

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2640

By: Benson, Johnson (Glen),
Adair, Bastin, Hamilton
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Steidley and Thomas

AS INTRODUCED

An Act directing the Secretary of State to refer to the people for their approval or rejection a proposed act relating to juveniles; creating the Oklahoma Juvenile Code; providing short title; stating purpose; stating public policy; 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), 10 O.S. 1991, Section 1101, as last amended by Section 1, Chapter 342, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1101), 10 O.S. 1991, Section 1136, as amended by Section 34, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1136), 10 O.S. 1991, Section 602, 10 O.S. 1991, Section 603.2, 10 O.S. 1991, Section 607, 10 O.S. 1991, Section 604, 10 O.S. 1991, Section 603.1, 10 O.S. 1991, Section 607.1, 10 O.S. 1991, Section 609, as amended by Section 3, Chapter 299, O.S.L. 1992 (10 O.S. Supp. 1993, Section 609), 10 O.S. 1991, Section 603.3, 10 O.S. 1991, Section 1135, 10 O.S. 1991, Section 1403.1, 10 O.S. 1991, Section 1403.2, 10 O.S. 1991, Section 1403, 10 O.S. 1991, Section 1142, 10 O.S. 1991, Section 1140, 10 O.S.

1991, Section 1403.3, 10 O.S. 1991, Section 1404, as amended by Section 37, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1404), 10 O.S. 1991, Section 1135, 10 O.S. 1991, Section 610, 10 O.S. 1991, Section 1141, 10 O.S. 1991, Section 1137, as amended by Section 35, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1137), 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), 10 O.S. 1991, Section 1140, 10 O.S. 1991, Section 1139, as amended by Section 9, Chapter 342, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1139), 10 O.S. 1991, Section 1142, 10 O.S. 1991, Section 1401, as amended by Section 16, Chapter 299, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1401), 10 O.S. 1991, Section 1407, as amended by Section 19, Chapter 299, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1407), 10 O.S. 1991, Section 1149, 10 O.S. 1991, Section 1160.1, 10 O.S. 1991, Section 1160.2, 10 O.S. 1991, Section 1160.3, 10 O.S. 1991, Section 1160.4, 10 O.S. 1991, Section 1160.5, 10 O.S. 1991, Section 1160.6, 10 O.S. 1991, Section 600, 10 O.S. 1991, Section 601.1, as amended by Section 5, Chapter 299, O.S.L. 1993 (10 O.S. Supp. 1993, Section 601.1), 10 O.S. 1991, Section 601.2, 10 O.S. 1991, Section 601.3, 10 O.S. 1991, Section 601.4, 10 O.S. 1991, Section 601.5, 10 O.S. 1991, Section 620.1, 10 O.S. 1991, Section 620.2, 10 O.S. 1991, Section 620.3, 10 O.S. 1991, Section 620.4, 10 O.S. 1991, Section 620.5, 10 O.S. 1991, Section 620.6, 10 O.S. 1991, Section 601.10, 10 O.S. 1991, Section 601.6, 10 O.S. 1991, Section 601.6a, 10

O.S. 1991, Section 601.6b, 10 O.S. 1991, Section 601.7, as amended by Section 6, Chapter 299, O.S.L. 1992 (10 O.S. Supp. 1993, Section 601.7), 10 O.S. 1991, Section 601.8, 10 O.S. 1991, Section 601.9, 10 O.S. 1991, Section 601.11, 10 O.S. 1991, Section 601.12, 10 O.S. 1991, Section 601.13, 10 O.S. 1991, Section 601.30, 10 O.S. 1991, Section 601.31, 10 O.S. 1991, Section 601.41, 10 O.S. 1991, Section 601.42, 10 O.S. 1991, Section 601.43, 10 O.S. 1991, Section 601.44, 10 O.S. 1991, Section 601.45, as last amended by Section 1, Chapter 373, O.S.L. 1992 (10 O.S. Supp. 1993, Section 601.45), 10 O.S. 1991, Section 601.46, 10 O.S. 1991, Section 601.50, 10 O.S. 1991, Section 1150, 10 O.S. 1991, Section 1150.1, 10 O.S. 1991, Section 1150.2, 10 O.S. 1991, Section 1150.3, 10 O.S. 1991, Section 1150.4, 10 O.S. 1991, Section 1107, as last amended by Section 5, Chapter 342, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1107), 10 O.S. 1991, Section 1107.1, as last amended by Section 6, Chapter 342, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1107.1), Section 1, Chapter 205, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1104.3), 10 O.S. 1991, Section 1108, as amended by Section 2, Chapter 320, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1108), 10 O.S. 1991, Section 1108.1, 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), 10 O.S. 1991, Section 1102.1, 10 O.S. 1991, Section 1126, 10 O.S. 1991, Section 1103, as amended by Section 17, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1103), 10 O.S. 1991, Section 1104.1, as

last amended by Section 18, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1104.1), 10 O.S. 1991, Section 1103.1, 10 O.S. 1991, Section 1109, as amended by Section 22, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1109), 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), 10 O.S. 1991, Section 1112, 10 O.S. 1991, Section 1104, as amended by Section 3, Chapter 342, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1104), 10 O.S. 1991, Section 1105, as amended by Section 19, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1105), 10 O.S. 1991, Section 1106, 10 O.S. 1991, Section 1110, as amended by Section 23, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1110), 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), 10 O.S. 1991, Section 1147, 10 O.S. 1991, Section 1148, 10 O.S. 1991, Section 1124, 10 O.S. 1991, Section 1113, 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), 10 O.S. 1991, Section 1115, 10 O.S. 1991, Section 1120, as amended by Section 30, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1120), 10 O.S. 1991, Section 1116, as last amended by Section 2, Chapter 74, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1116), 10 O.S. 1991, Section 1115.1, as amended by Section 26, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1115.1), 10 O.S. 1991, Section 1115.2, 10 O.S. 1991, Section 1121, 10 O.S. 1991, Section

1119, 56 O.S. 1991, Section 238, 10 O.S. 1991, Section 1117, as amended by Section 29, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1117), 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), 10 O.S. 1991, Section 1118, 10 O.S. 1991, Section 1122, 10 O.S. 1991, Section 1123, 10 O.S. 1991, Section 1123.1, 10 O.S. 1991, Section 1123.2, 10 O.S. 1991, Section 1211, 10 O.S. 1991, Section 1116.2, as last amended by Section 1, Chapter 72, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1116.2), 10 O.S. 1991, Section 1116.3, as last amended by Section 2, Chapter 72, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1116.3), 10 O.S. 1991, Section 1116.4, as amended by Section 3, Chapter 72, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1116.4), 10 O.S. 1991, Section 1116.6, as amended by Section 4, Chapter 72, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1116.6), 10 O.S. 1991, Section 1130, as last amended by Section 2, Chapter 360, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1130), 10 O.S. 1991, Section 1131, 10 O.S. 1991, Section 1132, 10 O.S. 1991, Section 1133, 10 O.S. 1991, Section 1134, 10 O.S. 1991, Section 1145, 10 O.S. 1991, Section 1125, 10 O.S. 1991, Section 1125.1, as amended by Section 1, Chapter 306, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1125.1), 10 O.S. 1991, Section 1125.2, as last amended by Section 2, Chapter 306, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1125.2), Section 3, Chapter 306, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1125.2A), Section 2, Chapter 78, O.S.L. 1993 (10 O.S. Supp.

1993, Section 1125.2B), 10 O.S. 1991, Section 1125.3, 10 O.S. 1991, Section 1125.4, as amended by Section 1, Chapter 178, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1125.4), which relate to children; defining terms; providing for transition; providing duties and authority of agencies with responsibility to children; establishing the Board of Juvenile Justice and Department of Juvenile Justice; providing for an executive director; transferring responsibility for delinquent children and children in need of supervision to the Department of Juvenile Justice; transferring responsibility of the juvenile bureaus to the Department of Juvenile Justice; amending 21 O.S. 1991, Section 1273, as amended by Section 2, Chapter 309, O.S.L. 1993 (21 O.S. Supp. 1993, Section 1273), 21 O.S. 1991, and Section 1283, as amended by Section 3, Chapter 151, O.S.L. 1992 (21 O.S. Supp. 1993, Section 1283), which relate to weapons; prohibiting certain acts; amending 70 O.S. 1991, Section 3-104.2, which relates to education; providing for alternative education programs; amending 68 O.S. 1991, Section 2355, as last amended by Section 1, Chapter 138, O.S.L. 1993 (68 O.S. Supp. 1993, Section 2355), which relates to income tax, and 68 O.S. 1991, Sections 1354, as last amended by Section 1, Chapter 383, O.S.L. 1993, 1354.1, 1354.3 and 1402 (68 O.S. Supp. 1993, Section 1354), which relate to sales and use taxes; providing funding for implementation of act; repealing 10 O.S. 1991, Section 601, as amended by Section 1, Chapter 229, O.S.L. 1992 and Section 4,

Chapter 299, O.S.L. 1992 (10 O.S. Supp. 1993, Sections 601 and 610), which relate to the Office of Juvenile Justice; repealing 10 O.S. 1991, Sections 1201, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210 and 1211, which relate to juvenile bureaus; providing for codification; providing effective dates; providing a ballot title; and directing filing.

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

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection at the next general election, as and in the manner provided by law, Sections 2 through 198 of this act.

Chapter 51

Oklahoma Juvenile Code

ARTICLE I

Short Title and Public Policy

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-1-101 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Chapter 51 of Title 10 of the Oklahoma Statutes shall be known and may be cited as the "Oklahoma Juvenile Code".

B. All statutes hereinafter enacted and codified in Chapter 51 of Title 10 of the Oklahoma Statutes shall be considered and deemed part of the Oklahoma Juvenile Code.

SECTION 3. 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. Chapter 51 of this title shall be liberally construed, to the end that its purpose may be carried out, ~~to wit~~ as follows:

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

2. That the public policy of this state is to assure adequate and appropriate care and treatment for any child, to allow for the use of the least restrictive method of treatment consistent with the treatment needs of the child and, in the case of delinquents, the protection of the public and to protect the rights of any child placed out of his home pursuant to law.

ARTICLE II

General Provisions

Part 1. Definitions

SECTION 4. AMENDATORY 10 O.S. 1991, Section 1101, as last amended by Section 1, Chapter 342, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1101), is amended to read as follows:

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

1. "Child" means any person under eighteen (18) years of age, except for any person fourteen (14), fifteen (15), sixteen (16) or seventeen (17) years of age who is charged with any crime specified in subsection A of Section ~~1104.2~~ 1100-8-301 of this ~~title~~ Code, or who has been certified as an adult pursuant to Section ~~1112~~ 1100-8-302 of this ~~title~~ Code; 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~~ 1100-8-301 of this ~~title~~ Code, or who is not convicted after certification as an adult pursuant to Section ~~1112~~ 1100-8-302 of this ~~title~~ Code, 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 Code,~~ or
 - b. has habitually violated traffic laws or traffic ordinances;
3. "Child in need of supervision" means a child who:
 - a. has repeatedly disobeyed reasonable and lawful commands or directives of his parent, legal guardian, or other custodian, or
 - b. is willfully and voluntarily absent from his home without the consent of his parent, legal guardian, or other custodian for a substantial length of time or without intent to return, or
 - c. is willfully and voluntarily absent from school for fifteen (15) or more days or parts of days within a semester or four (4) or more days or parts of days within a four-week period without a valid excuse as defined by the local school boards, if said child is subject to compulsory school attendance;
4. "Deprived child" means a child:
 - a. who is for any reason destitute, homeless, or abandoned, or
 - b. who does not have the proper parental care or guardianship or whose home is an unfit place for the child by reason of neglect, cruelty, or depravity on the part of his parents, legal guardian, or other person in whose care the child may be, or

- c. who is a child in need of special care and treatment because of his physical or mental condition including a child born in a condition of dependence on a controlled dangerous substance, and his parents, legal guardian, or other custodian is unable or willfully fails to provide said special care and treatment, or
- d. who is a handicapped child deprived of the nutrition necessary to sustain life or of the medical treatment necessary to remedy or relieve a life-threatening medical condition in order to cause or allow the death of said child if such nutrition or medical treatment is generally provided to similarly situated nonhandicapped or handicapped children, provided that no medical treatment is necessary if, in the reasonable medical judgment of the attending physician, such treatment would be futile in saving the life of the child, or
- e. who is, due to improper parental care and guardianship, absent from school for fifteen (15) or more days or parts of days within a semester or four (4) or more days or parts of days within a four-week period without a valid excuse as defined by the local school boards if said child is subject to compulsory school attendance, or
- f. whose parent or legal custodian for good cause desires to be relieved of his custody.

No child who, in good faith, is being provided with treatment and care by spiritual means alone in accordance with the tenets and practice of a recognized church or religious denomination by a duly accredited practitioner thereof shall be considered, for that reason alone, to be a deprived child pursuant to any provision of ~~Sections~~

~~1101 through 1505~~ of this ~~title~~ Code. 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~~ 1100-8-201 of this ~~title~~ Code are supported by the evidence and whether a child should be adjudged to be a ward of the court;

~~9.~~ 8. "Dispositional hearing" means a hearing to determine the order of disposition which should be made with respect to a child adjudged to be a ward of the court;

~~10.~~ 9. "Preliminary inquiry" or "intake" means a mandatory, preadjudicatory interview of the child and, if available, his parents, legal guardian, or other custodian, which is performed by a duly authorized individual to determine whether a child comes within the purview of this chapter, whether other nonadjudicatory alternatives are available and appropriate, and if the filing of a petition is necessary;

~~11.~~ 10. "Facility" means a place, an institution, a building or part thereof, a set of buildings, or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned or operated by a public or private agency;

~~12.~~ 11. "Secure facility" means a facility which is designed and operated to ensure that all entrances and exits from the

facility are subject to the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeter of the facility, or a facility which relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents;

~~13.~~ 12. "Community-based" means a facility, program or service, or open group home or other suitable place located near the home or family of the child, and programs of community supervision and service which maintain community participation in their planning, operation, and evaluation. These programs may include but are not limited to medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, transitional living, independent living and other rehabilitative services;

~~14.~~ 13. "Day treatment" means a program which provides intensive services to children who reside in their own home, the home of a relative, or a foster home. Day treatment programs include educational services and may be operated as a part of a residential facility;

~~15.~~ 14. "Group home" means a residential facility housing no more than twelve children with a program which emphasizes family-style living in a homelike environment. Said group home may also offer a program within the community to meet the specialized treatment needs of its residents;

~~16.~~ 15. "Transitional living program" means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting children to develop the skills and abilities necessary for successful adult living. Said program may include but shall not be limited to reduced staff supervision, vocational training, educational services, employment and employment training, and other appropriate independent living skills training as a part of the transitional living program;

~~17.~~ 16. "Independent living program" means a program designed to assist a child to enhance skills and abilities necessary for successful adult living and may include but shall not be limited to minimal direct staff supervision and supportive services in making the arrangements necessary for an appropriate place of residence, completing an education, vocational training, obtaining employment or other similar services;

~~18.~~ 17. "Community residential center" means a residential facility for no more than twenty children which offers a range of services including personal and social services, and emphasizes normal group living, school attendance, securing employment, and general participation in the community;

~~19.~~ 18. "Institution" means a residential facility offering care and treatment for more than twenty residents. Said institution may:

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

~~20.~~ 19. "Mental health facility" means a mental health facility as defined by the Inpatient Mental Health Treatment of Children Act;

~~21.~~ 20. "Training school" means an institution maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of delinquent children;

~~22.~~ 21. "Rehabilitative facility" means a facility maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of children in need of supervision;
and

~~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~~

22. "Code" means the Oklahoma Juvenile Code;

23. "Detention" means the temporary care of children who require secure custody in physically restricting facilities:

a. pending court disposition or transfer to another jurisdiction, or

b. while under the continuing jurisdiction of the court; and

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

Part 2. Transition

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-2-201 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. On or before December 1, 1994, the Governor shall appoint or designate a transition coordinator, who shall serve in that capacity until July 1, 1995, or until the Executive Director of the Department of Juvenile Justice is appointed. The position of transition coordinator shall be a position funded by the Office of the Governor from funds available to that office, unless the transition coordinator is a cabinet secretary or agency head whose position is funded by another office or agency. Four (4) employees of the Department of Human Services shall be assigned to assist the transition coordinator, as necessary, in fulfilling his responsibility pursuant to this section. The employees shall be selected as follows:

The Director of the Department of Human Services shall submit to the transition coordinator the names of at least ten (10) employees of the Department of Human Services available for assignment and

transfer to the Department of Juvenile Justice. From the list submitted the transition coordinator shall select four (4) employees. Beginning July 1, 1995, such employees shall be transferred to the Department of Juvenile Justice. Until July 1, 1995, such employees shall remain employees of the Department of Human Services.

The transition coordinator shall:

1. Insofar as authorized and provided by this act in conjunction with the Department of Central Services, Office of State Finance and Office of Personnel Management, oversee and administer the orderly transfer of responsibility, liabilities, property, records, personnel and any outstanding financial obligations or encumbrances to the Department of Juvenile Justice 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 insofar as such programs relate to the areas and responsibilities transferred between the Department of Human Services and the Department of Juvenile Justice to determine if such program is effective and necessary, whether the program is duplicative of or overlapping other programs and whether such program should be abolished, or combined or coordinated with other programs;

3. During the transition planning period, devise a plan for the transfer of personnel, programs and responsibility from the juvenile bureaus to the Department of Juvenile Justice;

4. Whenever the transition coordinator deems appropriate, confer with the Attorney General or his assistants in connection with all legal matters and questions; and

5. 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.

B. The transition coordinator shall submit a budget request with the Office of State Finance for fiscal year 1995 for the Department of Juvenile Justice pursuant to Section 41.29 of Title 62 of the Oklahoma Statutes.

C. By July 1, 1995, the transition coordinator shall submit a final written report to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate. The written report shall consist of:

1. The organizational framework of the Department of Juvenile Justice;
2. A listing of positions to be transferred to the Department of Juvenile Justice from the Department of Human Services and job qualifications for those positions;
3. A plan for abolishing the juvenile bureaus and for assuming the programs and responsibilities of the juvenile bureaus;
4. Fiscal analysis and impact to the budget of the Department of Human Services;
5. Transfer and implementation costs for the Department of Juvenile Justice;
6. Implementation schedule for orderly transfer of specified functions, programs and resources to the Department of Juvenile Justice;
7. In conjunction and with the cooperation of the Department of Human Services, as applicable, implementation schedule, costs, agency framework and personnel or positions to be transferred; and
8. Such other information as may be deemed necessary by the transition coordinator.

D. It is the intent of the Legislature that the separation of certain functions and programs into the Department of Juvenile Justice occur without any unnecessary increase in the number of state employees or resources due to the merger and transfer of such programs and functions. Resources and full-time-equivalent

employees currently dedicated to support services, including, but not limited to, personnel, data processing, accounting, financial and administrative duties shall be transferred to the Department of Juvenile Justice from the Department of Human Services in proportion to the programs and functions transferred, as provided for in the appropriation process of the Legislature. Any projected increase in costs or personnel as a result of the merger and transfer of programs and functions pursuant to this act shall be clearly identified as such. Any projected increase in costs or personnel as a result of assuming the programs and responsibilities of the juvenile bureaus shall be clearly identified as such. Any projected increases in the needs of the agencies due to the growth or expansion of existing functions and programs or necessary to meet federal mandates or to obtain delegation or primacy of federal programs as authorized by law shall be clearly identified and segregated from the costs of the separation.

E. The Department of Human Services shall cooperate with the transition coordinator in providing information and such other assistance as may be requested by the transition coordinator in the orderly transition and transfers required by the provisions of this act.

F. The Legislature shall review the report developed by the transition coordinator, during the 1st Session of the 45th Oklahoma Legislature. Final authority relating to the transfer or receipt of duties, responsibilities, programs, resources and personnel pursuant to this act shall reside with the Legislature.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-2-202 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. 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:

1. The Residential Services Unit of the Office of Juvenile Justice;

2. The Speech/Hearing Unit of the Division of Children, Youth and Family Services;

3. One-half (1/2) of the Monitor/Review Unit of the Division of Children, Youth and Family Services;

4. The Youth Services Unit of the Division of Children, Youth and Family Services;

5. One-half (1/2) of the Psychological Unit;

6. The Juvenile Services Unit;

7. All institutional staff for institutions transferred from the Department of Human Services to the Department of Juvenile Justice; and

8. All field staff for court-related, juvenile services.

B. Personnel transferred pursuant to the provisions of this act shall not be required to accept a lesser grade or salary than presently received. No entrance exam shall be required for persons so transferred. All such persons shall retain leave, sick and annual time earned and any retirement benefits which have accrued during their tenure with the agency from which transferred. The transfer of personnel among the state agencies shall be coordinated with the Office of Personnel Management.

C. Effective July 1, 1995, custody, care and supervision of children adjudicated to be delinquent or in need of supervision and any monies and funds related to these children are hereby transferred from the Department of Human Services to the Department of Juvenile Justice. Records of delinquent children and children in need of supervision in the custody of the Department of Human Services on the transfer date shall be transferred to the Department of Juvenile Justice.

D. Effective July 1, 1995, all powers, duties, records, property, monies and funds of the Office of Juvenile Justice shall

be transferred to the Department of Juvenile Justice. Any additional administrative support or costs incurred by the Department of Juvenile Justice as a result of the transfer required by this section shall be borne by the Department of Juvenile Justice.

E. Effective July 1, 1995, the powers, duties and responsibilities of the duly constituted juvenile bureaus shall be transferred to the Department of Juvenile Justice. Any additional administrative support or costs incurred by the Department of Juvenile Justice as a result of the transfer required by this section shall be borne by the Department of Juvenile Justice. Provided, the counties having juvenile bureaus prior to July 1, 1995, shall retain responsibility for preadjudicatory detention in juvenile detention centers as otherwise provided by law for other counties.

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

G. The Director of State Finance is hereby directed to coordinate the transfer of funds, allotments, purchase orders, 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.

H. Any rules promulgated or policies adopted by the Commission for Human Services related 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 Justice. Any rules promulgated by the Commission for Human Services related to 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

1994 regular session of the Legislature may be finally adopted and promulgated by the Board of Juvenile Justice pursuant to the Administrative Procedures Act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-2-203 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Beginning July 1, 1995, the provisions of this section provide the general jurisdictional areas of responsibility for each state agency responsible for services to children and youth. The jurisdictional areas of responsibility provided in this section shall be in addition to, and not a limitation of, those otherwise provided by law and assigned to the specific state agency responsible for services to children and youth; provided that any rule, interagency agreement or executive order enacted or entered into prior to the effective date of this section which conflicts with the assignment of jurisdictional responsibilities specified by this section is hereby superseded. The provisions of this subsection shall not nullify any financial agreement or executive order entered into prior to July 1, 1994, nor nullify any financial obligations or agreements with private persons or parties entered into with any state agency responsible for services to children and youth prior to July 1, 1995.

B. The Department of Human Services shall have the following jurisdictional areas of responsibility:

1. Child protection services, including but not limited to:
 - a. child abuse and neglect investigations,
 - b. care and treatment of children found by a court to be deprived and placed in the custody of the Department of Human Services,
 - c. as directed by the court, supervision of cases of children alleged or found to be deprived, and

d. the provision, whether directly or by contract or referral, of counseling, treatment, residential and other appropriate services to children alleged or found to be deprived and placed under the custody or supervision of the Department of Human Services and the parents or guardians of such children;

2. Adoption services, including but not limited to adoption home studies, the placement of children eligible for adoption into adoptive homes, and the care and treatment of children relinquished to the custody of the Department of Human Services for the purpose of adoption, and the licensure and regulation of child adoption and child-placing agencies;

3. The care and treatment of children relinquished to the custody of the Department of Human Services on a temporary basis or on a permanent basis for purposes of adoption;

4. Operation of the facilities for alleged or adjudicated deprived children under the administration of the Department of Human Services;

5. Administration of the Office of Child Support Enforcement;

6. Administration of the Office of Child Care and the licensure, inspection and regulation of child care facilities;

7. Administration of the Aid to Families with Dependent Children Program; and

8. Administration of the Crippled Children's program.

C. The Department of Juvenile Justice shall have the following jurisdictional areas of responsibility:

1. Court intake of youth alleged to be delinquent or in need of supervision;

2. Probation supervision of youth alleged to be delinquent or in need of supervision pursuant to a deferred prosecution or deferred adjudication agreement;

3. Supervision of youth found by a court to be delinquent and placed under the supervision of the Department of Juvenile Justice;

4. The provision, whether directly or by contract or referral, of counseling, treatment, residential and other appropriate services to children alleged or found to be delinquent or in need of supervision and placed under the custody or supervision of the Department of Juvenile Justice and the parents or guardians of such children;

5. The provision, whether directly or by contract or referral, of counseling, treatment and other appropriate services to children at risk of becoming delinquent or in need of supervision and for the purpose of diverting youth from the juvenile justice system;

6. Care and treatment of youth adjudicated delinquent and placed in the custody of the Department of Juvenile Justice;

7. Operation of the facilities placed under the administration of the Department of Juvenile Justice; and

8. Planning for the state system of juvenile detention centers and services and administration of the contracts related to such centers and services.

