduct, incompetency or neglect of duty, after giving the member written notice and an opportunity for hearing.

L. The Youth Offender Commission shall meet as may be required to carry out the duties and responsibilities attributable to the Commission by law and as necessary for the operation of the Youth Offender Agency.

M. The Youth Offender Commission shall develop an implementation plan and proposed budget for the Youth Offender Agency to be submitted to the Legislature for approval and funding or disapproval not later than February 1, 1995. Said plan shall include, but shall not be limited to, provisions specifying criteria for programs and services, education, physical care and custody of persons sentenced to the new agency, provisions for the transfer of employees from participating agencies or hiring of additional personnel, provisions for any reappropriation or appropriation of funds from participating agencies or in addition thereto, provisions for any construction, expansion or remodeling of facilities needed to serve the youth population and staff of the new agency, provisions for the transfer of land, buildings or office space from participating agencies or acquisition of land, buildings or office

space, provisions for the implementation of programs, services, treatments, education and, if deemed appropriate, punishment for youth aged fourteen (14) through twenty-two (22) years convicted of criminal offenses, and provisions for transfer or acquisition of necessary supplies, equipment, furniture or other items.

SECTION 2. 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.

44-2-1717 NP