D. The Oklahoma Commission for Children and Youth shall have the following jurisdictional areas of responsibility:

1. Oversight of the children and youth service system and administration of the Office of Juvenile System Oversight;

2. Planning and coordination of services to children and youth as follows:

- a. administration of the Office of Planning and Coordination for Services to Children and Youth,
- b. administrative support for the State Planning and Coordination Council for Services to Children and Youth, and
- c. designation of state planning and coordination regions and districts and information and assistance to

regional and district planning and coordination boards
for services to children and youth; and

3. Administrative support to the:

- a. Board of Child Abuse Examination,
- b. Interagency Coordinating Council for Special Services to Children and Youth,
- c. State Post-adjudicatory Review Board and local post-adjudicatory review boards,
- d. Serious and Habitual Offender Program Implementation Task Force, and
- e. the Child Death Review Board.

E. The State Department of Health shall have the following jurisdictional areas of responsibility:

1. Administration of maternal and child health services;
2. Administration of child guidance services; and
3. Administration of the Office of Child Abuse Prevention and administrative support for the Interagency Council for Child Abuse Prevention.

F. The Department of Mental Health and Substance Abuse Services shall have the following jurisdictional areas of responsibility:

1. Provision of mental health and substance abuse services to children and youth directly and through contracts with community mental health centers and substance abuse treatment agencies; and
2. Operation of the Oklahoma Youth Center.

G. The Oklahoma Cerebral Palsy Commission shall have the following jurisdictional areas of responsibility:

1. Operation and maintenance of the J.D. McCarty Center for Children with Developmental Disabilities; and
2. Furnishing care and maintenance, training, treatment, equipment, education and rehabilitation of clients within the J.D. McCarty Center for Children with Developmental Disabilities.

Part 3. Juvenile Sentencing Committee

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-2-301 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Legislature hereby establishes the Juvenile Sentencing Committee and directs said Committee to undertake a full, good faith and thorough study, analysis and evaluation of the sentencing policies for juveniles within this state and the nature for use by the district courts in determining uniform sentence sanctions and appropriate adjudication of juveniles who have committed felony and misdemeanor crimes.

B. The Juvenile Sentencing Committee shall consist of twenty-one (21) members appointed as follows:

1. One member shall be a presiding judge of a court having criminal jurisdiction, to be appointed by the Assembly of Presiding Judges;

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

3. One member shall be a practicing attorney having substantial experience representing juvenile defendants, to be appointed by the Oklahoma Association of Criminal Defense Lawyers and the Oklahoma Trial Lawyers Association;

4. One member shall be an active law enforcement officer, to be appointed by the Sheriffs and Peace Officers Association;

5. One member shall be an attorney from the Public Defender's Office, to be appointed by the members of the Oklahoma Public Defender Systems 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 his 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 his designee;

12. One member shall be a professor of law from the Oklahoma City University School of Law, to be appointed by the Dean of the School of Law;

13. One member shall be a professor of law from the University of Oklahoma Law Center, to be appointed by the Director of the Law Center;

14. One member shall be a professor of law from the University of Tulsa College of Law, to be appointed by the Dean of the College of Law;

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

16. One member shall be the Executive Director of the Department of Juvenile Justice;

17. One member shall be an attorney who is an active member of the Criminal Law Committee of the Oklahoma Bar Association, to be appointed by the Oklahoma Bar Association; and

18. One member shall be the Chairman of the Pardon and Parole Board or his designee.

C. Each member of the Juvenile Sentencing 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 August 1, 1994. Appointed members shall serve at the pleasure of the appointing authority.

D. No member of the Juvenile Sentencing Committee shall serve the Committee simultaneously with the Juvenile Parole Board. The

Juvenile Sentencing Committee may divide into subcommittees in furtherance of its purposes.

E. Any vacancies in the appointive membership of the Juvenile Sentencing Committee shall be filled for the unexpired term in the same manner as the original appointment.

F. Within fifteen (15) days from the initial appointment of membership for the Juvenile Sentencing Committee, the Chairman and co-chairman of each 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.

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; and

2. Any other Committee member shall receive reimbursement pursuant to the State Travel Reimbursement Act from funds of the Department of Juvenile Justice.

J. 1. The purposes of the Juvenile Sentencing Committee shall be to consider and recommend sentencing 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 punishment 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 punishment of the juvenile in relation to the seriousness of his offense,
- c. to coordinate sentence policies,
- d. to review current sentence practices for juveniles in relation to correctional 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 imprisonment is not appropriate, including but not limited to:
Community service programs, restitution, probation, payment of fines, rehabilitation, preparole conditional supervision, 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 sentencing processes, parole and others,
- g. to systematically collect and analyze information concerning juvenile sentences actually imposed,
- h. to systematically collect and analyze information regarding effectiveness of juvenile sentences actually imposed,
- i. to consider a presumptive or fixed sentence for juvenile offenders where commitment to a secure facility or incarceration is proper, based on appropriate combination of reasonable offense and offender characteristics,
- j. to create fiscal projections for implementation of proposed changes to sentence policies,

- k. to consider present fiscal limitations within the juvenile justice system in the State of Oklahoma,
- l. to consider public policy relating to sentence policy,
- m. to consider factors relevant to appropriate juvenile sentencing, 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 sentence sanctions available, and
- n. to perform any other act necessary to complete the specific purposes of the Committee.

2. The Juvenile Sentencing Committee shall:

- a. create a report on the Committee findings concerning Oklahoma juvenile sentence policies,
- b. draft recommended juvenile sentence policies and submit the recommended draft to the President Pro Tempore of the Senate and the Speaker of the House of Representatives not later than January 7, 1995, and
- c. submit a summary of every recommended change to existing juvenile sentence 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. Meetings of the Juvenile Sentencing Committee shall comply with the provisions of the Open Meeting Act.

L. A majority of the members appointed to a Committee shall constitute a quorum and a majority present may act for the Committee.

M. The Committee shall keep minutes of meetings and voting records of each appointed member on file pursuant to the Open Records Act.

N. The Juvenile Sentencing Committee shall provide a written progress report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before May 1, 1995.

O. The Department of Juvenile Justice may provide staff assistance to the Committee as necessary to assist the Committee in the performance of its duties.

ARTICLE III

Department of Human Services

SECTION 9. AMENDATORY 10 O.S. 1991, Section 1136, as amended by Section 34, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1136), is amended to read as follows:

Section 1136. It shall be the responsibility of the Department of Human Services to provide care for deprived children who are committed to the care of the Department for custody or guardianship. The Department may provide for the care of such children in the home of the child, the home of a relative of the child, in a foster home, group home, transitional living program, independent living program or in any other community-based facility under the jurisdiction or licensure of the Department established for the care of deprived children, except that a deprived child may not be placed in an institution operated by the Department after October 1, 1982. Any deprived children in Department-operated institutions on October 1, 1982, shall be removed from such institutions no later than June 30, 1983. A deprived child found by a court to be a child in need of mental health treatment shall be placed as provided by ~~Section~~

~~1135.1 of this title~~ the Inpatient Mental Health Treatment of Children Act.

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

Section 602. The Department of Human Services shall enter with the State Supreme Court under the Interlocal Cooperation Act into an agreement for children in the custody of the Department that is acceptable to that Court in its capacity as the constitutional manager of the state court system:

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

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

~~(3) 2.~~ To establish such standards and procedures for intake services as may be required by state or federal law;

~~(4) 3.~~ To employ and/or assign necessary staff sufficient to carry out provisions of this ~~resolution~~ article; and

~~(5) 4.~~ To contract with private nonprofit or public agencies now in existence or hereafter created.

SECTION 11. AMENDATORY 10 O.S. 1991, Section 603.2, is amended to read as follows:

Section 603.2 A. The Department of Human Services shall establish a planning process for the Department that provides for collaborative ongoing planning for the development of divisional and agency goals and priorities for services to children and youth. Said planning process of the Department shall be developed with the assistance of the Policy Analysis Division or equivalent division within the Department and the division directors and shall provide for identification and assessment of needs, establishment of goals and priorities, and program implementation and monitoring, in a

manner that actively involves all divisions and units within divisions.

1. The Department shall develop a three- to five-year plan for children and youth services provided by the agency. The plan should be regularly reviewed and modified as necessary.

2. The Director of the Department shall hold each division director accountable for the performance of the division in engaging collaboratively in the agency and in interagency planning for programs and services for children and youth.

3. The administrator of each division of the Department shall actively participate and require the collaborative participation of division workers in interagency planning and coordination for children and youth services.

4. The administrator for each division shall hold the administrator of each unit within the division responsible for the collaborative development and implementation of agency and division goals and priorities related to children and youth.

B. The unit, division and agency budget recommendations of the Department for services to children and youth shall be based upon documented needs, and the development of budget recommendations and priorities shall be closely integrated with agency and interagency program planning and management.

C. As a part of the Department's program planning and monitoring processes, the Department shall examine its programs and services to children and youth to ensure that the practices within them do not operate to the detriment of minority children and youth.

SECTION 12. AMENDATORY 10 O.S. 1991, Section 607, is amended to read as follows:

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

B. The Department shall take all necessary steps to develop and implement a diversity of community services and community residential care as needed to provide for adequate and appropriate community-based care, treatment and rehabilitation of children in the custody of the Department. Such community services and residential care shall be consistent with the treatment needs of the child ~~and the protection of the public.~~

1. The Department shall, to the extent reasonable and practicable, provide community services and community residential care to children in the custody of the Department through financial agreements, as authorized in Sections ~~603~~ 1100-3-105 and ~~604~~ 1100-3-106 of this ~~title~~ Code.

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

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

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

for the medical care, including mental health services, provided to children in the custody of the Department of Human Services or that the Department of Human Services is otherwise reimbursed, in accordance with a court order and the financial ability of the parent, for such services provided to the child.

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

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

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-3-105 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Department of Human Services is hereby authorized to, and shall, enter into agreements for the establishment and maintenance of community-based programs for children in the custody of the Department of Human Services. The programs may include, but not be limited to: emergency shelter, diagnosis, crisis intervention, counseling, group work, case supervision, job placement, recruitment and training of volunteers, consultation, brokerage of services and agency coordination.

B. 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 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.

C. The Department of Human Services is hereby authorized to, and shall, enter into cooperative agreements with the Department of Juvenile Justice for the use by both Departments of existing community-based programs, management and client tracking systems, and other shared resources as deemed necessary or appropriate by both Departments.

SECTION 14. AMENDATORY 10 O.S. 1991, Section 604, is amended to read as follows:

Section 604. The Department of Human Services, in its role as planner and coordinator for ~~juvenile justice and delinquency prevention~~ children's programs and services under its jurisdiction, is hereby authorized to enter into financial agreements with federal, state and local agencies or entities of government, or with any private, nonprofit agency, for ~~juvenile delinquency prevention programs, juvenile treatment~~ services for children under the supervision or in the custody of the Department and programs and child abuse and neglect prevention and treatment programs.

SECTION 15. AMENDATORY 10 O.S. 1991, Section 603.1, is amended to read as follows:

Section 603.1 A. On or before July 1, 1994, the Department of Human Services shall implement an agency-wide management information system for all programs and services of the Department related to children, youth and families. Development and implementation of said system shall be initiated immediately upon the effective date of this resolution.

B. The management information system shall:

1. To the maximum extent possible, be based upon the integration, utilization and modification, as necessary, of existing information systems within the Department;

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

3. Include case specific information, including outcomes, and have the ability to monitor the status of children and youth receiving services through the Department;

4. Be capable of providing management reports and information regarding the various children and youth programs of the Department, and of providing aggregate information necessary for planning, monitoring and evaluation of said programs and services; and

5. Be designed so that management and analytical reports can be readily generated for those who require them.

SECTION 16. AMENDATORY 10 O.S. 1991, Section 607.1, is amended to read as follows:

Section 607.1 A. A youth service shelter facility may provide shelter and care to a minor mother, who is the victim of domestic abuse or is seeking relief from domestic abuse for herself or on behalf of any of her children or both herself and any of her children.

B. A youth service shelter facility may provide such shelter or care only during an emergency constituting an immediate danger to

the physical health or safety of the minor mother or any of her children or both the minor mother and any of her children. Such shelter or care shall not extend beyond thirty (30) days unless the facility receives an order issued by a court to continue such services or the parent or guardian of the minor mother consents to such services.

C. The provisions of Section 856 of Title 21 of the Oklahoma Statutes shall not apply to any youth service shelter facility and any person operating such facility with regards to providing shelter and care pursuant to the provisions of this section to a minor mother and any of her children who is a runaway from her parent or legal guardian.

D. The show cause hearing provided for in Sections ~~1107~~ 1100-7-101 and ~~1107.1~~ 1100-7-102 of ~~Title 10 of the Oklahoma Statutes~~ this Code shall be provided for the minor mother, who is seeking relief from domestic abuse for herself or on behalf of any of her children.

SECTION 17. AMENDATORY 10 O.S. 1991, Section 609, as amended by Section 3, Chapter 299, O.S.L. 1992 (10 O.S. Supp. 1993, Section 609), is amended to read as follows:

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

1. Capability to deliver all or part of the compensable services enumerated in Section ~~603~~ 1100-3-105 of this ~~title~~ Code;
2. Adequate and qualified staff;
3. Financial viability; and

4. A documented need for the local services to be offered.

B. The criteria for designation of Youth Services agencies also may include:

1. Successful completion of peer review processes by the Oklahoma Association of Youth Services; and

2. Such other criteria as the Commission determines appropriate.

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

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

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

2. Loses financial viability; or

3. Fails to successfully complete the peer review process by the Oklahoma Association of Youth Services.

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

SECTION 18. AMENDATORY 10 O.S. 1991, Section 603.3, is amended to read as follows:

Section 603.3 The Department of Human Services shall carefully define the children and youth programs of the Department as to their purpose, the population served and performance expectations.

Planning for new programs and services and major modifications to existing ones shall include evaluation of their effect on other programs and services and communication and coordination with other public and private children and youth service providers in order to

assure successful and cost-effective implementation of the program. An evaluation component that includes monitoring and evaluation of client outcomes shall be incorporated into all of the Department's programs and services to children and youth, whether provided directly by the agency or through a contract.

1. All programs and services shall be designed to ensure the accessibility of the program to the persons served. Provision for transportation, child care and similar services necessary in order to assist persons to access the services shall be made. If the service is provided in an office setting, the service shall be available during the evening.

2. Programs and services shall be targeted to the areas of the state having the greatest need for them. The programs and services shall be designed to meet the needs of the area in which they are located. Programs and services intended for statewide implementation shall be implemented first in those areas that have the greatest need for them.

3. Requests for proposals developed by the Department of Human Services shall be based upon documented client and service needs and identified priorities. The request for proposals shall clearly identify the program or service requirements, the population to be served, and performance expectations. The agency shall adopt clear, written guidelines to ensure uniformity in the management, monitoring and enforcement of contracts for services. If in-state private providers are unable or unwilling to respond to the proposal, then out-of-state providers should be encouraged to respond.

SECTION 19. AMENDATORY 10 O.S. 1991, Section 1135, is amended to read as follows:

Section 1135. A. It is the intent of the Legislature of this state that the placement of each child adjudicated ~~to be~~ deprived and made a ward of the court and placed in the custody of the

Department of Human Services will assure such care and guidance of the child, preferably in his home, as will serve the spiritual, emotional, mental and physical welfare of the child and will preserve and strengthen the family ties of the child whenever possible, with recognition of the fundamental rights of parenthood and with recognition of the responsibility of the state to assist the family in providing necessary education and training ~~and to reduce the rate of juvenile delinquency and to provide a system for the rehabilitation and reintegration of juvenile delinquents~~ and the protection of the welfare of the general public. In pursuit of these goals it is the intention of the Legislature to provide for removing the child from the custody of parents only when the welfare of the child or the safety and protection of the public cannot be adequately safeguarded without removal; and when the child has to be removed from his family, to secure for the child custody, care and discipline consistent with the best interests and the treatment needs of the child.

B. The Department shall review and assess each child committed to it to determine the type of placement consistent with the treatment needs of the child in the nearest geographic proximity to the home of the child ~~and, in the case of delinquent children, the protection of the public~~. Such review and assessment shall include an investigation of the personal and family history of the child, and his environment, and any physical or mental examinations considered necessary.

C. In making such review, the Department may use any facilities, public or private, which offer aid to it in the determination of the correct placement of the child.

SECTION 20. AMENDATORY 10 O.S. 1991, Section 1403.1, is amended to read as follows:

Section 1403.1 A. The Commission for Human Services ~~Commission~~ shall promulgate written rules and regulations, outline policies and

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

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

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

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

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

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

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

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

7. A child in the custody or care of the Department shall be provided access to education including teaching, educational materials and books, provided, that such policies shall provide emphasis upon basic literacy skills, including but not limited to

curricula requirements stressing reading, writing, mathematics, science, vocational-technical education, and other courses of instruction designed to assure that such children will be capable of being assimilated into society as productive adults capable of self-support and full participation;

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

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

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

C. Any contract or agreement between the Department of Human Services and the Department of Mental Health and Substance Abuse Services for the care and treatment of children in the custody of the Department of Human Services shall provide that the Department of Mental Health and Substance Abuse Services shall comply with the provisions of subsections A and B of this section and the provisions of Section ~~1403.2~~ 1100-3-113 of this ~~title~~ Code.

SECTION 21. AMENDATORY 10 O.S. 1991, Section 1403.2, is amended to read as follows:

Section 1403.2 A. Use of physical force in ~~institutions and other~~ facilities operated by the Department of Human Services wherein children are housed shall be permitted only under the following circumstances:

1. For self-protection;
2. To separate juveniles who are fighting; or

3. To restrain juveniles in danger of inflicting harm to themselves or others;~~or~~

~~4. To restrain juveniles who have escaped or who are in the process of escaping.~~

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

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

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

SECTION 22. AMENDATORY 10 O.S. 1991, Section 1403, is amended to read as follows:

Section 1403. A. The ~~Oklahoma Public Welfare~~ Commission for Human Services shall establish and maintain such methods of administration, including those necessary to establish and maintain a merit system of personnel administration, and shall prescribe such rules and regulations as it deems necessary for the efficient and effective operation of the children's ~~institutions and~~ facilities operated by the Department.

B. The Director of the Department of Human Services shall employ and fix the duties and compensation of a ~~superintendent~~ director or supervisor, and such other personnel as he deems necessary, for each of the children's ~~institutions and~~ facilities operated by the Department; provided that the Department shall promulgate, and in its hiring and employment practices, the

Department shall adhere to, written minimum qualifications by position for personnel working with or around children in said ~~institutions~~ facilities. Such minimum qualifications shall be designed to assure that such personnel possess sufficient education, training, experience and background to provide adequate and safe professional care and services to said children; and that the children will not be exposed to abuse, deprivation, criminal conduct, or other unwholesome conditions attributable to employee incompetence or misconduct.

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

SECTION 23. AMENDATORY 10 O.S. 1991, Section 1142, is amended to read as follows:

Section 1142. The Department of Human Services may enter into a cooperative agreement with the board of education of any school district and the State Board for Vocational Education for the operation of a residential facility for the education and training of children having special needs in basic and vocational education who have been or whose custody has been committed to the Department. The facility may be located outside the boundaries of the school district; and other children having such special needs may, regardless of school district residence, be admitted to the facility and provided education and training. The cost of establishing, maintaining and operating the facility shall be paid by the board of education, the Department and the State Board for Vocational Education in such proportions as may be stipulated in the cooperative agreement. The parties to the cooperative agreement, or their designee or designees, may enter into other agreements with Federal agencies, and may apply for, receive and administer Federal funds, for the facility or the operation thereof.

SECTION 24. AMENDATORY 10 O.S. 1991, Section 1140, is amended to read as follows:

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

SECTION 25. AMENDATORY 10 O.S. 1991, Section 1403.3, is amended to read as follows:

Section 1403.3 A. The ~~Oklahoma Public Welfare~~ Commission for Human Services shall establish and maintain a fair, simple and expeditious system for resolution of grievances of all persons committed to the Department of Human Services regarding the substance or application of any written or unwritten policy, rule or regulation of the Department or of an agent or contractor of the Department or any decision, behavior or action by an employee, agent or contractor or by other person committed to the Department.

B. The ~~Oklahoma Public Welfare~~ Commission for Human Services is authorized and directed to establish the Office of Advocate Defender within the Department and to employ such personnel as may be necessary to carry out the purposes of subsection A of this section. Such personnel may be dismissed only for cause.

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

Attorney III as established in the Merit System of Personnel Administration classification and compensation plan, but shall be an unclassified position.

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

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

C. The Department shall promptly and immediately report to the appropriate district attorney having jurisdiction any act or omission by persons employed by the Department, perpetrated, committed or suffered or allowed to be perpetrated or committed by such person or persons upon any child in the custody of the Department, wherever housed, when such act or omission, upon conviction, would constitute an offense against the criminal laws of this state. Copies of all such reports shall be forwarded to the Attorney General.

SECTION 26. AMENDATORY 10 O.S. 1991, Section 1404, as amended by Section 37, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1404), is amended to read as follows:

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

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

2. ~~Transfer from a children's institution to another facility under the jurisdiction of the Department, a child who has been adjudicated delinquent, if the Department believes it advisable to do so; transfer from a facility for children in need of supervision or~~ facility for deprived children to another such facility, a child who has been adjudicated in need of supervision or deprived,

provided that such transfer is consistent with the treatment needs of the child and will further the goal of returning the child to his own home; transfer from a children's ~~institution~~ facility to a state school for the mentally retarded, any child eligible for admission thereto, if the child appears to be in need of the care and treatment provided at such school; transfer from a facility for ~~delinquent, in need of supervision, or~~ deprived children to a ~~Department-operated treatment center~~ an appropriate facility or to the Department of Mental Health and Substance Abuse Services any child found by the court to be a child in need of mental health treatment pursuant to the Inpatient Mental Health Treatment of Children Act and committed to inpatient mental health treatment as provided by the Inpatient Mental Health Treatment of Children Act; ~~and.~~

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

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

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

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

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

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

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

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

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

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

~~3. If legal counsel for the child has not otherwise been obtained, the appointment of legal counsel for the child, the fixing of the amount of compensation for such counsel, and the determination of whether or not the child is eligible for free legal services shall be provided for pursuant to the Indigent Defense Act; provided however, in those counties subject to the provisions of Section 138.1 of Title 19 of the Oklahoma Statutes, the legal services shall be provided by the county indigent defender as provided by law. If the child is not eligible for free legal services, the court shall order the parents or legal guardian of the child to pay for such services.~~

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

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

ARTICLE IV

Juvenile Justice

Part 1. Board of Juvenile Justice

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-101 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created, effective January 1, 1995, the State Board of Juvenile Justice 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 January 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 by January 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 acts.

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 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 a list submitted by an office of public defenders in this state;

4. One member who shall be a law enforcement officer in this state;

5. One member who shall be a district attorney in this state;

6. One member who shall be a provider of child care services;
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 select, 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 the Board present at the meeting 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.

3. The initial meeting of the Board shall be called by the transition coordinator by February 1, 1995.

H. The Board shall:

1. Adopt and promulgate rules and regulations for its government and may adopt an official seal for the Department;

2. Appoint and fix the compensation of the Executive Director of the Department of Juvenile Justice;

3. Be the rulemaking body for the Department of Juvenile Justice;

4. Review and approve the budget request of the Department to the Governor;

5. Assist the Department in conducting periodic reviews and planning activities related to the goals, objectives, priorities, and policies of the Department; 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 Department at least quarterly. The Board shall have the authority to adopt nonbinding resolutions requesting action by the Department in response to comments received or upon the Board's own initiative.

I. As the rulemaking body of the Department of Juvenile Justice, the Board is specifically charged with the duty of promulgating rules which will implement the duties and responsibilities of the Department pursuant to this Code. Except as provided in this subsection, rules within the jurisdiction of the Juvenile Justice Rule Advisory Council shall be promulgated with the advice of such Council. Proposed permanent rules within the jurisdiction of the Council shall not be considered by the Board for promulgation until receipt of the Council's recommendation on such promulgation; however, the Board may promulgate emergency rules without the advice of the Council when the time constraints of the emergency, as determined by the Board, do not permit the timely

development of recommendations by the Council. All actions of the Council with regard to rulemaking shall be deemed actions of the Board for the purposes of complying with the Administrative Procedures Act.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-102 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Effective January 1, 1995, there is hereby created the Juvenile Justice Rule Advisory Council. The Council shall consist of nine (9) members. Three members shall be appointed by the Governor, three members shall be appointed by the Speaker of the House of Representatives, and three members shall be appointed by the President Pro Tempore of the Senate.

B. 1. The initial appointments for each gubernatorial and legislative member shall be for progressive terms of one (1) through three (3) years so that only one term expires each calendar year; subsequent appointments shall be for three-year terms. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled in the same manner as the original appointments. Five members shall constitute a quorum.

2. The Council shall elect a chair and a vice-chair from among its members. The Council shall meet as required for rule development, review, and recommendation and for such other purposes specified by law. Special meetings may be called by the chair or by the concurrence of any three (3) members.

C. 1. All members of the Juvenile Justice Rule Advisory Council shall be knowledgeable of juvenile justice and prevention of juvenile delinquency. The Council shall be composed as follows:

- a. the Governor shall appoint three members as follows:
 - (1) one member shall be a county sheriff,
 - (2) one member shall be knowledgeable and experienced in the rehabilitation of delinquent youths, and

- (3) one member representing the general public,
- b. the President Pro Tempore of the Senate shall appoint three members as follows:
 - (1) one member representing an area of the state which has high incidence of crime,
 - (2) one member representing a municipal police department, and
 - (3) one member representing the field of juvenile justice, and
- c. the Speaker of the House of Representatives shall appoint three members as follows:
 - (1) one member representing a political subdivision of the state who shall be a member of the local governmental body of a city or town,
 - (2) one member shall be an attorney licensed in this state, and
 - (3) one member representing a community-based delinquency program.

D. In addition to other powers and duties assigned to the Council pursuant to this Code, the Council shall:

1. Have authority to recommend to the Board rules on behalf of the Department. The Department shall not have standing to recommend to the Board permanent rules or changes to such rules which have not previously been submitted to the Council for action;

2. Before recommending any permanent rules to the Board, give public notice, offer opportunity for public comment and conduct a public rulemaking hearing when required by the Administrative Procedures Act;

3. Have the authority to make written recommendations to the Board which have been concurred upon by at least a majority of the membership of the Council;

4. Have the authority to provide a public forum for the discussion of issues it considers relevant to its area of jurisdiction, and to:

- a. pass nonbinding resolutions expressing the sense of the Council, and
- b. make recommendations to the Board or Department concerning the need and the desirability of conducting meetings, workshops, and seminars; and

5. Cooperate with the public, the Board, and the Executive Director to achieve maximum efficiency and effectiveness in furthering the objectives of the Department.

E. The Council shall not recommend rules for promulgation by the Board unless all applicable requirements of the Administrative Procedures Act have been followed, including but not limited to notice, rule impact statement, and rulemaking hearings.

F. Members of the Council shall serve without compensation but may be reimbursed expenses incurred in the performance of their duties, as provided in the State Travel Reimbursement Act. The Council is authorized to utilize the conference rooms of the Department of Juvenile Justice and obtain administrative assistance from the Department, as required.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-103 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Board shall promulgate written rules and regulations, outline policies and procedures governing the operation of those institutions and other facilities operated by the Department wherein juveniles may be housed. Said policies and procedures shall include, but not be limited to, standards of cleanliness, temperature and lighting, availability of medical and dental care, provision of food, furnishings, clothing and toilet articles, supervision, appropriate and permissible use of restriction and

confinement, procedures for enforcing rules of conduct consistent with due process of law and visitation privileges.

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

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

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

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

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

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

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

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

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

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

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

Part 2. Executive Director

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-201 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. On or before May 1, 1995, the Board of Juvenile Justice shall appoint the Executive Director of the Department of Juvenile Justice. The Executive Director shall serve at the pleasure of the Board.

B. The Director of the Department of Juvenile Justice 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 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, 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 above specified and four (4) years' progressively responsible work experience in corrections or juvenile justice, or shall have earned a Juris Doctorate Degree from an accredited law school, be licensed to practice law in this state, and have three (3) years' work experience in juvenile justice.

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

1. Be the executive officer and supervise the activities of the Department of Juvenile Justice;

2. 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, expedient, convenient, or appropriate to the performance or carrying out of any of the purposes, objectives, responsibilities, or statutory provisions relating to the Department of Juvenile Justice, 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 Department; and

4. Exercise all incidental powers which are necessary and proper to implement the purposes of the Department pursuant to this Code.

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 may designate an interim or acting Executive Director who is authorized to exercise such powers and duties until a permanent Executive Director is employed.

Part 3. Department of Juvenile Justice

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-301 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. 1. Effective January 1, 1995, there is hereby created the Department of Juvenile Justice. Until July 1, 1995, the Department of Juvenile Justice shall:

- a. assist the transition coordinator in the performance of his duties pursuant to the provisions of Section 1100-2-201 of this Code relating to transitional authority,
- b. assist the Board, as necessary, in the promulgation of rules necessary to implement the programs and functions within the jurisdiction of the Department of Juvenile Justice,
- c. initiate search for appropriate and adequate office space needed for purposes of implementing its jurisdictional duties provided by this Code 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 Department of Juvenile Justice to the extent necessary to implement its jurisdictional duties provided by this Code in the state building in which the Department of Human Services is located, Sequoyah Building, Oklahoma Capitol Complex, Oklahoma City, Oklahoma, and
- d. perform such other duties designated to it by the Governor.

2. For the purposes of this section, the transition coordinator shall serve as the Executive Director of the Department until July 1, 1995, or until an Executive Director has been appointed by the Board.

B. Effective July 1, 1995, the Department of Juvenile Justice shall be the agency designated to administer programs and services for:

1. Statewide planning and coordination of juvenile justice and delinquency prevention;

2. Court intake, probation and parole for delinquent children; and

3. Children in need of supervision and children at risk of becoming delinquent or in need of supervision. Care and supervision of children in the custody of the Department who are adjudicated to be delinquent or in need of supervision shall be the responsibilities of the Department of Juvenile Justice.

C. Within its jurisdictional areas of responsibility, the Department, 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. Be the state planning and coordinating agency for statewide juvenile justice and delinquency prevention services;

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

3. 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 relating to juvenile justice or delinquency prevention;

4. Require the establishment and maintenance of records and reports, and the provision of such information to the Department upon request;

5. Establish a system of training for all personnel who render review and inspection services in order to assure uniform statewide application of law and rules;

6. Enforce the provisions of this article and rules promulgated thereunder and orders issued pursuant thereto;

7. Charge and receive fees pursuant to fee schedules promulgated by the Board;

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

9. Collect and disseminate information and engage in juvenile justice or delinquency prevention activities relating to the provisions of this Code;

10. Enter into interagency agreements;

11. Sell films, educational materials and other items produced by the Department and sell, exchange, or otherwise dispose of obsolete personal property belonging to the Department unless otherwise required by terms of federal grants;

12. Provide administrative and support services to the Board and the Council as necessary to assist them in the performance of their duties;

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

14. Lease, from time to time, without restriction as to terms, any property which the Executive Director shall determine advisable to more fully carry into effect the operation of the Department of Juvenile Justice in accordance with applicable state statutes;

15. 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 Department of Juvenile Justice, as authorized by law; and

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

D. For the purposes of implementing the provisions of this Code, the Department of Juvenile Justice shall establish, either

directly or by contract, a minimum of three hundred fifty (350) beds for delinquents and youthful offenders in addition to the number of beds available to the Department on July 1, 1995. The additional bed capacity shall be added as follows:

1. Preadjudicatory secure juvenile detention 111 beds
2. Regimented juvenile training programs 56 beds
3. Training schools 128 beds
4. Staff secure community residential placements ... 55 beds

The Department of Juvenile Justice shall establish additional bed capacity and facilities as required by this subsection on a geographic basis throughout the state in accordance with Sections 1100-4-509 and 1100-7-201 of this Code.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-302 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Within the Department of Juvenile Justice there is created:

1. The Office of Advocate Defender;
2. The Juvenile Justice Parole Board;
3. The Office of Administrative Hearings which shall have

primary responsibility for conducting individual proceedings including, but not limited to, maintenance of records, giving required notices, docketing and scheduling, and for conducting, upon request, administrative rulemaking hearings. The Office of Administrative Hearings shall be maintained separate and apart from any legal division or office of General Counsel of the Department;

4. The Office of Citizen Assistance; and
5. Such other offices or divisions prescribed by the Executive Director or by law.

B. The following programs are established within the Department of Juvenile Justice:

1. A program of juvenile crime restitution;

2. A state program for children who are potentially delinquent and/or who are adjudicated delinquent;

3. The Serious and Habitual Juvenile Offender Program;

4. Regimented Juvenile Training Program; and

5. Such other programs prescribed by the Executive Director or by law.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-303 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

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

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

D. 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 allegations of abuse or neglect of juveniles in Department-operated facilities or juveniles who are in the custody of the Department and placed in a private facility to the Department of Human Services in accordance with the provisions of Section 842 of Title 21 of the Oklahoma Statutes;

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 Director, and provide regular or special reports regarding grievance procedures, hearings and investigations to the Director, the Office of Juvenile System Oversight and other appropriate persons as necessary;

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

8. Perform such other duties as required by the Director.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-304 of Title 10, unless there is created a duplication in numbering, reads as follows:

The Office of Citizen Assistance, in addition to responsibilities assigned to such office by the Executive Director, shall:

1. Establish and maintain an information and referral system to assist the public in understanding juvenile justice and juvenile

delinquency. The system shall provide a telephone information service and disseminate printed materials;

2. Identify the public information procedures currently associated with each program;

3. Provide for the posting of the telephone number of the Office of Citizen Assistance at offices of the county commissioners, municipal offices, and other public information centers; and

4. Maintain copies of all current rules of the Department.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-305 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Department shall employ one or more Administrative Law Judges within the Office of Administrative Hearings to conduct individual proceedings, preside over rulemaking hearings on behalf of the Board or Council, upon request, and perform such other duties as are assigned to them by the Executive Director which are not inconsistent with their statutory duties.

B. Each Administrative Law Judge shall:

1. Have a general knowledge of the area of juvenile justice and juvenile delinquency and other materials within the jurisdiction of the Oklahoma Juvenile Code;

2. Have a working knowledge of the laws and rules under this Code; and

3. Be currently licensed to practice law by the Supreme Court of this state.

C. Individual proceedings, except for proceedings pertaining to children, shall be conducted in compliance with Article II of the Administrative Procedures Act, this Code and rules promulgated thereunder.

Part 4. Funds

SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-401 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the State Treasury a revolving fund for the Department of Juvenile Justice to be designated the "Juvenile Detention Facility 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 Facility Improvement Revolving Fund and monies which may otherwise be available to the Department of Juvenile Justice for use as provided for in this section.

B. All monies appropriated to the fund shall be budgeted and expended by the Department of Juvenile Justice 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. The participation of local resources shall be a requirement for the receipt by counties of said funds and the Department of Juvenile Justice 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 Juvenile Justice shall provide eighty-five percent (85%) of the approved operational cost for secure detention.

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 seventy-five percent (75%) for the Department of Juvenile Justice and twenty-five percent (25%) for the county.

c. The Department of Juvenile Justice shall reimburse operating per diem costs for said services, as approved, at the rate of eighty-five percent (85%) 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 Juvenile Justice and who are awaiting placement by the Department of Juvenile Justice, 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 Juvenile Justice 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 Juvenile Justice 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.

4. The Department of Juvenile Justice shall, from appropriated state monies or from available federal grants, reimburse 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.

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.

C. Effective 1, 1995, any nonencumbered funds in the Juvenile Detention Facility Improvement Revolving Fund established pursuant to Section 200.6 of Title 56 of the Oklahoma Statutes shall be transferred and become part of the Juvenile Detention Facility Improvement Revolving Fund subject to the Department of Juvenile Justice.

Part 5. Powers and Duties of Department

SECTION 37. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-501 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. It is the intent of the Legislature of this state that the placement of each child adjudicated to be a ward of the court and placed in the custody of the Department of Juvenile Justice will assure such care and guidance of the child, preferably in his home, as will serve the spiritual, emotional, mental and physical welfare of the child and will preserve and strengthen the family ties of the child whenever possible, with recognition of the fundamental rights of parenthood and with recognition of the responsibility of the state to assist the family in providing necessary education and

training and to reduce the rate of juvenile delinquency and to provide a system for the rehabilitation and reintegration of juvenile delinquents and the protection of the welfare of the general public. In pursuit of these goals it is the intention of the Legislature to provide for removing the child from the custody of parents only when the welfare of the child or the safety and protection of the public cannot be adequately safeguarded without removal; and when the child has to be removed from his family, to secure for the child custody, care and discipline consistent with the best interests and the treatment needs of the child.

B. The Department shall review and assess each child committed to it to determine the type of placement consistent with the treatment needs of the child in the nearest geographic proximity to the home of the child and, in the case of delinquent children, the protection of the public. Such review and assessment shall include an investigation of the personal and family history of the child, and his environment, and any physical or mental examinations considered necessary.

C. In making such review, the Department may use any facilities, public or private, which offer aid to it in the determination of the correct placement of the child.

SECTION 38. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-502 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Department of Juvenile Justice shall enter with the State Supreme Court under the Interlocal Cooperation Act into an agreement for children adjudicated to be delinquent or in need of supervision that is acceptable to that Court in its capacity as the constitutional manager of the state court system:

1. To provide intake services, probation services and parole services for children within the jurisdiction of the Department for the district courts in every county in Oklahoma;

2. To establish such standards and procedures as may be required by state or federal law; and

3. To contract with private nonprofit or public agencies now in existence or hereafter created.

B. The Department of Juvenile Justice shall enter with the Department of Human Services and the Oklahoma Supreme Court under the Interlocal Cooperation Act into an agreement acceptable to the Oklahoma Supreme Court, in its capacity as the constitutional manager of the state court system, to maintain a Uniform Juvenile Statewide Court Reporting System.

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-503 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Department of Juvenile Justice shall establish a planning process for the Department that provides for collaborative ongoing planning for the development of divisional and agency goals and priorities for services to delinquent children and youth and children in need of supervision. The Department shall develop a three- to five-year plan for services provided by the agency for children and youth adjudicated delinquent or in need of supervision. The plan should be regularly reviewed and modified as necessary.

B. The agency budget recommendations of the Department for services to children and youth adjudicated delinquent or in need of supervision shall be based upon documented needs, and the development of budget recommendations and priorities shall be closely integrated with agency and interagency program planning and management.

C. As a part of the Department's program planning and monitoring processes, the Department shall examine its programs and services to children and youth adjudicated delinquent or in need of supervision to ensure that the practices within them do not operate to the detriment of minority children and youth.

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-504 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

B. The Department shall take all necessary steps to develop and implement a diversity of community services and community residential care as needed to provide for adequate and appropriate community-based care, treatment and rehabilitation of children in the custody of the Department. Such community services and residential care shall be consistent with the treatment needs of the child and the protection of the public.

1. The Department shall, to the extent reasonable and practicable, provide community services and community residential care to children in the custody of the Department through financial agreements, as authorized in Sections 1100-4-505 and 1100-4-506 of this Code.

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

C. The Department of Juvenile Justice is hereby authorized to and shall enter into cooperative agreements with the Department of Human Services for:

1. The use of existing community-based programs by both Departments; and

2. Medicaid and foster care reimbursement to the Department of Juvenile Justice for services for children in the custody of the

Department of Juvenile Justice who qualify for Title XIX or Title XX reimbursements.

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

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-505 of Title 10, unless there is created a duplication in numbering, reads as follows:

The Department of Juvenile Justice, in its role as planner and coordinator for juvenile justice and delinquency prevention services, is:

1. Authorized to and shall enter into agreements for the establishment and maintenance of community-based prevention and diversionary youth services programs which may include, but not be limited to: Emergency shelter, diagnosis, crisis intervention, counseling, group work, case supervision, job placement, recruitment and training of volunteers, consultation, brokerage of services and agency coordination with emphasis on keeping youth with a high potential for delinquency out of the traditional juvenile justice process and strengthening the family unit through parental education, family preservation and family counseling; and

2. Authorized to enter into financial agreements with federal, state and local agencies or entities of government, or with any private, nonprofit agency, for juvenile delinquency prevention programs and juvenile treatment programs.

SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-506 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

SECTION 43. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-507 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. On or before July 1, 1996, the Department of Juvenile Justice shall implement an agency-wide management information system for all programs and services of the Department related to children, youth and families. Development and implementation of said system shall be initiated immediately upon the effective date of this resolution.

B. The management information system shall:

1. To the maximum extent possible, be based upon the integration, utilization and modification, as necessary, of existing information systems within the Department;

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

3. Include case specific information, including outcomes, and have the ability to monitor the status of children and youth receiving services through the Department;

4. Be capable of providing management reports and information regarding the various children and youth programs of the Department, and of providing aggregate information necessary for planning, monitoring and evaluation of said programs and services; and

5. Be designed so that management and analytical reports can be readily generated for those who require them.

SECTION 44. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-508 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Funds appropriated to the Department of Juvenile Justice for community-based youth service programs shall be made available through grants or contracts to organizations designated by said Department. Such designations shall be granted in accordance with criteria approved by the State Board of Juvenile Justice after full consideration of any recommendations of the Oklahoma Association of Youth Services. The criteria for designation of organizations to provide community-based youth services programs for the Department of Juvenile Justice shall be established by the Board of Juvenile Justice and shall include but shall not be limited to:

1. Capability to deliver all or part of the compensable services enumerated in Section 1100-4-509 of this Code;
2. Adequate and qualified staff;
3. Financial viability; and
4. A documented need for the local services to be offered.

B. The criteria for designation of organizations to provide community-based youth services programs for the Department of Juvenile Justice also may include:

1. Successful completion of peer review processes by the Oklahoma Association of Youth Services; and
2. Such other criteria as the Board of Juvenile Justice determines appropriate.

C. Each youth service agency receiving, by grant or contract from the Department of Human Services on June 30, 1987, state funds specifically appropriated for community-based youth service programs for children adjudicated to be delinquent or in need of supervision, is hereby automatically designated as an organization to provide

community-based youth services programs for the Department of Juvenile Justice.

D. The Department of Juvenile Justice, after the opportunity for an administrative hearing, may terminate the designation of an organization that:

1. Is seriously deficient in the administration of its program;
2. Loses financial viability; or
3. Fails to successfully complete the peer review process by the Oklahoma Association of Youth Services provided for in subsection A of this section, if required by the Department of Juvenile Justice.

Any applicant organization denied designation pursuant to this section may request an administrative hearing from the Department of Juvenile Justice. The Department of Juvenile Justice shall establish an administrative hearing and appeal process.

SECTION 45. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-509 of Title 10, unless there is created a duplication in numbering, reads as follows:

The Department of Juvenile Justice shall carefully define the children and youth programs of the Department as to their purpose, the population served and performance expectations. Planning for new programs and services and major modifications to existing ones shall include evaluation of their effect on other programs and services and communication and coordination with other public and private children and youth service providers in order to assure successful and cost-effective implementation of the program. An evaluation component that includes monitoring and evaluation of client outcomes shall be incorporated into all of the Department's programs and services to children and youth, whether provided directly by the agency or through a contract.

1. All programs and services shall be designed to ensure the accessibility of the program to the persons served. Provision for

transportation, child care and similar services necessary in order to assist persons to access the services shall be made. If the service is provided in an office setting, the service shall be available during the evening.

2. Programs and services shall be targeted to the areas of the state having the greatest need for them. The programs and services shall be designed to meet the needs of the area in which they are located. Programs and services intended for statewide implementation shall be implemented first in those areas that have the greatest need for them.

3. Requests for proposals developed by the Department shall be based upon documented client and service needs and identified priorities. The request for proposals shall clearly identify the program or service requirements, the population to be served, and performance expectations. The agency shall adopt clear, written guidelines to ensure uniformity in the management, monitoring and enforcement of contracts for services. If in-state private providers are unable or unwilling to respond to the proposal, then out-of-state providers should be encouraged to respond.

SECTION 46. AMENDATORY 10 O.S. 1991, Section 610, is amended to read as follows:

Section 610. The ~~Office~~ Department of Juvenile Justice shall from time to time, but not less often than annually, review its programs and services and submit a report to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Supreme Court of the State of Oklahoma, and the ~~Oklahoma Commission for Human Services, and the Juvenile Justice Advisory and Oversight Committee~~ Board of Juvenile Justice, analyzing and evaluating the effectiveness of the programs and services being carried out by the ~~Office~~ Department of Juvenile Justice. Such report shall include, but not be limited to:

1. An analysis and evaluation of programs and services continued, established and discontinued during the period covered by the report;

2. A description of programs and services which should be implemented;

3. Relevant information concerning the number of children comprising the population of any facility ~~of the Department of Human Services~~ operated by the ~~Office~~ Department of Juvenile Justice during the period covered by the report; and

4. Such other information as will enable a user of the report to ascertain the effectiveness of the programs, services and facilities.

Part 6. Supervision and Placement

SECTION 47. AMENDATORY 10 O.S. 1991, Section 1141, is amended to read as follows:

Section 1141. A. The Department of Juvenile Justice shall provide intake, ~~probation and parole services~~ for juveniles pursuant to the provisions of Section ~~602 of this title and may enter into agreements to supplement probationary services to juveniles in any county.~~ The Department may participate in federal programs for juvenile probation officers, and may apply for, receive, use and administer federal funds for such purpose 1100-4-502 of this Code.

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

1. Information gained from the substance abuse assessment pursuant to this subsection shall be used only for substance abuse treatment and for no other purpose. The results shall not be used in any evidentiary or fact-finding hearing in a juvenile proceeding

or as the sole basis for the revocation of a community-based placement or participation in a community-based program.

2. The results of the substance abuse assessment may be given to the child's intake, ~~probation or parole~~ counselor, the parent or guardian of the child or to his attorney. In accordance with the guidelines established pursuant to the Serious and Habitual Juvenile Offender Program and Section ~~14~~ 1100-6-309 of this ~~act~~ Code, the counselor may also provide the results of the substance abuse assessment with medical personnel, therapists, school personnel or others for use in the treatment and rehabilitation of the child.

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

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

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

~~3.~~ A case management system for ensuring appropriate:

a. diversion of youth from the juvenile justice system,

b. services for and supervision of all youth ~~on pre-~~

~~adjudicatory or postadjudicatory probation or on~~

~~parole and for juvenile offenders~~ in the custody of

the Department ~~of Human Services~~, and

c. intensive supervision of serious and habitual

offenders and communication between law enforcement

and juvenile court personnel and others regarding said

offenders;

~~4.~~ 3. Guidelines for juvenile court personnel recommendations to district attorneys regarding the disposition of individual cases by district attorneys.

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

SECTION 48. AMENDATORY 10 O.S. 1991, Section 1137, as amended by Section 35, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1137), is amended to read as follows:

Section 1137. A. Whenever a child who has been adjudicated by the court as a child in need of supervision has been committed to the Department of Juvenile Justice, the Department may place the child in the home of the child, the home of a relative of the child, foster home, group home, transitional living program, independent living program, community-based setting, rehabilitative facility or child care facility under the operation of or licensure of the state, or in a state school for the mentally retarded if eligible for admission thereto. No child in need of supervision shall be placed in a Department-operated institution, other than a rehabilitative facility, ~~after October 1, 1982. Any children in need of supervision in Department-operated institutions on October 1, 1982, shall be removed from such institutions no later than June 30, 1983.~~

B. The Department of Juvenile Justice may establish and maintain one or more rehabilitative facilities to be used exclusively for the custody of children in need of supervision. Each such facility shall be, primarily, a nonsecure facility having

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

C. A child in need of supervision who has been found by a court to be a child in need of mental health treatment shall be placed as provided by ~~Section 1135.1 of this title~~ the Inpatient Mental Health Treatment of Children Act.

SECTION 49. 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~~ Juvenile Justice, establish, maintain and continuously refine and develop a balanced and comprehensive state program for children who are potentially delinquent or are delinquent.

B. Whenever a child who has been adjudicated by the court as a delinquent child has been committed to the Department of Juvenile Justice, 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~~ an 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 a felony 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 of Juvenile Justice to be in the best interest of the child; or

7. Place the child as provided by Section 1135.1 of this title if the delinquent child has been found by a court to be in need of mental health treatment.

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

SECTION 50. AMENDATORY 10 O.S. 1991, Section 1140, is amended to read as follows:

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

SECTION 51. AMENDATORY 10 O.S. 1991, Section 1139, as amended by Section 9, Chapter 342, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1139), is amended to read as follows:

Section 1139. A. All children adjudicated delinquent and committed to the Department of ~~Human Services~~ Juvenile Justice shall remain in the custody of the Department for a period of time determined by the court and shall not be discharged at such time as the Department 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 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~~ The provisions of this subsection shall not be a limitation on the authority of the Juvenile Justice Parole Board to place the child on parole status.

B. All children adjudged delinquent and committed to the Department and not discharged under subsection A of this section shall be discharged when the child becomes eighteen (18) years of age, unless the Department is authorized by the court to retain custody of the child until nineteen (19) years of age. Upon 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 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.

Part 7. Institutions and Facilities

SECTION 52. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-701 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Department of Juvenile Justice shall establish and maintain such methods of administration, and the Board of Juvenile Justice shall prescribe such rules and regulations as it deems necessary for the efficient and effective operation of the children's institutions and facilities operated by the Department.

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

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

SECTION 53. AMENDATORY 10 O.S. 1991, Section 1142, is amended to read as follows:

Section 1142. The Department of Juvenile Justice may enter into a cooperative agreement with the board of education of any school district and the State Board for Vocational Education for the

operation of a residential facility for the education and training of children having special needs in basic and vocational education who have been or whose custody has been committed to the Department. The facility may be located outside the boundaries of the school district; and other children having such special needs may, regardless of school district residence, be admitted to the facility and provided education and training. The cost of establishing, maintaining and operating the facility shall be paid by the board of education, the Department and the State Board for Vocational Education in such proportions as may be stipulated in the cooperative agreement. The parties to the cooperative agreement, or their designee or designees, may enter into other agreements with Federal agencies, and may apply for, receive and administer Federal funds, for the facility or the operation thereof.

SECTION 54. 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~~ Department of Juvenile Justice shall have the supervision, management, operation and control of the children's institution located at Tecumseh, formerly known and designated as Girls' Town and now known as Central Oklahoma Juvenile Center, 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, prior to the transfer of the facility to the Department of Juvenile Justice, shall be administered by the ~~Office~~ Department 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; 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~~ Executive Director 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 of Juvenile Justice is authorized and directed to establish, subject to the limits of funds available therefor, a diversity of placement alternatives for children committed to the custody of the Department including, but not limited to, foster family homes, foster family group homes, 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 55. AMENDATORY 10 O.S. 1991, Section 1407, as amended by Section 19, Chapter 299, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1407), is amended to read as follows:

Section 1407. The official name and designation of the center for children situated at Sand Springs, Oklahoma, shall be Lloyd E.

Rader Children's Center. The supervision, management, operation and control of the Center and all property, records, equipment and supplies related thereto shall be the responsibility of the ~~Office~~ Department of Juvenile Justice.

All contracts, leases, or other agreements entered into by the Department of Human Services on behalf of the Center, prior to the transfer of the facility to the Department of Juvenile Justice, shall be administered by the ~~Office~~ Department of Juvenile Justice.

SECTION 56. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-705 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

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

2. Transfer from a children's institution to another facility under the jurisdiction of the Department of Juvenile Justice, a child who has been adjudicated delinquent, if the Department of Juvenile Justice believes it advisable to do so; transfer from a facility for children in need of supervision to another such facility, a child who has been adjudicated in need of supervision, provided that such transfer is consistent with the treatment needs

of the child and will further the goal of returning the child to his own home; transfer from a children's institution to a state school for the mentally retarded, any child eligible for admission thereto, if the child appears to be in need of the care and treatment provided at such school; transfer from a facility for delinquent or in need of supervision children to an appropriate facility, or the Department of Mental Health and Substance Abuse Services, any child found by the court to be a child in need of mental health treatment pursuant to the Inpatient Mental Health Treatment of Children Act and committed to inpatient mental health treatment as provided by the Inpatient Mental Health Treatment of Children Act;

3. Upon approval by the Juvenile Justice Parole Board, release on parole, after a fifteen-day notice to the district attorney, the judge and local law enforcement agencies, a child previously adjudicated to be delinquent, subject to terms and conditions specified by the Department of Juvenile Justice, whenever the Department of Juvenile Justice determines that such release will not be detrimental to society and that the child is probably ready to be returned to his community and revoke said parole for violation of the specified terms or conditions of parole pursuant to the provisions of this section and the rules, regulations and procedures established by the Board of Juvenile Justice for such revocation; and

4. Release a child from an institution under the jurisdiction of the Department of Juvenile Justice for placement in a foster home, group home, transitional living program, independent living program or other community-based facility or program subject to terms and conditions specified by the Department.

5. In any administrative transfer proceeding the following minimum standards shall apply:

- a. the child shall have the right to notice of the proposed transfer hearing and the alleged violation of

administrative rules on which the proposed transfer is based,

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

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

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

7. If the child is eligible for free legal services, the services shall be provided pursuant to the Indigent Defense Act; provided however, in those counties subject to the provisions of Section 138.1 of Title 19 of the Oklahoma Statutes, the services shall be provided by the county indigent defender.

SECTION 57. AMENDATORY 10 O.S. 1991, Section 1149, is amended to read as follows:

Section 1149. A. Every person who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of an employee of a state facility maintained by the Department of Juvenile Justice primarily for delinquent children, while the employee is in the performance of his duties, shall upon conviction thereof be guilty of a felony.

B. This act shall not supersede any other act or acts, but shall be cumulative thereto.

SECTION 58. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-707 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

D. Use of mechanical restraints in institutions and other facilities operated by the Department of Juvenile Justice or the Department of Mental Health and Substance Abuse Services wherein

children are housed shall be minimal and shall be prohibited except as specifically provided for in the regulations of each of the Departments.

E. Any contract or agreement between the Department of Juvenile Justice and the Department of Mental Health and Substance Abuse Services for the care and treatment of children in the custody of the Department of Juvenile Justice shall provide that the Department of Mental Health and Substance Abuse Services shall comply with the provisions of this section.

F. The Department shall promptly and immediately report to the appropriate district attorney having jurisdiction any act or omission by persons employed by the Department, perpetrated, committed or suffered or allowed to be perpetrated or committed by such person or persons upon any child in the custody of the Department, wherever housed, when such act or omission, upon conviction, would constitute an offense against the criminal laws of this state. Copies of all such reports shall be forwarded to the Attorney General.

SECTION 59. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-4-708 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 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. The juveniles eligible for the program shall include only juveniles placed in the custody of the Department of Juvenile Justice.

2. A juvenile may be eliminated from the program upon a determination by the Department 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 (32) beds, or a nonsecure facility, for a period of not more than ninety (90) days and administered by the Department of Juvenile Justice. The Department may operate Phase I at Department facilities or contract with a nongovernmental entity to provide such services;

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

a. if appropriate juvenile diversion services are available, the Department shall contract with any governmental unit or nongovernmental agency providing services under such contract to provide diversion services similar to those provided under the contract, and

b. if diversion services are not available, the juvenile shall be subject to a period of supervision under the Department;

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 Department;

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

F. 1. On or before December 1, 1998, the Department shall submit a report evaluating the regimented juvenile training program to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the appropriations committees of both houses of the Legislature.

2. The report shall include the following determinations:

- a. whether juveniles placed in a regimented juvenile training program have a recidivism rate which is equal to or less than that of similar adjudicated juveniles who were not placed in such program but were otherwise committed to the Department of Juvenile Justice, and
- b. whether bed savings to the Department are a result of the regimented juvenile training program.

Part 8. Serious and Habitual Juvenile Offender Act

SECTION 60. AMENDATORY 10 O.S. 1991, Section 1160.1, is amended to read as follows:

Section 1160.1 A. There is hereby created the Serious and Habitual Juvenile Offender Act for the purpose of:

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

2. Establishing a case management system for individual juvenile offenders that includes intensive supervision of serious or habitual juvenile offenders; and

3. Enhancing community control of crime through information sharing regarding serious and habitual juvenile offenders that can be used by patrol officers and criminal investigators for the early identification of offenders and assist in the reduction of crime.

B. Sections ~~±~~ 1100-4-709 through ~~±~~ 1100-4-714 of this ~~act~~ Code shall be known and may be cited as the "Serious and Habitual Juvenile Offender Act".

SECTION 61. AMENDATORY 10 O.S. 1991, Section 1160.2, is amended to read as follows:

Section 1160.2 As used in this title:

1. "Agencies and programs comprising the juvenile justice system" means:

- a. the courts, the District Attorney's Council and offices of the district attorneys, state and local law enforcement agencies, ~~juvenile bureaus established pursuant to Section 1201 of Title 10 of the Oklahoma Statutes, the Department of Human Services, the Office Department of Juvenile Justice of the Department of Human Services,~~ the Oklahoma Commission on Children and Youth, the Department of Corrections, the Criminal Justice Resource Center, any other state agency

responsible for the care, custody or supervision of youth alleged or adjudicated to be delinquent, and

- b. to the extent that they are responsible for the provision of services to youth alleged or adjudicated to be delinquent, including but not limited to educational, treatment or residential services, local school districts and area vocational-technical schools and other public and private agencies not otherwise specifically included in subparagraph a of this paragraph, comprising the "children and youth service system" as defined by Section 600 of Title 10 of the Oklahoma Statutes;

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

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

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

5. "Juvenile Justice Information System" means the automated information system established by Section ~~1160.6~~ 1100-4-714 of this ~~title~~ Code;

6. "Juvenile offender" means a delinquent child as defined by Section ~~1101~~ 1100-2-101 of ~~Title 10 of the Oklahoma Statutes~~ this Code;

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

- a. as a result of a criminal act, and
- b. as a result of a violation of a condition of probation or parole;

8. "Serious act" means any crime specified by subsection A of Section ~~1104.2~~ 1100-8-301 of ~~Title 10 of the Oklahoma Statutes~~ this Code;

9. "Serious and Habitual Juvenile Offender Program" means the program of information, information sharing, case tracking, case management, supervision and sanctions established by Section ~~1160.3~~ 1100-4-711 of this ~~title~~ Code;

10. "Serious and Habitual Juvenile Offender Program Implementation Task Force" means the Task Force created by Section ~~1160.5~~ 1100-8-113 of this ~~title~~ Code for the purpose of implementing the Serious and Habitual Juvenile Offender Program; and

11. "Serious juvenile offender" and "habitual juvenile offender" means persons under eighteen (18) years of age who have been adjudicated delinquent for the commission of serious acts or habitual criminal acts and are subject to the Serious and Habitual Juvenile Offender Program in accordance with the criteria established pursuant to Section ~~1160.3~~ 1100-4-711 of this ~~title~~ Code.

SECTION 62. AMENDATORY 10 O.S. 1991, Section 1160.3, is amended to read as follows:

Section 1160.3 The Serious and Habitual Juvenile Offender Program shall include, but not be limited to:

1. The Juvenile Justice Information System pursuant to the provisions of Section ~~6~~ 1100-4-714 of this ~~act~~ Code;

2. Specific ~~criteria~~ procedures for identifying juvenile offenders who have committed a serious act or habitual criminal acts for the purposes of intensive supervision and communication between law enforcement and juvenile court personnel and others regarding said offenders;

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

4. Structured decision-making instruments utilizing risk-assessment, offense, needs-assessment, and other appropriate criteria for determining the imposition of appropriate specific sanctions for:

- a. youth adjudicated delinquent, and
- b. the violation of a condition of probation or parole;

5. A case management system for ensuring appropriate:

- a. diversion of youth from the juvenile justice system,
- b. services for and supervision of all youth on pre-adjudicatory or postadjudicatory probation or on parole and for juvenile offenders in the custody of the Department of ~~Human Services~~ Juvenile Justice, and
- c. intensive supervision of serious juvenile offenders and habitual juvenile offenders and communication between law enforcement and juvenile court personnel and others regarding said offenders;

6. Detention criteria, the uniform statewide application of said detention criteria, and guidelines for the use of secure detention. Said guidelines shall provide for priority to be given to the use of juvenile detention facilities for the detention of serious juvenile offenders and habitual juvenile offenders;

7. Guidelines for the imposition of sanctions for any criminal offenses committed by juveniles and for probation and parole violations;

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

9. Guidelines for the disposition of individual cases by district attorneys.

SECTION 63. AMENDATORY 10 O.S. 1991, Section 1160.4, is amended to read as follows:

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

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

2. In accordance with the proposed guidelines recommended by the Serious and Habitual Juvenile Offender Program Implementation Task Force, the Department of ~~Human Services, the Office of~~ Juvenile Justice ~~of the Department of Human Services, the juvenile bureaus~~ established pursuant to ~~Section 1201 of Title 10 of the Oklahoma Statutes,~~ the District Attorney's Council, the Oklahoma State

Supreme Court as authorized and directed by Section ~~602~~ 1100-3-102 of ~~Title 10 of the Oklahoma Statutes~~ this Code and Section 23 of Title 20 of the Oklahoma Statutes, the Oklahoma Commission on Children and Youth, the Oklahoma State Bureau of Investigation, local law enforcement agencies, and other agencies comprising the juvenile justice system shall:

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

SECTION 64. AMENDATORY 10 O.S. 1991, Section 1160.5, is amended to read as follows:

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

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

1. Serve as a forum for the development and adoption of contracts and interagency agreements necessary for:
 - a. the delineation of the service responsibilities and coordinated service delivery of services to delinquent youth by the agencies responsible for the

implementation of the Serious and Habitual Juvenile Offender Program, and

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

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

3. Cooperate with and provide assistance to the task force established by Section ~~620.2~~ 1100-6-305 of this ~~title~~ Code in the preparation of the proposed guidelines for the disclosure of confidential information required by Section ~~620.6~~ 1100-6-306 of this ~~title~~ Code.

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

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

C. The Oklahoma Commission on Children and Youth shall appoint the members of the Serious and Habitual Juvenile Offender Program Implementation Task Force. The Task Force shall include:

1. Representatives of each of the following agencies and organizations appointed from a list of not less than three

individuals recommended by the governing board of each such agency or organization:

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

2. Representatives of the Oklahoma Supreme Court, who shall be district or associate district judges having juvenile docket responsibility designated by the Chief Justice of the Supreme Court; and

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

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

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

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

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

E. On or before January 1 of each year following the effective date of the Serious and Habitual Juvenile Offender Act, the Task Force shall submit a progress report specifying the tasks completed by the Task Force and the agencies responsible for implementation of the Serious and Habitual Juvenile Offender Program and those that remain to be completed in order to achieve full implementation on or before July 1, 1995, along with a report of any barriers that may impede full implementation. The progress report shall be submitted to the Governor, the President Pro Tempore of the Oklahoma State Senate, the Speaker of the Oklahoma House of Representatives, the Chief Justice of the Oklahoma Supreme Court, the Oklahoma Commission on Children and Youth, and each agency affected by the progress report.

SECTION 65. AMENDATORY 10 O.S. 1991, Section 1160.6, is amended to read as follows:

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

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

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

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

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

B. ~~The Department of Human Services, the Office of Juvenile Justice of the Department of Human Services, the juvenile bureaus established pursuant to Section 1201 of Title 10 of the Oklahoma Statutes,~~ the Criminal Justice Resource Center, the Office of the Court Administrator, and other agencies and programs comprising the juvenile justice system, including but not limited to law enforcement and district attorneys, in accordance with guidelines established by the Serious and Habitual Juvenile Offender Program Implementation Task Force, shall jointly:

1. Identify information to be shared by agencies on a regular basis;
2. Develop procedures for processing case-profiles as cases move through agencies that come in contact with juvenile offenders;
3. Establish training programs in the use of the system;
4. Conduct a pilot project to test the system; and
5. ~~On or before January 1, 1992, submit a~~ Periodically evaluate the plan for full statewide implementation of the Juvenile Justice Information System and submit any necessary modifications of the existing plan to the Serious and Habitual Juvenile Offender Program Implementation Task Force and to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and each agency affected by said plan.

ARTICLE V

Juvenile Justice Parole Board

SECTION 66. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-5-101 of Title 10, unless there is created a duplication in numbering, reads as follows:

For purposes of this chapter:

1. "Parole" means a conditional release of a juvenile adjudicated delinquent from residency in a secure facility to live outside that facility under the supervision of the Juvenile Justice Parole Board or other person designated by the Board;
2. "Rescission" means a written order of the Board that rescinds a parole date;
3. "Revocation of parole" means a written order of the Board that terminates parole supervision of a juvenile adjudicated delinquent and directs return of the juvenile to the custody of a secure facility because of a violation of the conditions of parole; and
4. "Board" means the Juvenile Justice Parole Board.

SECTION 67. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-5-102 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the "Juvenile Justice Parole Board". The Board shall be composed of five (5) members as follows:

1. Three members shall be appointed by the Governor;
2. One member shall be appointed by the Chief Justice of the Supreme Court; and
3. One member shall be appointed by the Presiding Judge of the Court of Criminal Appeals.

The members shall hold their offices coterminous with that of the Governor and shall be removable for cause only in the manner provided by law for elective officers not liable to impeachment.

B. The Chairman of the Board shall be selected by said Board. The members of said Board shall receive Seven Thousand Two Hundred Dollars (\$7,200.00) per annum, payable monthly; provided, that failure on the part of any member to attend Board meetings during any month will preclude his right to said month's compensation except in case of justifiable cause. In addition, the Chairman and members of said Board shall receive expenses while attending and going to and from meetings of the Board and in performing their official duties, according to the State Travel Reimbursement Act. Such compensation shall be paid by the State Treasurer by state warrant drawn against funds appropriated for such purpose by the Legislature. Hours worked by Board members shall be exempt from full-time-equivalent employee limits.

C. The Board shall be residents of this state. The members shall have training or experience in social work, law, juvenile or criminal justice, or related behavioral sciences. A member may not be an employee of the Department of Juvenile Justice, other than in his capacity as a member of the Board, and may not hold any public office during the tenure of his appointment. A member may not hold

any position in the state's juvenile justice system or be an employee, officer, advisor, policy board member or subcontractor of any juvenile justice agency or its contractor during the tenure of his appointment.

D. The Board has responsibility for the parole release, the parole rescission and the parole revocation of juveniles adjudicated delinquent who have been committed to the custody of the Department. The Board shall determine when and under what conditions such juveniles who have been committed to the custody of the Department are eligible for parole.

E. The Board:

1. Shall make an impartial investigation and study of applications for parole and by a majority vote decide on the granting or denial of parole for any juvenile adjudicated delinquent;

2. Shall establish rules for its governance, meetings, hearings, the conduct of proceedings before it, the parole of juveniles adjudicated delinquent and the general conditions under which parole may be granted, rescinded, revoked or modified;

3. Shall provide parole services for juveniles adjudicated delinquent and may enter into agreements to supplement parole services to juveniles released on parole in any county;

4. May participate in federal programs for juvenile parole officers and may apply for, receive, use and administer federal funds for such purpose; and

5. Shall employ such persons necessary to implement the provisions of this chapter including, but not limited to, clerical, parole officers, attorneys, professional investigators, social workers and administrative personnel.

SECTION 68. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-5-103 of Title 10, unless there is created a duplication in numbering, reads as follows:

All parole officers shall be deemed peace officers and shall possess the powers granted by law to peace officers. Parole officers shall meet all of the training and qualifications for peace officers required by Section 3311 of Title 70 of the Oklahoma Statutes. Qualifications for parole officers shall be good character. Parole officers shall have obtained a bachelor's degree from an accredited college or university including at least twenty-four (24) credit hours in any combination of psychology, sociology, social work, criminology, education, criminal justice administration, penology or police science.

SECTION 69. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-5-104 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

B. The Board shall implement parole release plans and shall supervise juveniles adjudicated delinquent while on parole.

SECTION 70. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-5-105 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Conditions of parole shall be specified in writing and agreed to by the juvenile adjudicated delinquent. That agreement shall be evidenced by the signature of the juvenile affixed to the parole document.

B. Each juvenile shall be served with notice of parole hearings and has the right to personally appear before the Board for parole consideration.

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

SECTION 71. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-5-106 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

B. Before returning a juvenile to a secure facility for a parole revocation hearing, the Board shall provide a prerevocation hearing within the vicinity of the alleged violation to determine whether there is probable cause to believe that the juvenile violated the conditions of his parole. Upon a finding of probable cause, the juvenile may be remanded to a secure facility pending a revocation hearing.

C. A paroled juvenile is entitled to legal representation at the parole revocation hearing, and if the juvenile or his family has requested but cannot afford legal representation, the authority shall appoint legal counsel.

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

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

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

G. The Board shall maintain summary records of all hearings and provide written notice to the juvenile of the decision and reason for the decision in the case.

H. The Board may issue a warrant to order any peace officer or parole officer to retake a juvenile alleged to be in violation of parole conditions, to be in violation of court-ordered observation and assessment, community placement, or who has escaped from a secure facility. Based upon that warrant, a juvenile may be held in a local detention facility for no longer than forty-eight (48) hours, excluding weekends and legal holidays, to allow time for court review of allegations of community placement violations, a prerevocation hearing of alleged parole violation, or in the case of an escapee, arrangement for transportation to the secure facility.

SECTION 72. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-5-107 of Title 10, unless there is created a duplication in numbering, reads as follows:

A juvenile, or the parent or legal guardian of a juvenile, may appeal any decision of the Board regarding parole release, rescission or revocation to the district court. The district court may set aside or remand the Board's decision only if it is arbitrary, capricious, an abuse of discretion or contrary to law.

ARTICLE VI

Commission on Children and Youth

Part 1. General Definitions

SECTION 73. AMENDATORY 10 O.S. 1991, Section 600, is amended to read as follows:

Section 600. As used in ~~Sections 2 through 14 of this act~~ article:

1. "Children and youth service system" means health, mental health, social, rehabilitative assistance and educational services

provided to children and youth by and through the courts and public and private agencies;

2. "Client" means a child or a family member of a child who is receiving services through the children and youth service system;

3. "Commission" means the Oklahoma Commission on Children and Youth;

4. "Council" means the Oklahoma Planning and Coordinating Council for Services to Children and Youth;

5. "District boards" means the local district planning and coordinating body for services to children and youth established pursuant to Section ~~13~~ 1100-6-606 of this ~~act~~ Code;

6. "District" means the local planning and coordinating areas within each region established pursuant to Section ~~13~~ 1100-6-606 of this ~~act~~ Code;

7. "Regional board" means the regional planning and coordinating board for services to children and youth appointed by the Commission pursuant to Section ~~13~~ 1100-6-606 of this ~~act~~ Code;

8. "Region" means the regional planning and coordinating bodies established pursuant to Section ~~13~~ 1100-6-606 of this ~~act~~ Code;

9. "State and state-supported services to children and youth" means services to children and youth, offered or provided by a public or private agency or organization, that are supported in whole or in part through state funds or federal funds administered by the state; and

10. "State Plan for Services to Children and Youth" means the planning document required by Section ~~12~~ 1100-6-605 of this ~~act~~ Code.

Part 2. Oklahoma Commission on Children and Youth

SECTION 74. AMENDATORY 10 O.S. 1991, Section 601.1, as amended by Section 5, Chapter 299, O.S.L. 1993 (10 O.S. Supp. 1993, Section 601.1), is amended to read as follows:

Section 601.1 There is hereby created the Oklahoma Commission on Children and Youth which shall be composed of sixteen (16) members. The membership shall include:

1. The Director of the Department of Human Services, the State Commissioner of Health, the Commissioner of the Department of Mental Health and Substance Abuse Services, the State Superintendent of Public Instruction, and the Chairman of the SJR 13 Oversight Committee, or their designees. A designee shall be a person knowledgeable regarding programs and services for children and youth provided by the agency the designee represents and shall have authority to act on the Commission for the designating officer;

2. The ~~Administrator~~ Executive Director of the Department of Juvenile Justice or a designee. A designee shall be a person knowledgeable regarding programs and services for children and youth provided by the ~~Office~~ Department of Juvenile Justice ~~of the Department of Human Services~~ and shall have authority to act on the Commission for the ~~Administrator~~ Executive Director of the Department of Juvenile Justice;

3. Five members who shall be appointed by the Governor from a list submitted by the governing board of each of the following organizations:

- a. a statewide association of children's institutions and agencies,
- b. a statewide association of youth services,
- c. the Oklahoma Bar Association,
- d. the Oklahoma District Attorney's Association, and
- e. a statewide court-appointed Special Advocate Association;

4. ~~One member appointed by the Governor who shall represent one of the metropolitan juvenile bureaus;~~

5. ~~One member~~ Two members from the public at large, appointed by the Governor;

~~6.~~ 5. One member, from the public at large, appointed by the Speaker of the House of Representatives;

~~7.~~ 6. One member, from the public at large, appointed by the President Pro Tempore of the Senate; and

~~8.~~ 7. One member elected by the Oklahoma Planning and Coordinating Council for Services to Children and Youth as provided by Section ~~601.8~~ 1100-6-604 of this ~~title~~ Code. Said elected member shall serve a two-year term and may be reelected.

The appointed members shall have had active experience in services to children and youth, shall serve for a term of two (2) years, and may be reappointed.

SECTION 75. AMENDATORY 10 O.S. 1991, Section 601.2, is amended to read as follows:

Section 601.2 A. The members of the Oklahoma Commission on Children and Youth, shall be appointed on or before July 1, 1982, and within thirty (30) days after their appointment, shall organize and elect a chairman. The chairman shall be elected annually by the Commission members. The Commission shall hold at least four (4) regular quarterly meetings each year and such other special meetings as may be necessary at the call of the Chairman or by a majority of the members of the Commission. Special meetings may be called on notice given at least five (5) days in advance of the date of such meetings. At any regular or special meeting of the Commission, eight members shall constitute a quorum, and a concurring vote of a majority of the members of the Commission present shall be necessary to conduct official business of the Commission.

B. Members of the Oklahoma Commission on Children and Youth shall be reimbursed for travel expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act.

C. The Oklahoma Commission on Children and Youth shall be subject to the provisions of the Administrative Procedures Act.

D. The Attorney General of the State of Oklahoma shall serve as legal counsel for the Oklahoma Commission on Children and Youth and shall assist the Commission in the performance of its designated duties.

Part 3. Powers and Duties

SECTION 76. AMENDATORY 10 O.S. 1991, Section 601.3, is amended to read as follows:

Section 601.3 The Oklahoma Commission on Children and Youth ~~is hereby authorized and directed to~~ shall:

1. Establish and maintain the Office of Planning and Coordination for Services to Children and Youth;
2. Establish and maintain the Office of Juvenile System Oversight; and
3. Designate district and regional planning and coordination areas and district and regional boards for services to children and youth and, within the limitations of available funds, whether appropriated or otherwise available, provide staff, technical assistance and other assistance as necessary and appropriate to the district and regional boards.

SECTION 77. AMENDATORY 10 O.S. 1991, Section 601.4, is amended to read as follows:

Section 601.4 The Oklahoma Commission on Children and Youth is further authorized to:

1. Facilitate joint planning and service coordination among public and private agencies that provide services to children and youth;
2. Prepare and publish reports;
3. Review the programs, policies and services for children and youth provided by public and private agencies for compliance with established state policies and progress towards goals identified in planning documents relating to children and youth services and to make reports regarding said compliance and progress;

4. Accept appropriations, gifts, loans and grants from the state and federal government and from other sources, public or private;

5. Enter into agreements or contracts for the development of test models or demonstration programs and projects and for programs of practical research for effective services to children and youth; provided that the administration of ~~contract~~ agreements or contracts for such model programs and projects shall, within five (5) years of their inception, be transferred to an appropriate agency or the program or project shall be discontinued;

6. Secure necessary statistical, technical, administrative, operational and staff services by interagency agreement or contract;

7. Examine all records, plans, budgets and budget documents pertaining to the children and youth service system;

8. Exercise all incidental powers as necessary and proper for the performance of the duties and responsibilities of the Commission; and

9. Promulgate rules and regulations as necessary to carry out the duties and responsibilities assigned to the Oklahoma Commission on Children and Youth.

SECTION 78. AMENDATORY 10 O.S. 1991, Section 601.5, is amended to read as follows:

Section 601.5 The Oklahoma Commission on Children and Youth shall appoint a Director who shall be a person having experience in the operation and administration of services to children and youth. Such Director shall be appointed for a term of two (2) years, and may be reappointed. Such Director may be dismissed only for cause. The Director shall:

1. Employ such staff as may be necessary to perform the duties of the Commission, with the advice and approval of the Commission;

2. Prepare the State Plan for Services to Children and Youth, the Annual Report required by Section ~~601.9~~ 1100-6-605 of this title

Code, other reports as necessary and appropriate and an annual budget for the approval of the Commission;

3. Formulate and recommend rules and regulations for approval or rejection by the Commission;

4. Serve as chief executive officer of the Oklahoma Commission on Children and Youth; and

5. Act as agent as authorized for the Commission in the performance of its duties.

SECTION 79. AMENDATORY 10 O.S. 1991, Section 620.1, is amended to read as follows:

Section 620.1 A. The purpose of ~~this act~~ Sections 1100-6-304 through 1100-6-309 of this Code is to ensure efficient, cost effective delivery of state services and accountability in the delivery of state services to children and their families through the establishment of uniform administrative rules governing the maintenance, transfer and release of confidential information between public and private agencies that provide services to children and their families in order to:

1. Facilitate access to health, mental health, social and related services that are made available through state and federal funds for children and families;

2. Remove unnecessary and cumbersome impediments to the delivery of such services; and

3. Better provide for the expeditious, coordinated and cooperative delivery of services by establishing a uniform system of rules, procedures and forms for the maintenance, transfer and release of confidential information to be used by state, county and private agencies, boards of education, and area vocational-technical education districts, pursuant to the provisions of this act.

B. For the purpose of ~~this act~~ Sections 1100-6-304 through 1100-6-309 of this Code, "confidential information" means any information regarding a child receiving services supported in whole

or in part by state or federal funds, a family member of such child, or other persons residing in the home of such child, and which is required by state or federal law or regulation to be maintained in a confidential manner.

C. Nothing in ~~this act~~ Sections 1100-6-304 through 1100-6-309 of this Code shall be construed to authorize the release of confidential information except pursuant to an informed consent as provided in Section 4 1100-6-307 of this ~~act~~ Code, a court order, or as otherwise provided by law.

SECTION 80. AMENDATORY 10 O.S. 1991, Section 620.2, is amended to read as follows:

Section 620.2 A. The Oklahoma Commission on Children and Youth shall appoint a task force composed of the directors, or their designees, of the agencies listed in Section 3 1100-6-306 of this ~~act~~ Code and, as appropriate, representatives of other public and private agencies that provide services to children and their families. The task force shall:

1. On or before November 1, 1990, establish guidelines for the development of uniform administrative rules, procedures and forms related to the maintenance, transfer and release of confidential information required pursuant to the provisions of this ~~act~~ Code;

2. On or before January 1, 1991, revise the proposed rules, procedures and forms prepared by the agencies for uniformity and compliance with the guidelines established by the task force. The task force shall make recommendations to the agencies for modifications to the proposed rules, procedures and forms as necessary to ensure uniformity and compliance with the established guidelines;

3. On or before April 1, 1991, develop a manual which clearly describes applicable state and federal laws, rules, procedures and forms for the maintenance, transfer and release of confidential information. Said manual shall be published by the Oklahoma

Commission on Children and Youth and each agency providing services to children and their families shall be responsible for necessary copying and distribution, to ensure that employees involved in the delivery of services to children and their families are provided copies of the manual and are trained regarding the content and application of the information contained in the manual; and

4. Beginning on April 1, 1991, meet not less than annually and more often as necessary, as determined by the Oklahoma Commission on Children and Youth, for the purpose of reviewing proposed or necessary amendments to the rules, procedures or forms adopted pursuant to this act in order to ensure the continuing consistency and uniformity of said rules, procedures and forms and to provide for necessary revisions of the manual.

B. Each agency listed in Section ~~3~~ 1100-6-905 of this ~~act~~ Code shall provide information and staff assistance as necessary to prepare the rules, procedures, forms and manual required by this act.

C. Beginning on April 1, 1991, each agency listed in Section ~~3~~ 1100-6-905 of this ~~act~~ Code shall forward to the Oklahoma Commission on Children and Youth copies of proposed amendments to the rules, procedures and forms adopted pursuant to this act.

SECTION 81. AMENDATORY 10 O.S. 1991, Section 620.3, is amended to read as follows:

Section 620.3 A. ~~Prior to April 1, 1991, the~~ The following agencies shall promulgate uniform rules and adopt uniform procedures and forms for the maintenance, transfer and release of confidential information:

1. Department of Human Services;
2. Department of Mental Health and Substance Abuse Services;
3. Oklahoma State ~~Department~~ Board of Health;
4. State Department of Education;
5. State Department of Vocational and Technical Education;

6. Oklahoma Commission on Children and Youth;
7. J. D. McCarty Center for Children with
Developmental Disabilities; ~~and~~
8. Department of Corrections; and
9. Board of Juvenile Justice.

B. Private agencies receiving public funds pursuant to a grant or contract with a state agency listed in subsection A of this section and providing institutional, community residential or community-based services, as defined by Section 1101 of Title 10 of the Oklahoma Statutes, to children and families, shall comply with the rules regarding the maintenance, transfer and release of confidential information adopted by the governing board of the state agency or agencies from which they receive funds.

C. The provisions of this act shall not apply to court records of juvenile cases maintained by the district courts. ~~The supervising judge of a statutorily constituted juvenile bureau may establish court rules for the transfer and release of other confidential information maintained by the juvenile bureau which substantially conform with the rules, forms and procedures promulgated and adopted by state agencies pursuant to the provisions of this act.~~

SECTION 82. AMENDATORY 10 O.S. 1991, Section 620.4, is amended to read as follows:

Section 620.4 A. The rules promulgated and the procedures and forms adopted pursuant to Sections 1100-6-304 through 1100-6-309 of this act Code shall include, but not be limited to:

1. Provision for the maintenance, transfer and release of confidential information;
2. Compliance with all applicable state and federal laws and regulations regarding the transfer and release of confidential information;

3. If not otherwise specifically limited by law, authorization for the transfer or release of confidential information only pursuant to paragraph 5 of this subsection, a court order or an informed consent for the transfer or release of said information that has been executed by:

- a. the parent or guardian of the child or other person authorized by state or federal law to execute said consent, if the subject of the confidential information is a child, or
- b. the individual who is the subject of said confidential information or other person authorized by law to execute said consent on his behalf, if the subject of the confidential information is an adult;

4. Establishment of a uniform informed consent form and uniform procedures for obtaining informed consents, which shall include, but not be limited to, information which shall be provided to a person executing an informed consent prior to such execution;

5. Establishment of uniform procedures for authorizing access to confidential information for the purpose of gathering statistical information or conducting studies or research as otherwise authorized by law;

6. Establishment of uniform charges, if any, for the costs of copying and mailing records;

7. Provision for the maintenance of the confidentiality of information by persons and agencies receiving confidential information; and

8. Compliance with the provisions of the Administrative Procedures Act.

B. The uniform rules may include special rules for particular programs which are subject to federal rules.

SECTION 83. AMENDATORY 10 O.S. 1991, Section 620.5, is amended to read as follows:

Section 620.5 A. The local board of education of each school district and each area vocational-technical education school district shall adopt policies and procedures for the transfer and release of confidential information to the agencies listed in Section ~~3~~ 1100-6-306 of this ~~act~~ Code, to persons and agencies subject to the rules promulgated by said agencies pursuant to this act, ~~and to statutorily-constituted juvenile bureaus~~. The policies and procedures adopted by said boards shall comply with the requirements for state agency rules listed in Section 4 1100-6-307 of this ~~act~~ Code for the transfer and release of confidential information.

B. A local board of education may adopt in whole or in part the rules, procedures and forms promulgated and adopted by the State Board of Education, and each area vocational-technical education school board may adopt in whole or in part the rules, procedures and forms promulgated and adopted by the State Board of Vocational and Technical Education.

SECTION 84. AMENDATORY 10 O.S. 1991, Section 620.6, is amended to read as follows:

Section 620.6 A. The task force established pursuant to Section ~~620.2~~ 1100-6-305 of ~~Title 10 of the Oklahoma Statutes~~ this Code, with the cooperation and assistance of the Serious and Habitual Juvenile Offender Program Implementation Task Force, shall prepare proposed guidelines and the form and content of proposed interagency agreements for the inspection, release, disclosure, sealing and expungement of information contained in the records defined by Section ~~9~~ 1100-9-101 of this ~~act~~ Code. Said guidelines shall:

1. Be in compliance with applicable state and federal laws providing for the confidentiality of records and information;
2. Provide for the inspection, release or disclosure of only the information necessary and appropriate, and only to the extent

necessary, for the purpose for which such inspection, release or disclosure is made.

B. On or before July 1, 1993, the agencies listed in subsection A of Section ~~620.3~~ 1100-6-306 of ~~Title 10 of the Oklahoma Statutes~~ this Code and the agencies comprising the juvenile justice system as defined by Section ~~2~~ 1100-4-7110 of this ~~act~~ Code shall, and the agencies comprising the children and youth service system as defined by Section ~~600~~ 1100-6-101 of ~~Title 10 of the Oklahoma Statutes~~ this Code may:

1. Adopt rules, policies, procedures, standards, protocols and guidelines, as appropriate, for the inspection, release, disclosure, sealing and expungement of confidential records in accordance with the proposed guidelines prepared pursuant to subsection A of this section; and

2. Enter into contracts or interagency agreements under the Interlocal Cooperation Act for the sharing or disclosure of confidential information in accordance with said rules, policies, procedures, standards, protocols and guidelines.

Part 4. Funds

SECTION 85. AMENDATORY 10 O.S. 1991, Section 601.10, is amended to read as follows:

Section 601.10 There is hereby created in the State Treasury a revolving fund for the Oklahoma Commission on Children and Youth, to be designated the "Oklahoma Commission on Children and Youth Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Commission on Children and Youth, from contracts with other state agencies or institutions, and ~~not excluding~~ any other source of revenue. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Director of the Oklahoma Commission on Children and Youth for the purpose of paying for operating expenses of the Oklahoma Commission

on Children and Youth. 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.

Part 5. Office of Juvenile System Oversight

SECTION 86. AMENDATORY 10 O.S. 1991, Section 601.6, is amended to read as follows:

Section 601.6 A. The Office of Juvenile System Oversight shall have the responsibility of investigating and reporting misfeasance and malfeasance within the children and youth service system, inquiring into areas of concern, investigating complaints filed with the Office of Juvenile System Oversight, and monitoring the children and youth service system to ascertain compliance with established responsibilities.

It shall be the duty of the Office of Juvenile System Oversight to conduct regular, periodic, but not less than semiannual, unannounced inspections of state-operated ~~children's~~ institutions and facilities for children and to review the reports of the inspections of the State Fire Marshal and the Department of Health and any agencies which accredit such institutions and facilities.

B. The Office of Juvenile System Oversight shall have the authority to:

1. Examine all records and budgets pertaining to the children and youth service system and shall have access to all facilities within the children and youth service system for the purpose of conducting site visits and speaking with the residents of such facilities;

2. Subpoena witnesses and hold public hearings;

3. Issue reports to the Governor, Speaker of the House of Representatives, President Pro Tempore of the Senate, Chief Justice of the Supreme Court of the State of Oklahoma, any appropriate prosecutorial agency, the director of the agency under

consideration; and such other persons as necessary and appropriate;
and

4. Publish its findings and recommendations on an annual basis to be made available to members of the general public upon request, and such special findings and reports as deemed necessary.

Part 6. Planning and Coordination for
Services to Children and Youth

SECTION 87. AMENDATORY 10 O.S. 1991, Section 601.6a, is amended to read as follows:

Section 601.6a The Office of Planning and Coordination for Services to Children and Youth shall:

1. Convene meetings of public and private agencies that provide services to children and youth for the purpose of facilitating and implementing joint planning and service coordination among said agencies;

2. Provide the Oklahoma Planning and Coordinating Council for Services to Children and Youth with fiscal and other information related to the children and youth service system necessary to assist said Council with the performance of its duties and responsibilities;

3. Annually prepare, with the advice and assistance of the Council and affected public and private agencies, the State Plan for Services to Children and Youth for the approval of the Oklahoma Commission on Children and Youth;

4. Examine all plans, budgets and related documents pertaining to the planning, coordination and development of the children and youth service system;

5. Review, monitor and evaluate the children and youth service system regarding the development of services, progress towards effective joint planning and service coordination, and compliance with established state policies and goals; and

6. Issue reports to the Governor, Speaker of the House of Representatives, President Pro Tempore of the Senate, Chief Justice of the Supreme Court of the State of Oklahoma, public and private agencies, and such other persons as necessary and appropriate.

SECTION 88. AMENDATORY 10 O.S. 1991, Section 601.6b, is amended to read as follows:

Section 601.6b A. ~~Beginning July 1, 1991, and on~~ On or before July 1 of each year ~~thereafter~~, the Commission shall transmit to the Director of State Finance and to the director of each affected agency a copy of the State Plan for Services to Children and Youth for the next fiscal year.

B. The Director of the Office of State Finance, in accordance with procedures mutually agreed upon by the Office of State Finance and the Commission, shall regularly compile and transmit to the Office of Planning and Coordination for Services to Children and Youth, by agency and appropriate service category, past, current and projected expenditures, budget requests, and other fiscal information related to state and state-supported services to children, youth and families.

C. ~~Beginning on September 1, 1991, and on~~ On or before September 1 of each year ~~thereafter~~, the Director of State Finance shall compile, in a form agreed upon by the Office of State Finance and the Commission, and provide to the Office of Planning and Coordination for Services to Children and Youth copies of the budget requests for the next fiscal year by state agencies that provide services to children, youth and families. The Office of Planning and Coordination for Services to Children and Youth shall review said budget requests and report to the Commission, the Governor, the Director of State Finance, and each affected agency director the extent to which the budget requests conform with or differ from the goals and priorities established in the State Plan for Services to

Children and Youth, including but not limited to, specific areas of conformity or nonconformity.

D. The Office of Planning and Coordination shall annually monitor and evaluate the implementation of the goals, priorities and recommendations included in the State Plan for Services to Children and Youth and shall make reports and provide information to the Commission, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the chairmen of the appropriations committees of the Legislature and the affected agency directors as necessary and appropriate to provide assistance for the implementation of said Plan.

SECTION 89. AMENDATORY 10 O.S. 1991, Section 601.7, as amended by Section 6, Chapter 299, O.S.L. 1992 (10 O.S. Supp. 1993, Section 601.7), is amended to read as follows:

Section 601.7 A. There is hereby created the Oklahoma Planning and Coordinating Council for Services to Children and Youth which shall consist of a minimum of twenty-five (25) and a maximum of fifty (50) members, appointed by the Oklahoma Commission on Children and Youth. In appointing persons to serve as members of the Oklahoma Planning and Coordinating Council for Services to Children and Youth, the Commission shall adhere to the following guidelines:

1. Persons holding the following positions or such persons' designee, shall be requested to serve as members of the Council:

- a. the Directors of the Oklahoma Department of Corrections, the Department of Juvenile Justice, the Oklahoma State Bureau of Investigation, the Department of Commerce, the Employment Security Commission, and the Indian Affairs Commission~~†~~
- b. the Chiefs of Guidance Services, Maternal and Child Health Service and Women, Infants and Childrens Service of the State Department of Health~~†~~

- c. the Coordinators for Children and Youth Services and Substance Abuse Services of the Department of Mental Health and Substance Abuse Services~~†~~,
- d. the Supervisors of Child Welfare and Community-Based Youth Services of the Division of Children and Youth Services of the Department of Human Services and Representatives of each of the following Divisions of the Department of Human Services: Medical Services; Family Support Services; Field Services; Rehabilitative Services; and Developmentally Disabled Services~~†~~ or their successors,
- e. ~~the Administrator of the Office of Juvenile Justice and~~ the Supervisors of Institutional Services, Youth Services, and Juvenile Services of the ~~Office~~ Department of Juvenile Justice~~†~~ or their successors,
- f. the Administrators of the Special Education Services, Gifted and Talented Services, Guidance and Counseling Services and Research and Testing Services of the State Department of Education~~†~~,
- g. the State Board of Regents for Higher Education and the State Board of Vocational and Technical Education~~†~~, and
- h. the President, Chairman, or Director, as appropriate, of professional and civic organizations related to children, youth and family services, including, but not limited to: the Oklahoma Education Association; the Oklahoma Association of Children's Institutions and Agencies; the Oklahoma Association of Youth Services; the Oklahoma Health and Welfare Association; the Oklahoma Public Health Association; the Oklahoma Chapter of the National Association of Social Workers; the Oklahoma Sheriffs and Peace Officers Association;

the Oklahoma Chamber of Commerce and the Academy for State Goals~~;~~;

2. The elected representatives of each of the regional planning and coordinating boards for children and youth services~~;~~;

3. There shall be additional members appointed from among the following groups: business; judiciary; labor; law enforcement; media; parents; volunteer service organizations; child care facilities; community-based services to children, youth and families; community mental health services; inpatient mental health services; common education, local entities; higher education; and vocational-technical education~~;~~; and

4. Additional members may be appointed at the discretion of the Commission.

B. Members of the Oklahoma Planning and Coordinating Council for Services to Children and Youth shall serve for a term of two (2) years, and may be reappointed.

C. Members of the Oklahoma Planning and Coordinating Council for Services to Children and Youth shall serve without compensation but may be reimbursed in accordance with the provisions of the State Travel Reimbursement Act.

D. Staff assistance for the Oklahoma Planning and Coordinating Council for Services to Children and Youth shall be provided by the Oklahoma Commission on Children and Youth through interagency agreement or contract with the Department of Human Services and other state agencies as necessary.

SECTION 90. AMENDATORY 10 O.S. 1991, Section 601.8, is amended to read as follows:

Section 601.8 A. The Oklahoma Planning and Coordinating Council for Services to Children and Youth shall meet a minimum of four times a year and shall serve as an advisory body to the Office of Planning and Coordination for Services to Children and Youth for the planning, coordination, development and improvement of services

to children and youth. The Council shall make recommendations and for the State Plan for Services to Children and Youth regarding services to children and youth to the Oklahoma Commission on Children and Youth; the Department of Human Services; the Department of Juvenile Justice; the Department of Health; the Department of Mental Health and Substance Abuse Services; the Department of Education; and other appropriate public and private agencies.

B. The Council shall elect from among its membership an individual who is not an employee of a state agency represented on the Commission to serve as a member of the Commission. Said elected member shall serve for a term of two (2) years and may be reelected.

C. Prior to July 1 of each year, the Oklahoma Planning and Coordinating Council for Services to Children and Youth shall forward to the members of the Oklahoma Commission on Children and Youth and to each agency affected by the report, a report of its recommendations for inclusion in the annual State Plan for Services to Children and Youth and shall also make other reports and recommendations to the Commission as necessary and appropriate for inclusion in the annual report of the Commission.

SECTION 91. AMENDATORY 10 O.S. 1991, Section 601.9, is amended to read as follows:

Section 601.9 The Oklahoma Commission on Children and Youth shall, with the assistance of the Oklahoma Planning and Coordinating Council for Services to Children and Youth, evaluate and review the development and quality of services to children and youth and shall:

1. Publish and distribute an annual report of its findings on or before January 1 of each year to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Chief Justice of the Supreme Court of the State of Oklahoma, and to the chief administrative officer of each agency affected by the report. Such report shall include activities of the Commission,

recommendations for the further development and improvement of services to children and youth, and budget and program needs; and

2. ~~Beginning July 1, 1991, and on~~ On or before July 1 of each year ~~thereafter~~, the Commission shall publish a State Plan for Services to Children and Youth for the next succeeding fiscal year. The State Plan for Services to Children and Youth shall:

- a. identify and establish goals and priorities for services for children and youth, and the estimated costs of implementing said goals and priorities,
- b. show previous and current expenditures for state and state-supported services to children and youth,
- c. include such other information or recommendations as may be necessary and appropriate for the improvement and coordinated development of the children and youth service system, and
- d. be distributed as provided by paragraph 1 of this section and shall be made available to the general public.

SECTION 92. AMENDATORY 10 O.S. 1991, Section 601.11, is amended to read as follows:

Section 601.11 A. There are hereby created regional and district planning and coordination boards for services to children and youth:

1. Each district board shall be composed of representatives of public and private agencies and organizations, representatives of local health departments and private individuals in accordance with the guidelines established by the Oklahoma Commission on Children and Youth. Each district board shall include but not be limited to representatives of the Department of Human Services, the Department of Juvenile Justice, the State Department of Health, the Department of Mental Health and Substance Abuse Services, local school districts, representatives of private child and family services and

programs within the district and representatives of other private agencies and organizations;

2. The membership of each regional board shall be composed of the elected representatives of each of the district boards within the respective regions.

B. The Commission on Children and Youth shall designate regional planning and coordination areas for services to children and youth within the state and shall designate local district planning and coordination areas within each region.

C. Prior to January 1, 1991, the Commission shall appoint the members and shall select and appoint a coordinator for each regional and district board and shall appoint successors for said members and coordinators if vacancies should occur.

D. After January 1, 1991:

1. Each regional and district board shall elect a coordinator from among its membership. The elected coordinators shall serve two-year terms and may be reelected;

2. Membership shall be in accordance with the bylaws of the district board and guidelines of the Commission. The members of the district boards shall serve a two-year term and may be reappointed;

3. Each district board shall elect two individuals from among its membership, one to serve as its representative on the regional board for that area and one to serve as an alternate representative. Said representative may be, but shall not be required to be, the coordinator for that district; and

4. Each regional board shall elect an individual from among its membership to serve as its representative on the Oklahoma Planning and Coordinating Council for Services to Children and Youth. Said representative may be, but shall not be required to be, the coordinator for that region.

E. The Oklahoma Commission on Children and Youth shall:

1. Establish guidelines for the election of coordinators of the regional and district boards;

2. Establish guidelines for the membership of the district planning and coordination boards for services to children and youth which will assure an opportunity for broad community participation and the representation of both urban and rural concerns in the planning process;

3. Establish guidelines for the coordination, preparation and implementation of the regional and district plans for children and youth services; and

4. Provide administrative support and technical assistance to the regional and district boards as otherwise provided by this act.

F. Nothing in this ~~act~~ Code shall prohibit local municipalities or counties from establishing planning and coordinating bodies for services to children and youth and providing information and recommendations to the regional and district boards established by this ~~act~~ section.

SECTION 93. AMENDATORY 10 O.S. 1991, Section 601.12, is amended to read as follows:

Section 601.12 A. Each regional and district board shall prepare and implement a plan for children and youth services and for the development and coordination of such services within its region or district. The regional and district plans shall be transmitted to the Office of Planning and Coordination for Services to Children and Youth and shall be reviewed by said Office and the Oklahoma Planning and Coordinating Council for Services to Children and Youth in the preparation of the State Plan for Services to Children and Youth and other reports and recommendations of said Office and the Council.

B. Each regional and district board shall develop a written statement clearly identifying its operating procedures, purpose,

overall responsibilities and method of meeting those responsibilities.

C. The district plan shall include, but not be limited to:

1. A description of programs currently serving children and youth, including information on impact of programs, cost effectiveness and sources of funding;

2. A continuum of programs and services which would be necessary for a comprehensive approach for the development and coordination of services to children and youth as well as a brief description of such programs and services;

3. A plan for steps to be taken in meeting identified needs, including the coordination and integration of services to avoid unnecessary duplication and cost, and alternative funding strategies for meeting needs through the reallocation of existing resources, utilization of volunteers, contracting with local universities and local government or private agency funding;

4. A description of barriers to the accomplishment of a comprehensive approach to the development and coordination of services to children and youth; and

5. Recommendations for any necessary changes that can be accomplished administratively or which may require legislative action.

D. The regional plan shall include and incorporate the components listed in subsection C of this section and the plans prepared by each district within the region. The regional plan shall be reviewed by the district boards within the region prior to the transmission of the regional plan to the Office of Planning and Coordination for Services to Children and Youth.

Part 7. Juvenile Justice Advisory and Oversight Committee

SECTION 94. AMENDATORY 10 O.S. 1991, Section 601.13, is amended to read as follows:

Section 601.13 A. In order to aid and assist the Department of ~~Human Services~~ Juvenile Justice in accomplishing its mission in regard to delinquent children and children in need of supervision there is hereby formed the Juvenile Justice Advisory and Oversight Committee to be composed of the following five (5) members:

1. One member who shall be a member of the public at large appointed by the Speaker of the House of Representatives;

2. One member who shall be a member of the public at large appointed by the President Pro Tempore of the Senate;

3. One member who shall be a member of the public at large appointed by the Governor;

4. One member who shall be a judge of the district court appointed by the Chief Justice of the Supreme Court; and

5. One member who shall be a district attorney appointed by the District Attorneys Council.

The member appointed by the Governor shall serve as the Chairman of the Committee.

B. The terms of office of the member appointed by the Speaker of the House of Representatives and the member appointed by the President Pro Tempore of the Senate shall expire on March 15, 1995, and each six (6) years thereafter; the term of the member appointed by the District Attorneys Council shall expire on March 15, 1997, and each six (6) years thereafter; and the terms of the member appointed by the Chief Justice of the Supreme Court and the member appointed by the Governor shall expire on March 15, 1999, and each six (6) years thereafter. Any member of the Committee may be removed from office in the manner provided by law for the removal of officers not subject to impeachment. Vacancies on the Committee shall be filled for the unexpired term by the original appointing authority.

C. The Committee shall have the following duties:

1. To review the policies and programs of the Department of ~~Human Services~~ Juvenile Justice concerning juveniles and make recommendations concerning those policies and programs to the ~~Commission for Human Services~~ Board of Juvenile Justice;

~~2. To review services provided by the Office of Juvenile Justice and make recommendations thereon;~~

~~3.~~ To review the funding of juvenile programs and make recommendations thereon;

~~4.~~ 3. To review any proposed settlement of lawsuits alleging negligent or other improper care and treatment of delinquent children or children in need of supervision while in Department custody and make recommendations thereon; and

~~5.~~ 4. To review statutory provisions relating to juveniles and make recommendations thereon.

The Committee may review and discuss information made confidential by ~~Section 1125 et seq. of this title Code~~ as may be necessary for the performance of the duties of the Committee, but shall maintain the confidentiality of such information as required by law. All discussions and any writings produced or created by the Committee in the course of its review of a proposed settlement of any lawsuit, including any recommendation by the Committee as the result of such review, shall be privileged and shall not be admissible as evidence in any proceeding.

D. The Committee shall meet at least four times a year on a quarterly basis and at such other times as it deems necessary for the purpose of considering the funding and reviewing the operational and capital needs of the ~~Office~~ Department of Juvenile Justice and to fulfill its other duties. The Committee shall formulate recommendations to be submitted to ~~the Administrator of Juvenile Justice~~, the Executive Director of the Department of ~~Human Services~~ Juvenile Justice, the ~~Commission for Human Services~~ Board of Juvenile Justice, the Speaker of the House of Representatives, the

President Pro Tempore of the Senate, and the Governor. One quarterly meeting of the Committee shall be held in conjunction with the regularly scheduled meeting of the ~~Commission for Human Services~~ Board of Juvenile Justice at which the budget request for the agency for the next fiscal year is considered for submission to the Office of State Finance. The Committee also may meet with the ~~Commission for Human Services~~ Board of Juvenile Justice at such other times as necessary. A majority of the members shall constitute a quorum for the purposes of conducting business. Members of the Committee shall serve without compensation but may be reimbursed in accordance with the provisions of the State Travel Reimbursement Act.

E. Administrative assistance for the Committee shall be provided by the ~~Office~~ Department of Juvenile Justice.

Part 8. Board of Child Abuse Examination

SECTION 95. AMENDATORY 10 O.S. 1991, Section 601.30, is amended to read as follows:

Section 601.30 A. For the purpose of establishing a statewide system to provide expert medical evaluation for children suspected to be the victims of child abuse or neglect, there is hereby created the Board of Child Abuse Examination within the Oklahoma Commission on Children and Youth.

B. The Board shall consist of seven (7) members as follows:

1. The Director of the State Bureau of Investigation or his designee;

2. The Commissioner of the State Department of Health or his designee;

3. The Director of the Department of Human Services or his designee;

4. The Director of the Oklahoma State District Attorneys Association or his designee;

5. The president of a statewide association of osteopathic physicians or his designee;

6. The president of a statewide association of allopathic physicians or his designee; and

7. The Chief Child Abuse Examiner provided for by Section ~~2~~ 1100-6-802 of this ~~act~~ Code. The Chief Child Abuse Examiner shall be a non-voting member of the Board.

B. 1. The Board shall annually elect one member to serve as chairman and one member to serve as vice-chairman.

2. The members of the Board shall receive no compensation for their services on the Board, but may be reimbursed pursuant to the State Travel Reimbursement Act.

3. The Board shall meet not less than quarterly and meet more frequently as necessary, as determined by the chairman. Five members shall constitute a quorum.

SECTION 96. AMENDATORY 10 O.S. 1991, Section 601.31, is amended to read as follows:

Section 601.31 A. The Oklahoma Commission on Children and Youth shall:

1. Adopt rules providing for:

- a. the training and continuing training requirements for the certification of allopathic and osteopathic physicians as certified Child Abuse Examiners and for the renewal, nonrenewal, suspension and revocation of such certification,
- b. the duties and responsibilities of certified Child Abuse Examiners, and
- c. uniform standards for medical examinations and evaluations of children suspected to be victims of child abuse or neglect and uniform forms for written reports of such examinations and evaluations;

2. Distribute an initial listing, and revised listings as often as necessary, of certified Child Abuse Examiners to:

- a. each county office of the Department of Human Services,
- b. each local county or city-county health department. Where there is no local health department, the listing shall be sent to the local county board of health,
- c. each district attorney, and
- d. other persons as necessary and advisable, upon the recommendation of the Board of Child Abuse Examiners;

3. With funds appropriated or otherwise available for such purpose, provide by contract for:

- a. the services of a physician to serve as Chief Child Abuse Examiner, and
- b. the establishment and implementation of a training program and continuing training program for the certification of physicians as Child Abuse Examiners and for consultation services to physicians in matters relating to child abuse and neglect through contracts with the medical schools of the University of Oklahoma and Oklahoma State University.

B. The Board of Child Abuse Examination shall:

1. Prepare the rules, standards and forms required by subsection A of this section, and amendments to said rules, standards and forms as necessary, for the approval of the Oklahoma Commission on Children and Youth;

2. In cooperation with the medical schools of the University of Oklahoma and Oklahoma State University, develop and maintain training programs and consultation services for physicians and certified Child Abuse Examiners;

3. In consultation and cooperation with the Department of Human Services, develop a uniform system of reimbursement for medical examinations and evaluations of cases of suspected child abuse or neglect which are compensable pursuant to Title XIX of the federal

Social Security Act for adoption by the Department of Human Services;

4. Develop and maintain an accurate listing of certified Child Abuse Examiners for distribution by the Commission; and

5. Engage in such other activities as necessary and appropriate for the establishment and maintenance of a statewide system of expert medical examination and evaluation of children suspected to be victims of child abuse and neglect, subject to the approval and authorization of the Commission.

C. The Chief Child Abuse Examiner shall be a physician with experience in the area of child abuse and neglect and as requested or directed by the Board shall:

1. Provide consultant services to the Board as necessary for the preparation of the rules, standards and forms required by subsection A of this section;

2. Assist the Board and the medical schools of the University of Oklahoma and Oklahoma State University, with the development, implementation, maintenance and coordination of the training programs required by this section;

3. Prepare written reports for the Board and the Commission regarding progress of the system established by this act; and

4. As requested by the Board, perform other duties as necessary to assist the Board in the performance of its duties and responsibilities.

Part 9. Act for Coordination of Special Services
to Children and Youth

SECTION 97. AMENDATORY 10 O.S. 1991, Section 601.41, is amended to read as follows:

Section 601.41 Sections ~~2~~ 1100-6-901 through ~~7~~ 1100-6-906 of this ~~act~~ Code shall be known and may be cited as the "Act for Coordination of Special Services to Children and Youth".

SECTION 98. AMENDATORY 10 O.S. 1991, Section 601.42, is amended to read as follows:

Section 601.42 As used in the Act for Coordination of Special Services to Children and Youth, ~~Section 601.41 et seq. of this title:~~

1. "Committee" means the Joint Legislative Committee for Review of Special Services to Children and Youth;

2. "Commission" means the Commission on Children and Youth;

3. "Coordinating Council" means the Interagency Coordinating Council for Special Services to Children and Youth appointed pursuant to Section ~~601.45~~ 1100-6-905 of this ~~title~~ Code;

4. "Eligible population" means children and youth three (3) to twenty-one (21) years of age who are identified as eligible for related services pursuant to an IEP;

5. "IEP" means an Individualized Education Program developed in accordance with the Education of All Handicapped Children Act of 1975, P.L. No. 94-142, as amended;

6. "Local education agency" means a dependent, independent, or area school district or other entity so defined by the Code of Federal Regulations, 34 C.F.R. Section 300.8;

7. "Related services" means services so defined by 34 C.F.R. Section 300.13;

8. "Special services population" means children and youth who are not part of the eligible population as defined herein but who are being served by or are eligible to be served by a school district pursuant to subsection B, C, D, E, F, or G of Section 1-113 of Title 70 of the Oklahoma Statutes or subsection D, E, or F of Section 18-110 of Title 70 of the Oklahoma Statutes; and

9. "State Plan" means the State Plan for Special Education and Special Student Service Coordination and Assistance developed pursuant to Section ~~601.46~~ 1100-6-906 of this ~~title~~ Code.

SECTION 99. AMENDATORY 10 O.S. 1991, Section 601.43, is amended to read as follows:

Section 601.43 A. It is the purpose of the Act for Coordination of Special Services to Children and Youth to provide for related services to the eligible population through a system of services that:

1. Is comprehensive, coordinated, multi-disciplinary and interagency and that, in accordance with the funding plan requirements in Section ~~601.46~~ 1100-6-906 of this ~~title~~ Code, will reduce the direct costs to educational agencies for the provision of related services to the eligible population;

2. Is delivered cooperatively by local education agencies, the State Department of Education, the State Department of Vocational and Technical Education, the Department of Human Services, the State Department of Health, the Department of Mental Health and Substance Abuse Services and other appropriate public agencies and private agencies supported in whole or in part with public funds;

3. Will fulfill the requirements of the state and federal laws pertaining to the eligible population; and

4. Enhances the capacity of families to meet the needs of their children who are members of the eligible population.

B. It is the further purpose of the Act for Coordination of Special Services to Children and Youth to provide for the determination of responsibilities for timely delivery of educational services to the special services population and for the costs of said service delivery.

C. Nothing in this ~~act~~ section shall be construed as relieving the public schools, the State Department of Education, the State Department of Health, the Department of Mental Health and Substance Abuse Services, the Department of Human Services or other publicly funded agencies or officers or employees thereof of their respective

responsibilities to the eligible population or the special services population.

SECTION 100. AMENDATORY 10 O.S. 1991, Section 601.44, is amended to read as follows:

Section 601.44 A. There is hereby created the Joint Legislative Committee for Review of Special Services to Children and Youth, which shall:

1. Meet with the Coordinating Council, and with other state officials and employees responsible for the implementation of ~~Section 601.41 et seq. of this title~~ the Act for Coordination of Special Services to Children and Youth at regular intervals as established by the committee and whenever otherwise necessary to ensure that the purposes of ~~Section 601.41 et seq. of this title~~ the Act for Coordination of Special Services to Children and Youth are accomplished promptly and thoroughly;

2. Recommend changes in proposed interagency agreements and the State Plan as deemed advisable;

3. Review said interagency agreements and State Plan and review subsequent revisions of said agreements and State Plan;

4. Hold hearings regarding any matters related to ~~Section 601.41 et seq. of this title~~ the Act for Coordination of Special Services to Children and Youth;

5. Monitor the implementation of ~~Section 601.41 et seq. of this title~~ the Act for Coordination of Special Services to Children and Youth; and

6. Recommend legislation to correct statutory provisions that interfere with interagency agreements or coordination or delivery of services or that is otherwise necessary for the implementation of ~~Section 601.41 et seq. of this title~~ the Act for Coordination of Special Services to Children and Youth, giving particular attention to Sections 1-113, 13-101 et seq. and 13-114.1 et seq. of Title 70 of the Oklahoma Statutes and to court orders, consent decrees, and

policies of state and local agencies which affect the placement of children and youth of the eligible and special services populations.

B. The Joint Legislative Committee for Review of Special Services to Children and Youth shall have eleven (11) members who shall be legislators and who shall serve at the pleasure of the appointing authority. Five members shall be appointed by the President Pro Tempore of the Senate and five members shall be appointed by the Speaker of the House of Representatives. The eleventh member, who shall be appointed by the President Pro Tempore for odd-numbered biennia of the Oklahoma Legislature and by the Speaker for even-numbered biennia, shall chair the Committee. No quorum shall be required for a meeting, but no motion shall have effect unless at least three members appointed by the President Pro Tempore and three members appointed by the Speaker are present and cast affirmative votes for such motion. Staff support services required by the Committee shall be provided by the Legislative Service Bureau and, as requested by the Committee, the Commission.

SECTION 101. AMENDATORY 10 O.S. 1991, Section 601.45, as last amended by Section 1, Chapter 373, O.S.L. 1992 (10 O.S. Supp. 1993, Section 601.45), is amended to read as follows:

Section 601.45 A. The Governor shall appoint an Interagency Coordinating Council for Special Services to Children and Youth which shall be composed of nineteen (19) members as follows:

1. One superintendent of an independent school district;
2. One principal of alternative education programs;
3. One special education director employed by a public school;
4. One special education teacher employed by a public school;
5. Five parents of children who are or have been members of the eligible population or the special services population;
6. The chief executive officers or their designees of the:
 - a. Commission on Children and Youth,
 - b. State Department of Education,

- c. State Department of Vocational and Technical Education,
- d. Department of Human Services,
- e. Department of Mental Health and Substance Abuse Services, and
- f. State Department of Health;

7. The ~~Administrator~~ Director of the Department of Juvenile Justice ~~for the Office of Juvenile Justice of the Department of Human Services;~~

8. Two persons who represent organizations of private providers of services to the eligible or special services populations; and

9. The Governor or the Governor's designee, who shall chair the Coordinating Council. Legal assistance shall be provided by the Office of the Attorney General. Other staff support and assistance shall be provided by the Commission on Children and Youth.

B. The Coordinating Council shall:

1. On or before July 1, 1993, complete the State Plan pursuant to the provisions of Section ~~601.46~~ 1100-6-906 of this ~~title~~ Code;

2. Prior to completion of the State Plan and approval of it by the Committee, make progress reports to the Committee at least once each quarter regarding development of the State Plan; and

3. After approval of the State Plan, monitor implementation of the plan, evaluate the plan, meet with the Committee concerning revisions whenever requested to do so, and on or before November 1, 1994, and November 1 of each subsequent year, submit a report on the implementation and evaluation of the State Plan to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

SECTION 102. AMENDATORY 10 O.S. 1991, Section 601.46, is amended to read as follows:

Section 601.46 A. The State Plan for Special Education and Special Student Service Coordination and Assistance shall include but not necessarily be limited to:

1. Delineation of service responsibilities and coordination of delivery of services to the eligible population and the special services population by the agencies subject to the provisions of this act;

2. Guidelines for assigning responsibilities to appropriate agencies pursuant to IEP's, and means whereby appropriate agency personnel are involved in the development of IEP's which call for related services;

3. Establishment of service regions, and delineation of organizational structures or other means whereby coordination required by ~~Section 601.41 et seq. of this title~~ the Act for Coordination of Special Services to Children and Youth will be accomplished at the local and regional level;

4. Establishment for each region of a Regional Advisory Board comprised of school personnel, other agency personnel, and parents, and description of duties for said boards;

5. Procedures for monitoring and improving such service delivery on a continuing basis;

6. Methods for resolving disputes by mediation and other means;
and

7. A funding and implementation plan which shall provide for the utilization of all financial resources from federal, state, local and private resources and the coordination of those resources to fund related services. The funding and implementation plan shall include but not be limited to:

- a. utilization of Special Education Assistance Fund monies pursuant to Section 13-114.1 et seq. of Title 70 of the Oklahoma Statutes and of State Aid funds to public schools provided pursuant to Section 18-200 et

seq. of Title 70 of the Oklahoma Statutes for special education services to handicapped children,

- b. publicly funded personnel and programs in the State Department of Education, the State Department of Vocational and Technical Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services who are currently serving the eligible population,
- c. feasibility of utilization of federal Title V funds,
- d. modification of the Medicaid State Plan to include services for eligible children utilizing state funds for the purpose of matching federal funds, and methods of securing services and reimbursements through other third-party sources, and
- e. feasibility of application for federal funds appropriated pursuant to Chapter 1 of the Education Consolidation and Improvement Act of 1981, P.L. 89-313, as amended.

B. On or before July 1, 1994, the agencies subject to the provisions of this act shall enter into interagency agreements for the purpose of implementing the State Plan and the provisions of Section 601.41 et seq. of this title. Said state and local interagency agreements shall delineate responsibility for local and regional procedural safeguards, provision of service and related issues.

C. On or before September 1, 1993, and each September 1 thereafter, a joint funding plan shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives by the agencies subject to the provisions of this act. The individual components of such plan as they relate to individual agencies shall be incorporated annually into each

affected agency's budget request in accordance with the provisions of Section 41.29 of Title 62 of the Oklahoma Statutes.

D. The legal requirements for timely payment and reimbursement for services under contract pursuant to Sections 41.4a through 41.4d of Title 62 of the Oklahoma Statutes shall govern the services, programs and activities for the implementation of ~~Section 601.41 et seq.~~ Part 9 of this ~~title~~ article.

SECTION 103. AMENDATORY 10 O.S. 1991, Section 601.50, is amended to read as follows:

Section 601.50 A. The Department of Mental Health and Substance Abuse Services, the State Department of Health, the Department of Human Services, the State Department of Education and private mental health service providers designated by the Governor pursuant to the provisions of subsection C of this section shall jointly establish an annual plan for a comprehensive system of mental health services for children and youth. Said plan shall include but not be limited to:

1. Identification of three- to five-year goals and priorities;
2. Delineation of service responsibilities and coordination of delivery of services to the eligible population by the agencies subject to the provisions of ~~the act~~ this section and Sections 1-880.5 through 1-880.7 of Title 63 of the Oklahoma Statutes;

3. Guidelines for assigning responsibilities to appropriate agencies and means whereby appropriate agency personnel are involved in the development of services;

4. Establishment of service regions, delineation of organizational structures or other means whereby coordination required by this act will be accomplished at the local and regional level;

5. Development of an appropriate array and mix of inpatient, outpatient, residential, home-based, evaluation and other mental health services for children and youth;

6. Procedures for monitoring and improving such service delivery on a continuing basis;

7. Methods for resolving disputes by mediation and other means; and

8. A funding and implementation plan which shall provide for the utilization of all financial resources from federal, state, local and private resources and the coordination of those resources to fund related services.

Said plan shall be annually updated and modified as necessary.

B. For the purpose of efficiency, cost effectiveness, and to avoid duplication of services, said plan shall:

1. Be based upon the existing system of services to children and youth;

2. Consider the recommendations of current information, reports and the contents of existing plans, including updated plans, in the area of mental health services to children and adolescents;

3. Include but not be limited to recommendations for implementation of the plan and the funding necessary for such implementation.

C. For the purpose of developing said comprehensive plan:

1. The Commissioner of the Department of Mental Health and Substance Abuse Services, the Commissioner of the State Department of Health, the Director of the Department of Human Services and the State Superintendent of Schools shall, within existing personnel, each designate two employees of their respective agencies to prepare the plan and shall provide other staff support and assistance as necessary; and

2. The Governor shall designate private mental health services providers to participate in the preparation and establishment of the plan as follows:

a. three from a list submitted by the Oklahoma Hospital Association,

- b. two from a list submitted by the Oklahoma Association of Community Mental Center Directors,
- c. two from a list submitted by the Oklahoma Psychological Association,
- d. two from a list submitted by the Oklahoma State Medical Association, one of whom shall be a psychiatrist,
- e. two from a list submitted by the Chemical Abuse Program Directors Association, and
- f. upon the recommendation of the Oklahoma Commission on Children and Youth, representatives of other organizations or associations of agencies that provide services to children.

3. The Commission on Children and Youth shall provide meeting space and convene and facilitate such meetings as are necessary to complete the plan.

D. 1. On or before November 1 of each year, the comprehensive plan shall be submitted to the Oklahoma Commission on Children and Youth for review and comment. The review of the plan by the Commission shall include but not be limited to the conformance and compatibility of the comprehensive plan for mental health services for children and adolescents with other services and plans for services to children and youth. As appropriate, the Commission on Children and Youth shall incorporate the findings and recommendations of the plan required by this act into the annual Commission report and State Plan for Services to Children and Youth.

2. On or before January 1 of each year, the comprehensive plan, along with the comments of the Commission on Children and Youth, shall be submitted to the Legislature.

Part 10. Youth Gang Intervention and Deterrence Act

SECTION 104. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-6-1001 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Sections 1100-6-1001 through 1100-6-1006 of this Code shall be known and may be cited as the "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 Youth Gang Intervention and Deterrence Act is to provide for school, school-related and after-school programs for children in elementary grades 1 through 8, and their families, who live in at-risk school districts, neighborhoods and communities.

SECTION 105. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-6-1002 of Title 10, unless there is created a duplication in numbering, reads as follows:

For the purposes of the 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 Oklahoma Commission on Children and Youth, is significantly higher than the statewide statistical mean for such incidence, referrals or combination;

2. "School, school-related or after-school programs and activities" means delinquency prevention and early intervention programs and activities that occur during and 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 and their families: 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 and education.

SECTION 106. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-6-1003 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 Oklahoma Commission on Children and Youth 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 Section 1100-6-101 of this Code, for the purpose of assisting them to make application for federal and private grants for delinquency prevention and early intervention programs.

B. The Commission, with the assistance of and information provided by the Department of Human Services, the Department of Juvenile Justice, and the Oklahoma State Bureau of Investigation, shall establish criteria for identifying at-risk neighborhoods, school districts, communities and specific areas within school districts and communities for the purposes of determining eligibility for any grants available pursuant to the Youth Gang Intervention and Deterrence Act. The Department of Human Services, the Department of Juvenile Justice and the Oklahoma State Bureau of Investigation shall provide the Commission with information and assistance, as requested by the Commission, for the purpose of establishing the criteria required by this section.

SECTION 107. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-6-1004 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Commission on Children and Youth shall establish the proposal submission and education procedures and criteria and shall adopt rules as necessary for the implementation of the Youth Gang Intervention and Deterrence Act.

B. In order to be eligible for a contract pursuant to the 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 more than twelve (12) years of age, or in elementary grades 1 through 8, 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 this 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 Department of Juvenile Justice, 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.

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; and

7. Include face-to-face contact with the parents, guardians or custodians of youth participating in the program and visits to the homes of such youth as an integral part of the programs and activities for which the proposal is submitted.

C. Each entity which receives a contract pursuant to this act shall submit an annual evaluation report to the Commission on Children and Youth, by a date subsequent to the end of the contract period as established by the Commission, documenting the extent to which the program objectives have been met and any other information required by the Commission.

SECTION 108. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-6-1005 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Each state individual income tax return form for tax years commencing after December 31, 1994, shall contain a designation as follows or shall contain similar wording as space allows on the tax return form: Oklahoma Delinquency Prevention and Intervention Fund. Check if you wish to donate () from your tax refund: () \$2.00 () \$5.00 () \$_____.

B. There is hereby created in the State Treasury a revolving fund for the Oklahoma Commission on Children and Youth, to be designated the "Youth Gang Intervention and Deterrence Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Commission on Children and Youth from:

1. Any state monies appropriated for the purpose of implementing the provisions of the Youth Gang Intervention and Deterrence Act; and

2. Any monies collected pursuant to this section or any other monies available to the Commission to implement the provisions of the Youth Gang Intervention and Deterrence Act.

C. All monies accruing to the credit of said fund are hereby appropriated and shall be budgeted and expended only for contracts let pursuant to the Youth Gang Intervention and Deterrence Act by the Commission for the purpose of implementing the Youth Gang Intervention and Deterrence Act. 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.

Part 11. Child Death Review Board Act

SECTION 109. AMENDATORY 10 O.S. 1991, Section 1150, is amended to read as follows:

Section 1150. Sections ~~1100-5-1101~~ 1100-6-1101 through ~~1100-5-1105~~ 1100-6-1105 of this Code shall be known and may be cited as the "Child Death Review Board Act".

SECTION 110. AMENDATORY 10 O.S. 1991, Section 1150.1, is amended to read as follows:

Section 1150.1 As used in the Child Death Review Board Act:

1. "Board" means the Child Death Review Board;
2. "Child protection system" means public and private departments and agencies, personnel, courts, law enforcement agencies and legal, education and social service professionals with responsibilities related to child abuse and neglect; and
3. "Commission" means the Oklahoma Commission on Children and Youth.

SECTION 111. AMENDATORY 10 O.S. 1991, Section 1150.2, is amended to read as follows:

Section 1150.2 A. There is hereby re-created until July 1, 1994, in accordance with the Oklahoma Sunset Law, the Child Death Review Board within the Oklahoma Commission on Children and Youth. The Board shall have the power and duty to:

1. Conduct case reviews of child deaths in this state;
2. Develop accurate statistical information and identification of child deaths due to abuse and neglect;
3. Improve the ability to provide protective services to the siblings of abused or neglected children who may still be living in a dangerous environment; and
4. Improve policies, procedures and practices within the child protection system.

B. In carrying out its duties and responsibilities the Child Death Review Board shall:

1. Establish criteria for cases of child death subject to specific, in-depth review or investigation by the Board;

2. Conduct a specific case review of those cases referred by the Office of Chief Medical Examiner where the cause of death is or may be related to child abuse or neglect;

3. Establish and maintain statistical information related to child deaths resulting from child abuse and neglect including, but not limited to, demographic and medical diagnostic information;

4. Review the policies, practices and procedures of the child protection system and make specific recommendations to the entities comprising the child protection system for actions necessary for the improvement of said system;

5. As necessary and appropriate, for the protection of siblings of a child whose death is the result of child abuse or neglect, refer specific cases to the Department of Human Services or the appropriate district attorney for further investigation;

6. Request and obtain all records and reports pertaining to a child whose case is under review including, but not limited to, the medical examiner's report, hospital records, school records, court records and Department of Human Services' protective service files. Confidential information provided to the Board shall be maintained by the Board in a confidential manner as otherwise required by state and federal law;

7. Conduct investigations of specific cases of child deaths and request the preparation of additional information and reports as determined to be necessary by the Board including, but not limited to, clinical summaries from treating physicians, chronologies of contact, and second opinion autopsies. Second opinion autopsies shall be requested through the Office of the Chief Medical Examiner as otherwise provided by law;

8. Recommend alternate cause of death determinations in cases where abuse or neglect as the cause of death is documented but said cause is not shown on the death certificate; and

9. Subject to the approval of the Oklahoma Commission on Children and Youth, exercise all incidental powers necessary and proper for the implementation and administration of the Child Death Review Board Act.

C. The Child Death Review Board may receive, review and discuss, in executive session, information on individual child abuse investigations and prosecution; provided, however, that the Child Death Review Board shall assure compliance with confidentiality requirements of Section 846 of Title 21 of the Oklahoma Statutes. Except when discussing individual cases, the Board shall comply with the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes. All discussions of individual cases and any writings produced by or created for the Board in the course of its review of any individual case, including any specific action or remedial measure recommended by the Board as the result of a review of an individual case, shall be privileged and shall not be admissible in evidence in any proceeding. The Board shall periodically conduct meetings to discuss organization and business matters and any actions or recommendations aimed at improvement of the child protection system and such meetings shall be subject to the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes. Part of any meeting of the Board may be specifically designated as a business meeting of the Board subject to the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes.

D. The Child Death Review Board shall make an annual report of its findings and recommendations for the improvement of the child protection system to the Governor, the Oklahoma Public Welfare Commission, the Oklahoma Commission on Children and Youth, the President Pro Tempore of the Senate, the Speaker of the House of Representatives and each agency or organization affected by the report. The Oklahoma Commission on Children and Youth shall review

the report of the Board and, as appropriate, incorporate the findings and recommendations into the annual Commission report and State Plan for Services to Children and Youth.

SECTION 112. AMENDATORY 10 O.S. 1991, Section 1150.3, is amended to read as follows:

Section 1150.3 A. The Child Death Review Board shall be composed of twenty-one (21) members as follows:

1. Ten members shall be:

- a. the Chief Medical Examiner or his designee,
- b. the Director of the Department of Human Services or his designee. ~~The~~ If a designee of the Director of the Department of Human Services serves as a member, said person shall be a person assigned to the Child Welfare Division of the Department,
- c. the Commissioner of Health or his designee,
- d. the Director of the Office of Child Abuse Prevention or his designee,
- e. the Director of the Oklahoma Commission on Children and Youth or his designee,
- f. the Chief Child Abuse Examiner or his designee,
- g. the Chief of Maternal and Child Health Services of the State Department of Health or his designee,
- h. the Director of the Department of Mental Health and Substance Abuse Services or his designee,
- i. the Chairman of the Child Protection Committee of the Children's Hospital of Oklahoma or his designee, and
- j. the State Epidemiologist of the State Department of Health or his designee; and

2. Eleven members shall be appointed by the Director of the Oklahoma Commission on Children and Youth. They shall serve for a term of two (2) years and may be reappointed. Said members shall be

persons having training and experience in matters related to child abuse or neglect. The appointed members shall include:

- a. a law enforcement officer selected from a list submitted by the executive board of an organization representing sheriffs and peace officers in this state or such officer's designee,
- b. a member of the judiciary selected from a list submitted by the Chief Justice of the Supreme Court or such member's designee,
- c. an attorney licensed in this state who is in private practice selected from a list submitted by the executive board of the Oklahoma Bar Association or such attorney's designee,
- d. a district attorney selected from a list submitted by the District Attorney's Council or such district attorney's designee,
- e. a pediatric allopathic physician selected from a list submitted by a statewide organization representing physicians in this state or such physician's designee,
- f. a pediatric osteopathic physician selected from a list submitted by a statewide organization representing osteopathic physicians in this state or such physician's designee,
- g. a social worker licensed in this state who is not an employee of the Department of Human Services selected from a list submitted by each organization in this state representing social workers in this state or such social worker's designee,
- h. a psychologist licensed in this state selected from a list submitted by each organization representing psychologists in this state or such psychologist's designee,

- i. a representative of the State Foster Care Review Board or such representative's designee,
- j. a representative of the Oklahoma Casa Association or such representative's designee, and
- k. a member of an American Indian Tribe who is a citizen of this state and is involved in the placement of Indian children under the Indian Child Welfare Act or such member's designee.

B. The Board shall annually elect from among its membership a Chairman and a Vice Chairman. The Board shall meet at least quarterly and may meet more frequently as necessary as determined by the Chairman. Members shall serve without compensation but may be reimbursed for necessary travel out of funds available to the Commission pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes; provided, that said reimbursement shall be paid in the case of state employee members by the agency employing the member.

C. With funds appropriated or otherwise available for that purpose, the Commission shall provide administrative assistance and services to the Child Death Review Board.

SECTION 113. AMENDATORY 10 O.S. 1991, Section 1150.4, is amended to read as follows:

Section 1150.4 A. ~~Beginning November 1, 1991, the~~ The Director of the Bureau of Vital Statistics shall forward to the Office of the Chief Medical Examiner on a monthly basis copies of all death certificates of persons under eighteen (18) years of age received by the Bureau of Vital Statistics during the preceding month.

B. The Office of Chief Medical Examiner shall conduct an initial review of child death certificates in accordance with the criteria established by the Child Death Review Board and refer to the Board those cases that meet the criteria established by the Board for specific case review.

C. Upon the request of the Board, every entity within the child protection system shall provide to the Board any information requested by the Board.

ARTICLE VII

Preadjudicatory Detention

Part 1. Custody

SECTION 114. AMENDATORY 10 O.S. 1991, Section 1107, as last amended by Section 5, Chapter 342, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1107), is amended to read as follows:

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

1. By a peace officer, ~~or employee of the court~~ without a court order ~~if the child is found violating any law or ordinance~~ for any criminal offense as otherwise provided by law, 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; and

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

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~~ 1100-7-102 of this ~~title~~ Code. 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~~ 1100-7-102 of this ~~title~~ Code 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~~ article. The parent or legal guardian of the child shall be given immediate notice of the custody of the child whenever possible and prior adequate notice of the hearing. The court may release an alleged deprived child from protective custody upon such conditions as the court finds reasonably necessary for the protection of the child and the court shall determine whether the allegations regarding the child are such that additional time for the filing of a petition pursuant to subsection B of Section ~~1104.1~~ 1100-8-202 of this ~~title~~ Code 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.

SECTION 115. AMENDATORY 10 O.S. 1991, Section 1107.1, as last amended by Section 6, Chapter 342, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1107.1), is amended to read as follows:

Section 1107.1 A. When a child is taken into custody pursuant to the provisions of ~~Sections 1101 through 1505 of this title Code,~~ 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~~ 1100-7-201 of this ~~title~~ Code, 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~~ 1100-4-710 of this ~~title~~ Code;

5. The child is detained for the commission of a crime that would constitute a habitual criminal act as defined by Section ~~1160.2~~ 1100-4-710 of this ~~title~~ Code;

6. The child is currently charged with a felony act as defined by Section ~~1160.2~~ 1100-4-710 of this ~~title~~ Code 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.

For purposes of paragraph 3 of this subsection, there shall be a rebuttable presumption that a child "is seriously assaultive or destructive to others or himself" if the child has committed an offense listed as an exception to the definition of a nonviolent offense in Section 571 of Title 57 of the Oklahoma Statutes or if the child is alleged to have used, or possessed and threatened to use, a firearm during the commission of any felony offense.

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~~ 1100-4-711 of this ~~title~~ Code.

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~~ Board of Juvenile Justice, 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~~ Juvenile Justice 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 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 a felony has been committed by the person,
- b. there is a reasonable doubt as to the age of 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, as defined in Section 1100-7-201 of this Code, 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 et seq. of this title~~ Code. 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~~ Juvenile Justice.

SECTION 116. 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;
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.

Part 2. Temporary Detention

SECTION 117. 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~~ Juvenile Justice shall not be ordered to provide detention unless said Department has designated and is operating detention services or facilities.

County sheriffs, their designee, private contractors under contract with the Department of ~~Human Services~~ Juvenile Justice for

transportation services, or juvenile court officers shall provide for the transportation of juveniles to and from secure detention for purposes of admission, discharge, medical attention or court appearance. 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 of this section. The Department of ~~Human Services~~ Juvenile Justice 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~~ Juvenile Justice 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) per meal; and
4. Meals for juveniles being transported, not to exceed Five Dollars (\$5.00) per meal.

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

B. 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~~ State Board of Juvenile Justice.

"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 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 C of this section. 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, 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 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 pursuant to the provisions

of this section, the Department of Juvenile Justice is authorized to directly contract with and pay such public or private agency for provision of detention services.

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~~ Juvenile Justice.

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 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. ~~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 developed, adopted and implemented by the Oklahoma Commission of Human Services, 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~~ State Board of Juvenile Justice as necessary and appropriate. Said plan shall provide that secure detention services shall be available within thirty (30) miles of each district court.

1. The ~~Oklahoma Commission for Human Services~~ State Board of Juvenile Justice 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~~ State Board of Juvenile Justice 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~~ State Board of Juvenile Justice 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~~ State Board of Juvenile Justice within two (2) years of the date of the initial grant or contract.

D. The State Department of Health, with the assistance of the Department of ~~Human Services~~ Juvenile Justice, 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. 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 118. AMENDATORY 10 O.S. 1991, Section 1108.1, is amended to read as follows:

Section 1108.1 The board of county commissioners of each county in this state is authorized to enter into a contract with the county commissioners of another county or counties to provide insurance coverage for any tort liability risk incurred as a result of providing or providing for the temporary detention of children in a juvenile detention facility pursuant to Sections ~~1107~~ 1100-7-101 through ~~1108~~ 1100-7-201 of ~~Title 10 of the Oklahoma Statutes~~ this Code.

ARTICLE VIII

Court Proceedings

Part 1. Jurisdiction

SECTION 119. 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~~ 1100-7-101 of this ~~title~~ Code, 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 of Juvenile Justice, as provided in subsection B of Section ~~1139~~ 1100-4-605 of this ~~title~~ Code. 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~~ 1100-7-101 of this ~~title~~ Code 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. A municipal court, if authorized by the governing body of the municipality, may enter into an agreement with the district court to assume jurisdiction of cases involving children under eighteen (18) years of age charged with violating municipal ordinances relating to vandalism, shoplifting, trespassing, assault, battery, assault and battery, truancy, 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 child under eighteen (18) years of age may be charged and prosecuted for violating such a municipal ordinance provided that the maximum fine which may be imposed shall not exceed the maximum fine authorized by law. When assessing punishment, the court also may require appropriate community service work, not to exceed twenty hours, in lieu of a fine if the product of multiplying the number of hours of community service work by the prevailing minimum wage does not result in a number which exceeds the maximum fine authorized by law, or restitution, or both

community service work and restitution. In addition, the court may require the child to receive counseling or other community-based services, as necessary. If a child is prosecuted for an offense in a municipal court, the child shall not be prosecuted for the offense in the district court. All municipal arrest and prosecution records for cases involving children under eighteen (18) years of age charged with violating municipal ordinances relating to vandalism, shoplifting, trespassing, assault, battery, assault and battery, truancy, 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 shall be kept confidential and shall not be open to public inspection except by order of the court or as otherwise provided by ~~Sections 1125 through 1125.4~~ Article IX of this ~~title~~ Code and Section ~~620.6~~ 1100-6-309 of this ~~title~~ Code.

F. Funds generated from fines paid pursuant to an agreement between a municipal court and the district court shall be earmarked and used by the municipality to fund local programs which address problems of juvenile crime. Such earmarked funds shall not be used for any administrative costs of the municipal court other than administrative costs for the programs provided for in this subsection.

SECTION 120. AMENDATORY 10 O.S. 1991, Section 1102.1, is amended to read as follows:

Section 1102.1 ~~where~~ If the evidence in an action for a divorce, for alimony without a divorce, for an annulment, for custody of a child or for the appointment of a guardian of the person of a child, or in subsequent proceedings in such actions, indicates that a child is deprived or in need of supervision, the court, after proper notice, shall transfer the issues in regard to

the child to the juvenile docket of the court for preliminary inquiry and determination.

SECTION 121. AMENDATORY 10 O.S. 1991, Section 1126, is amended to read as follows:

Section 1126. ~~(a)~~ A. The judge or judges who are assigned to hear juvenile cases in counties having a population in excess of one hundred thousand (100,000) may appoint a suitable person or persons to act as referee or referees, to hold office during the pleasure of the judge. Such referees shall be lawyers and shall be specially qualified for their duties. The judge may direct that any case, or all cases of a class or within a county to be designated by ~~him~~ the judge, shall be heard in the first instance by a referee in the manner provided for the hearing of cases by the court. Upon the conclusion of the hearing in each case, the referee shall transmit to the court all papers relating to the case, together with ~~his~~ the referee's findings of fact and conclusions of law, and recommendations in writing.

~~(b)~~ B. Notice of the referee's findings and recommendations shall be given to the parent, guardian or custodian of the child or to any other person concerned whose case has been heard by the referee. A hearing by the court shall be allowed upon the filing with the court of a request for such hearing, if the request is filed within three (3) days after the service of such notice. In case no hearing by the court is requested, the findings and recommendations of the referee, when confirmed by an order of the court, shall become the decree of the court.

Part 2. Process and Procedures

SECTION 122. 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 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 of Juvenile Justice or the Department of Human Services 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 applicable 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.

SECTION 123. AMENDATORY 10 O.S. 1991, Section 1104.1, as last amended by Section 18, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1104.1), is amended to read as follows:

Section 1104.1 A. ~~Where~~ If a child has been taken into custody under any provision of the Juvenile Code before a petition has been filed, a petition shall be filed and a summons issued within five (5) judicial days from the date of such assumption of custody, or custody of the child shall be relinquished to ~~his~~ the parent, guardian or other legal custodian of the child, unless otherwise provided ~~for herein~~ by law.

B. Where a child has been taken into custody and upon allegations of cruelty on the part of the parents, guardian or other person having custodial care of the child, the five-day limitation ~~herein~~ provided for in subsection A of this section shall not cause the child to be relinquished to such parent, guardian or other legal custodian. In all such cases, the court shall determine whether the petition was filed within a reasonable time, except that a petition shall be filed within thirty (30) days of the child being taken into custody.

C. No order of the court providing for the removal of a child alleged or adjudicated deprived, delinquent or in need of supervision from his home shall be entered unless the court finds

that the continuation of the child in his home is contrary to the welfare of the child. Said order shall include either:

1. A determination as to whether or not reasonable efforts have been made to prevent the need for the removal of the child from his home and, as appropriate, reasonable efforts have been made to provide for the return of the child to his home; or

2. A determination as to whether or not an absence of efforts to prevent the removal of the child from his home is reasonable under the circumstances, if such removal of the child from his home is due to an alleged emergency and is for the purpose of providing for the safety of the child and, in the case of a delinquent, the protection of the public.

SECTION 124. AMENDATORY 10 O.S. 1991, Section 1103.1, is amended to read as follows:

Section 1103.1 A. No pleading subsequent to the petition is required, and the filing of any motion or pleading shall not delay the holding of the adjudicatory hearing.

B. A petition may be amended by order of the court at any time before an order of adjudication has been made, provided that the court shall grant the parties such additional time to prepare as may be required to insure a full and fair hearing. A petition shall be deemed to have been amended to conform to the proof where the proof does not change the substance of the act, omission or circumstance alleged. However, the court ~~may~~ shall not amend the adjudicatory category prayed for in the petition.

SECTION 125. 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 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 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.

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~~ 1100-8-201 of this ~~title~~ Code, 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.

Part 3. Certification

SECTION 126. 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 fourteen (14), fifteen (15), 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 manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, or dispense a controlled dangerous substance, shall be considered as an adult. 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. 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. The accused person shall file a motion for certification as a child before the start of the criminal preliminary hearing. Upon the filing of such motion, the complete juvenile record of the accused shall be made available to the district attorney and the accused person.

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

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

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

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

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

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

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

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

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

SECTION 127. AMENDATORY 10 O.S. 1991, 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~~ 1100-8-205 of this ~~title~~, Code 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~~ 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 criminal courts and other jurisdictions, prior periods of probation or prior commitments to juvenile institutions;

~~5. 4. 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 if the accused person is processed through the juvenile justice system;~~ and

~~6. 5. 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 or as a youthful offender 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

or 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.

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 or 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 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.

Part 4. Youthful Offender Act

SECTION 128. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-8-401 of Title 10, unless there is created a duplication in numbering, reads as follows:

Sections 1101-8-401 through 1101-8-409 of this act shall be known and may be cited as the "Youthful Offender Act".

SECTION 129. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-8-402 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 fourteen (14), fifteen (15), sixteen (16) or seventeen (17) years of age who is charged with a major felony or any person certified as a youthful offender pursuant to Section 1100-8-302 of this Code; and

2. "Major felony" means assault and battery with a dangerous weapon, aggravated assault and battery on a law officer, poisoning with intent to kill, shooting with intent to kill, assault with intent to kill, assault with intent to commit a felony, murder in the first degree, murder in the second degree, manslaughter in the first degree, manslaughter in the second degree, kidnapping, burglary in the first degree, burglary with explosives, kidnapping for extortion, maiming, robbery, child beating, wiring any equipment, vehicle, or structure with explosives, forcible sodomy, rape in the first degree or rape by instrumentation, lewd or indecent proposition or lewd or indecent act with a child under sixteen (16) years of age, use of a firearm or offensive weapon to commit or attempt to commit a felony, pointing firearms, 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, rioting, arson in the first degree, or manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, or dispense a controlled dangerous substance.

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 this act to allow those youthful offenders whom the courts find to be amenable to rehabilitation by the methods prescribed in this act to voluntarily commit themselves to rehabilitative programs and thereby, upon good conduct and successful completion of such programs, avoid conviction for a crime.

SECTION 130. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-8-403 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. When a person is alleged to be or found to be a youthful offender, 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. A criminal action against a youthful offender shall be heard by a judge of the district court having juvenile docket responsibility.

B. Upon arrest and detention of a person alleged to be a youthful offender, or upon certification of a child as a youthful offender, the youthful offender shall be detained in a jail cell or ward entirely separate from prisoners who are eighteen (18) years of age or over.

SECTION 131. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-8-404 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Prior to the imposition of sentence of a youthful offender 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. the seriousness of the offense to the community, and 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,
- c. the sophistication and maturity of the person and his capability of distinguishing right from wrong,
- 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 and the likelihood of rehabilitation of the person by the use of procedures and facilities available to the court, and
- f. whether the offense occurred while the person was escaping from a secure facility for delinquent children.

B. Upon a verdict of guilty or a plea of guilty or nolo contendere of a youthful offender, the court may impose sentence as provided by law 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.

C. Upon a verdict of guilty or a plea of guilty or nolo contendere of a youthful offender, the court may, without entering a judgment of guilty and with the consent of the youthful offender and the youthful offender's parent, legal guardian or guardian ad litem, defer further proceedings and order the offender placed in the custody of, or under the supervision of, a juvenile agency if the youthful offender is less than eighteen (18) years of age. As used in the Youthful Offender Act, the term "juvenile agency" means the Department of Juvenile Justice or any public or private institution or agency licensed by this state to provide care, custody or rehabilitative treatment for juvenile delinquents. Placement of a youthful offender in the custody or under the supervision of a juvenile agency as provided in this section shall be for an indeterminate period of time not to exceed five (5) years or the youthful offender's nineteenth birthday, whichever comes first.

SECTION 132. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-8-405 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. If a youthful offender is placed in the custody or under the supervision of a juvenile agency as provided in subsection C of Section 1100-8-404 of this Code, the court shall:

1. Conduct a semiannual review based upon written reports of the youth's conduct, progress and condition;

2. Conduct a review hearing within the thirty (30) days immediately preceding the date the youthful offender becomes eighteen (18) years of age and, if still under the supervision of a juvenile agency, within the thirty (30) days immediately preceding the date the youthful offender becomes nineteen (19) years of age; and

3. Conduct a review hearing upon the motion of the district attorney or a juvenile agency with custody of a youthful offender.

Written reports concerning the conduct, progress and condition of a youthful offender shall be submitted to the court prior to scheduled reviews by the juvenile agency having custody or supervision of the youth. Such reports shall include a written plan of rehabilitative treatment for the youthful offender, including clearly stated treatment objectives. Copies of those reports shall be provided by the agency to the youthful offender, his counsel, parent or guardian, and the district attorney. The court shall consider any timely written response to the agency report before concluding its review. A review hearing shall be conducted in open court after notice to the youth, his counsel, parent or guardian, the juvenile agency, and the appropriate district attorney. The court may schedule 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.

B. 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. Transfer the youthful offender from the custody or supervision of one juvenile agency to the custody or supervision of another juvenile agency; or

2. 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 B 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 been rehabilitated and that such dismissal will not jeopardize public safety; or

3. Enter a judgment of guilt and proceed as provided in Section 991a of Title 22 of the Oklahoma Statutes 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 facility on more than one occasion,
- c. committed a crime while in the custody or under the supervision of a juvenile agency as shown by a judgment entered following a verdict of guilty or a plea of guilty or nolo contendere, or by proof sufficient to establish probable cause that the youth committed a crime while in the custody or under the supervision of a juvenile agency; or has absented himself from his placement or place of residence authorized by the juvenile agency, 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 eighteenth birthday, or if previously continued by the court under the supervision of a juvenile agency, is within thirty (30) days of his nineteenth birthday.

C. 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 Department of Juvenile Justice or other juvenile agency, he shall receive credit for any time in residence at a state institution for delinquents if lawfully released from such institution. 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 133. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-8-406 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 Department of Juvenile Justice, the Department may:

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

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

3. Place the youthful offender in any licensed private child care facility deemed by the Department to be in the best interests of the youthful offender;

4. Place the youthful offender under supervision after a period in one of the facilities referred to in paragraphs 1, 2 and 3 of this subsection or on immediate supervision. The Department of Juvenile Justice shall not confine a youthful offender in a state institution after the youthful offender reaches eighteen (18) years of age, but is hereby authorized to provide supervision to youthful offenders until such time said youthful offender reaches nineteen (19) years of age. The Department is further authorized to retain said youthful offenders in a community-based facility until the youth becomes nineteen (19) years of age.

B. No juvenile agency shall retain custody of a youthful offender beyond the date the youth becomes eighteen (18) years of age, nor shall any juvenile agency provide supervision of a youthful offender beyond the date the youth becomes nineteen (19) years of age.

C. Any department, institution or agency receiving custody of a youthful offender shall be responsible for the care and control of the youthful offender, 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.

D. A youthful offender in the custody of a juvenile agency shall 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.

SECTION 134. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-8-407 of Title 10, unless there is created a duplication in numbering, reads as follows:

The district attorney shall transmit to any department or agency having custody of a youthful offender a written narrative report in the form as provided for in subsection C of Section 215.39 of Title 19 of the Oklahoma Statutes, describing the commission of the offense and any factors which might enhance or diminish the gravity of the offender's conduct, with any such other information as the department or agency may request.

SECTION 135. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-8-408 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 five (5) 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 the person rehabilitated;

2. The person was discharged from supervision by the Department of Juvenile Justice, 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 or district attorney 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 or district attorney 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 136. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-8-409 of Title 10, unless there is created a duplication in numbering, reads as follows:

If a youthful offender is committed to the custody of the Department of Corrections the sentencing court may, pursuant to the procedure prescribed in Section 982a of Title 22 of the Oklahoma Statutes and in lieu of any modification of sentence authorized by that section, modify the youthful offender's sentence by placing him in the custody of a juvenile agency as provided in subsection A of Section 1100-8-405 of this Code if the youth is less than eighteen (18) years of age at the time of such modification.

Part 5. Issuance of Summons

SECTION 137. AMENDATORY 10 O.S. 1991, Section 1104, as amended by Section 3, Chapter 342, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1104), is amended to read as follows:

Section 1104. A. After a petition shall have been filed, unless the parties ~~hereinafter named~~ provided for in this section shall voluntarily appear, a summons shall be issued which shall recite briefly the nature of the proceeding with the phrase "as described more fully in the attached petition" and requiring the person or persons who have the custody or control of the child to appear personally and bring the child before the court at a time and place stated. The summons shall state the relief requested, and shall set forth the right of the child, parents and other interested parties to have an attorney present at the hearing on the petition.

B. The summons shall be served on the person who has actual custody of the child, and if the child has reached the age of twelve (12) years, a copy shall be served on the child. If the person who has actual custody of the child shall be other than a parent or guardian of the child, a copy of the summons shall be served on the parent or guardian, or both, as hereinafter provided. A copy of the summons shall be served on a custodial parent, guardian or next

friend. If no parent or guardian can be found, a summons shall be served on such other person or persons as the court shall designate.

Summons may be issued requiring the appearance of any other person whose presence is necessary.

C. If it subsequently appears that a person who should have been served was not served and has not entered an appearance, the court shall immediately order the issuance of a summons which shall be served on said person.

D. If after a petition has been filed, it appears that the child is in such condition or surroundings that his welfare requires that his custody be immediately assumed by the court, the judge may immediately issue a detention order or warrant authorizing the taking of said child into custody.

E. In a delinquency proceeding, whenever a warrant for the arrest of a child shall issue, it shall state the offense the child is being charged with having committed; in a child in need of supervision proceeding, whenever a warrant for detention of a child shall issue, it shall state the reason for detention. Warrants for the arrest or detention of a child shall comport with all other requirements of issuance of arrest warrants for adult criminal offenders.

SECTION 138. AMENDATORY 10 O.S. 1991, Section 1105, as amended by Section 19, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1105), is amended to read as follows:

Section 1105. Service of summons shall be made as provided for service in civil actions or service may be made by certified mail to such person's last-known address, requesting a return receipt from the addressee only. ~~Where~~ If the address of the person to be summoned is not known, or if the mailed summons is returned, the court may order that notice of the hearing be published once in a newspaper of general circulation in the county. The court ~~may~~ shall not hold the hearing until at least forty-eight (48) hours after the

service of the summons, except with the consent of the parent or guardian; provided, however, that the court ~~may~~ shall not hold the hearing until at least five (5) days after the date of mailing the summons, if the parent is not served within the state, except with the consent of the parent, or if notice is published, until at least ten (10) days after the date of publication; provided, further, that if one or more persons must be served by publication, and if it appears that the court must order the child held in a place of detention in order to meet the requirement of this section with respect to the time for holding a hearing when a party can be served only by publication, the court may advance the date of the hearing, with reasonable notice to the other persons who have been served or are properly and legally notified, to any date that the court determines to be reasonable and may proceed with the action; but an order determining that a child is delinquent or in need of supervision or is deprived shall not become final until thirty (30) days after the date of the publication of the notice. Nothing contained ~~herein~~ in this section shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.

SECTION 139. AMENDATORY 10 O.S. 1991, Section 1106, is amended to read as follows:

Section 1106. If any person summoned as ~~herein~~ provided in this part shall, without reasonable cause, fail to appear, he may be proceeded against for contempt of court. In case the summons cannot be served, or the parties served fail to obey the same, or in any case when it shall be made to appear to the judge that the service will be ineffectual or that the welfare of the child requires that he shall be brought forthwith into the custody of the court, a warrant may be issued against the parent or guardian, or against the child himself.

SECTION 140. AMENDATORY 10 O.S. 1991, Section 1110, as amended by Section 23, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1110), is amended to read as follows:

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

Part 6. Adjudicative Hearings

SECTION 141. 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 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. 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~~ 1100-8-602 or ~~1148~~ 1100-8-603 of this ~~title~~ Code 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 142. AMENDATORY 10 O.S. 1991, Section 1147, is amended to read as follows:

Section 1147. A. This section shall apply only to a proceeding affecting the parent-child, guardian-child or family relationship in which a child twelve (12) years of age or younger is alleged to have been abused, and shall apply only to the statement of that child or other child witness.

B. The recording of an oral statement of the child made before the proceedings begin is admissible into evidence if:

1. The court determines that the time, content and circumstances of the statement provide sufficient indicia of reliability;

2. No attorney for any party is present when the statement is made;

3. The recording is both visual and aural and is recorded on film or videotape or by other electronic means;

4. The recording equipment is capable of making an accurate recording, the operator of the equipment is competent and the recording is accurate and has not been altered;

5. The statement is not made in response to questioning calculated to lead the child to make a particular statement or is clearly shown to be the child's statement and not made solely as a result of a leading or suggestive question;

6. Every voice on the recording is identified;

7. The person conducting the interview of the child in the recording is present at the proceeding and is available to testify or be cross-examined by any party; ~~and~~

8. Each party to the proceeding is afforded an opportunity to view the recording before ~~it~~ the recording is offered into evidence~~;~~ and a

9. A copy of a written transcript of the recording transcribed by a licensed or certified court reporter is provided to the parties.

SECTION 143. AMENDATORY 10 O.S. 1991, Section 1148, is amended to read as follows:

Section 1148. A. This section shall apply only to a proceeding affecting the parent-child, guardian-child or family relationship in which a child twelve (12) years of age or younger is alleged to have

been abused, and shall apply only to the testimony of that child or other child witness.

B. The court may, on the motion of a party to the proceeding, order that the testimony of the child be taken in a room other than the courtroom and be televised by closed-circuit equipment in the courtroom to be viewed by the court, the finder of fact and the parties to the proceeding. Only an attorney for each party, an attorney ad litem for the child or other person whose presence would contribute to the welfare and well-being of the child and persons necessary to operate the equipment ~~may~~ shall be present in the room with the child during ~~his~~ the testimony of the child. Only the attorneys for the parties may question the child. The persons operating the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during ~~his~~ the testimony of the child, but does not permit the child to see or hear them.

C. The court may, on the motion of a party to the proceeding, order that the testimony of the child be taken outside the courtroom and be recorded for showing in the courtroom before the court, the finder of fact and the parties to the proceeding. Only those persons permitted to be present at the taking of testimony under subsection B of this section may be present during the taking of the child's testimony. Only the attorneys for the parties may question the child, and the persons operating the equipment shall be confined from the child's sight and hearing. The court shall ensure that:

1. The recording is both visual and aural and is recorded on film or videotape or by other electronic means;

2. The recording equipment is capable of making an accurate recording, the operator of the equipment is competent and the recording is accurate and has not been altered;

3. Every voice on the recording is identified; and

4. Each party to the proceeding is afforded an opportunity to view the recording before it is shown in the courtroom, and a copy of a written transcript transcribed by a licensed or certified court reporter is provided to the parties.

D. If the testimony of a child is taken as provided by subsections B or C of this section, the child shall not be compelled to testify in court during the proceeding.

SECTION 144. AMENDATORY 10 O.S. 1991, Section 1124, is amended to read as follows:

Section 1124. In proceedings ~~under Sections 1101 through 1506 of this title~~ pursuant to this Code, the court may allow mileage as in civil actions to witnesses and reimbursement for expert witnesses but such shall not be tendered in advance of the hearing.

SECTION 145. AMENDATORY 10 O.S. 1991, Section 1113, is amended to read as follows:

Section 1113. If the court finds that the allegations of the petition are not supported by the evidence, the court shall order the petition dismissed and shall order the child discharged from any detention or restriction previously ordered. The child's parents, guardian or other legal custodian shall also be discharged from any restriction or other previous temporary order.

SECTION 146. 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.

Part 7. Dispositional Hearings and Orders

SECTION 147. AMENDATORY 10 O.S. 1991, Section 1115, is amended to read as follows:

Section 1115. ~~(a)~~ A. After making an order of adjudication, the court shall hold a dispositional hearing, at which all evidence helpful in determining the proper disposition best serving the interest of the child and the public, including oral and written reports, may be admitted and may be relied upon to the extent of its probative value, even though not competent for the purposes of the adjudicatory hearing.

~~(b)~~ B. Before making an order of disposition, the court shall advise the district attorney, the parents, guardian, custodian or responsible relative, and their counsel, of the factual contents and the conclusion of reports prepared for the use of the court and considered by it, and afford fair opportunity, if requested, to controvert them. An order of disposition shall include a specific finding and order of the court relative to the liability and accountability of the parents for the care and maintenance of the child as authorized by Section ~~1121~~ 1100-8-801 of this ~~title~~ Code, except where custody is placed with both parents.

~~(c)~~ C. On its own motion or that of the district attorney, or of the parent, guardian, custodian, responsible relative or counsel, the court may adjourn the hearing for a reasonable period to receive reports or other evidence and, in such event, shall make an appropriate order for detention of the child, or his release from

detention subject to supervision by the court, during the period of the continuance.

~~(d)~~ D. In scheduling investigations and hearings, the court shall give priority to proceedings in which a child is in detention, or has otherwise been removed from his home, before an order of disposition has been made.

SECTION 148. AMENDATORY 10 O.S. 1991, Section 1120, as amended by Section 30, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1120), is amended to read as follows:

Section 1120. A. After a petition under the provisions of this ~~title~~ Code has been filed, the court may order the child to be examined and evaluated by a physician or other appropriate professional to aid the court in making the proper disposition concerning the child. The court may order a mental health evaluation of a child as provided by the Inpatient Mental Health Treatment of Children Act.

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

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

SECTION 149. AMENDATORY 10 O.S. 1991, Section 1116, as last amended by Section 2, Chapter 74, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1116), is amended to read as follows:

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

1. The court may place the child on probation or under supervision in his own home, or in the custody of a suitable person elsewhere, upon such conditions as the court shall determine. In the case of a child adjudicated delinquent, such placement shall be for a determinate period of time established by the court, not to extend beyond such child's nineteenth birthday as otherwise provided by law. 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. In the case of a child adjudicated delinquent, such commitment shall be for a determinate period of time established by the court, not to extend beyond such child's nineteenth birthday, as otherwise provided by law.

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

4. The court may commit the child to the custody of the Department of Human Services if the child is adjudicated a deprived child, or to the Department of Juvenile Justice, if the child is adjudicated a child in need of supervision or a delinquent; provided, any order adjudicating a child to be delinquent and committing the child to the Department ~~shall be for an indeterminate period of time~~ of Juvenile Justice shall be for a determinate period

of time established by the court, not to extend beyond such child's nineteenth birthday, as otherwise provided by law.

5. 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. With respect to a child adjudicated a delinquent child, the court may:

- a. for acts involving criminally injurious conduct as defined in Section 142.3 of Title 21 of the Oklahoma Statutes, order the child to pay a victim compensation assessment in an amount not to exceed that amount specified in Section 142.18 of Title 21 of the Oklahoma Statutes. The court shall forward a copy of the adjudication order to the Crime Victims Compensation Board for purposes of Section 142.11 of Title 21 of the Oklahoma Statutes. Except as otherwise provided by law, such adjudication order shall be kept confidential by the Board,
- b. order the child to engage in a term of community service without compensation. The state or any political subdivision shall not be liable if a loss or claim results from any acts or omission of a child ordered to engage in a term of community service pursuant to the provisions of this paragraph,
- c. ~~if it is consistent with the welfare of the child,~~ require community service or restitution or both community service and restitution for acts of

delinquency. The immunities provided by Sections 227 and 228 of Title 57 of the Oklahoma Statutes shall apply to community services directed pursuant to this section,

- d. order the 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~~ Juvenile Justice 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.

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

8. 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 either the Department of Human Services or the Department of Juvenile Justice, it shall vest the Department of Human Services 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 to which the child was committed by the court 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 parent, or both the child and parent 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. When a juvenile has been placed on any dispositional plan, that disposition of said juvenile may not be revoked or modified, in whole or in part, for any cause unless a petition setting forth the grounds for such revocation or modification is filed by the district attorney with the clerk of the dispositioning court and competent evidence justifying the revocation or modification of said dispositional plan is presented to the court at a hearing to be held for that purpose within twenty (20) days after the date of arrest.

G. If one of the grounds for revocation or modification is the failure of the defendant to make restitution as ordered, the Department of Juvenile Justice shall forward to the district attorney all information pertaining to the defendant's failure to make timely restitution as ordered by the court, and said district attorney shall file a petition setting forth the grounds for revocation.

H. The juvenile ordered to make restitution may petition the court at any time for remission or a change in the terms of the order of restitution if he undergoes a change of condition which materially affects his ability to comply with the court's order.

I. At the hearing, if one of the grounds for the petition for revocation is the juvenile's failure to make timely restitution as ordered by the court, the court shall hear evidence and if it appears to the satisfaction of the court from such evidence that the terms of the order of restitution create a manifest hardship on the juvenile or his immediate family, the court may cancel all or any part of the amount still due, or modify the terms or method of payment.

J. The court may revoke or modify the disposition and may redistribution and, if the juvenile is committed to the Department of Juvenile Justice, may make specific orders concerning the placement of said juvenile. The person 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.

SECTION 150. AMENDATORY 10 O.S. 1991, Section 1115.1, as amended by Section 26, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1115.1), is amended to read as follows:

Section 1115.1 A. An individual treatment and service plan shall be filed with the court within the thirty (30) days after any child has been adjudicated to be deprived, delinquent or in need of supervision. Said plan shall be filed by the person, department or agency responsible for the supervision of the case or by the legal custodian if the child has been removed from the custody of its lawful parent or parents. The treatment and service plan shall include but not be limited to:

1. A history of the child and family, including identification of the problems leading to the adjudication. In the case of a deprived child, the statement of the conditions leading to the adjudication shall include a statement of the methods to be used to correct those conditions or to achieve permanent placement of the child;

2. Based upon a comprehensive assessment and evaluation of the child and family which shall include, in the case of a delinquent child, a risk-assessment of the child:

a. Identification of the specific services to be provided to the child to remediate or alleviate the conditions that led to the adjudication, including but not limited to educational, vocational educational, medical, drug or alcohol abuse treatment, or counseling or other treatment services, and

- b. Identification of the services to be provided to the parent, legal guardian, legal custodian, stepparent, other adult person living in the home or other family members, including services needed to assist the family to provide proper care and supervision of the child or, in the case of a deprived child, to prevent further harm to the child. If the child is placed outside the home, the service plan shall include the services to be provided during and after any such placement;

3. If the child is to be placed outside his home, the service plan shall state:

- a. The reasons for such placement and a statement as to the unavailability or inappropriateness of local placement, or other good cause, for any placement more than forty (40) miles from the home of the child,
- b. The services to be provided to the child while in such placement and the projected date of discharge,
- c. The services necessary to assist the child to reintegrate with his family or other community-based placement and, in the case of a deprived child, a description of acts and conduct that would be expected of the parent or parents, legal guardian, legal custodian, or stepparent or other adult person living in the home before the child should be returned home,
- d. If the child is age sixteen (16) or older, the services necessary to make the transition from foster care or other community placement to independent living;

4. Performance criteria that will measure the progress of the child and family toward completion of the treatment and service plan;

5. A projected date for the completion of the treatment and service plan; and

6. The name and business address of the attorney representing the child, if any.

B. Whenever a child who is subject to the provisions of this section is committed for inpatient mental health treatment pursuant to the Inpatient Mental Health Treatment of Children Act, the individual treatment and service plan shall be amended as necessary and appropriate, including but not limited to identification of the treatment and services to be provided to the child and his family upon discharge of the child from inpatient mental health treatment.

C. In addition to the information required pursuant to subsection A of this section, when a child born in a condition of dependence on a controlled dangerous substance has been removed from the home, the Department of Human Services, subject to court approval:

1. May require, as part of the placement plan, that the mother of such child complete a treatment program approved by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority prior to the return of the child to the home;

2. May require, as part of the placement plan, that the father of the child, legal guardian, legal custodian, stepparent or other adult person living in the home who is a drug-dependent person, as such term is defined by Section 3-403 of Title 43A of the Oklahoma Statutes, and whose conduct has contributed to the dependency of such child or mother on the controlled dangerous substance, or to the conditions which caused the child to be adjudicated deprived, complete a treatment program approved by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority prior to the return of the child to the home; and

3. May require testing for substance abuse of the mother, father, legal guardian, legal custodian, stepparent or other adult

person living in the home, on a monthly basis for a twelve-month period following completion of the substance abuse program and after return of the child to the home. A positive test of any such person shall be presented to the Department of Human Services and the district attorney.

D. Testing ordered by the court pursuant to subsection C of this section shall be admissible only for the purposes of juvenile and custody proceedings.

SECTION 151. AMENDATORY 10 O.S. 1991, Section 1115.2, is amended to read as follows:

Section 1115.2 The court shall ensure that the following information accompanies any deprived child placed outside ~~his~~ the child's home:

1. Demographic information;
2. Type of custody and previous placement;
3. Pertinent family information including, but not limited to, the names of family members who, by court order, ~~may~~ are not allowed to visit the child;
4. Known or available medical history including, but not limited to:
 - a. allergies,
 - b. immunizations,
 - c. childhood diseases,
 - d. physical handicaps,
 - e. psycho-social information, and
 - f. the name of the child's last doctor, if known; and
5. Copies of policies and procedures of the placement agency which pertain to placement operations of the agency, and which may be necessary to properly inform the institution, foster parent or other custodian of the duties, rights and responsibilities of the custodian.

Part 8. Specific Requirements

SECTION 152. AMENDATORY 10 O.S. 1991, Section 1119, is amended to read as follows:

Section 1119. In placing a child in the custody of an individual or of a private agency or institution, the court shall, if at all possible, select a person or an agency or institution governed by persons of the same religious faith as that of the parents of the child, or in case of a difference in the religious faith of the parents, then of the religious faith of the child, or, if the religious faith of the child is not ascertainable, then of the faith of either of the parents. However, it shall be left to the discretion of the judge to place children where their total needs will best be served.

SECTION 153. 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 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 154. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1100-8-803 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. When legal custody of a child is vested by the court in an individual or agency other than his parents, the court shall in the same or any subsequent proceeding inquire into the ability of the parents, a parent, or any other person who may be obligated to support the child and to pay any other expenses of the child, including the expense of any medical, psychiatric, or psychological examination or treatment provided pursuant to the order of the court. The court shall, after due notice and a hearing on the matter, require the parents or other person to pay the whole or part of such support and expenses, in accordance with their financial resources and other demands on their funds. The amounts so required to be paid shall be paid at such intervals as the court may direct. Unless otherwise ordered, payment is to be made to the clerk of the court for transmission to the person or agency having legal custody of the child or to whom compensation is due. The clerk of the court shall have authority to receive periodic payments toward the care and maintenance of the child, such as Social Security payments or railroad retirement payments made in the name of or for the benefit of the child.

B. No court order pursuant to this section against a parent or other person shall be entered, unless summons has been served within the state, a voluntary appearance is made, or a waiver of service given. The summons shall specify that a hearing with respect to the financial support of the child will be held.

C. An order entered pursuant to this section against a parent or other person may be enforced by contempt proceedings and shall also have the effect of a judgment at law. Upon request of the court, the district attorney shall enforce orders of the court issued pursuant to this subsection.

D. Payment for child support may be made to a nongovernmental agency in whom the court vests legal custody, provided that the agency shall make periodic reports to the court concerning the care and treatment the child is receiving and his response to such treatment. Such reports shall be made at such intervals as the court may direct and shall be made with respect to each child at least every six (6) months. The agency shall also afford an opportunity for a representative of the court to visit the child as frequently as the court deems necessary.

E. The court is authorized to issue orders to employers of such parents or other persons obligated to support the child to withhold and pay to the court money owed by such parents or other persons.

F. The amount of child support and other support due pursuant to the provisions of this section shall be ordered and reviewed in accordance with the child support guidelines provided in Section 120 of Title 43 of the Oklahoma Statutes.

SECTION 155. AMENDATORY 56 O.S. 1991, Section 238, is amended to read as follows:

Section 238. A. Any payment of public assistance money by the Department of Human Services, hereinafter referred to as "Department," to or for the benefit of any dependent child or children or a child in the custody of the Department creates a debt

due and owing to the State of Oklahoma by the natural or adoptive parent or parents who are responsible for support of such child or children in an amount equal to the amount of public assistance money so paid.

~~Provided, that any debt under this section shall not be incurred by nor at any time be collected from a parent or other person who is the recipient of public assistance monies for the benefit of minor dependent children for the period such person or persons are in such status.~~

~~Provided further, that where there has been a court order, the debt shall be limited to the amount provided for by said order. The Department shall have the right to petition the appropriate court for modification of a court order on the same grounds as a party to said cause.~~

B. The Department shall be subrogated to the right of said child or children to prosecute or maintain any support action or execute any administrative remedy existing under the laws of the State of Oklahoma to obtain reimbursement of money thus expended.

Part 9. Placements

SECTION 156. AMENDATORY 10 O.S. 1991, Section 1117, as amended by Section 29, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1117), is amended to read as follows:

Section 1117. A. 1. Whenever the court transfers custody of a child as provided in Section ~~1116~~ 1100-8-703 of this ~~title~~ Code, the person, institution, agency, or Department receiving custody shall have the right to, and shall be responsible for, the care and control of the child, and shall have the duty and authority to provide food, clothing, shelter, ordinary medical care, education, discipline for the child, and, in an emergency, to authorize surgery or other extraordinary care. Except for an emergency psychiatric admission pursuant to the Inpatient Mental Health Treatment of Children Act, said person, institution, agency or department may

provide or arrange for the provision of an inpatient mental health evaluation or inpatient mental health treatment of such child only pursuant to a court order as provided by the Inpatient Mental Health Treatment of Children Act.

Nothing in this subsection shall be interpreted to prohibit or preclude the provision of outpatient mental health services, including an outpatient mental health examination, counseling, educational, rehabilitative or other similar services to said child, as necessary and appropriate, in the absence of a specific court order for such services.

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

3. Nothing in this subsection shall be interpreted to:

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

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

B. The person, institution, agency, or Department having legal custody of a child pursuant to an order of the court shall receive

notice of court proceedings regarding the child as provided in Sections ~~1105~~ 1100-8-502 and ~~1115~~ 1100-8-701 of this ~~title~~ Code and shall be allowed to intervene upon application as a party to all court proceedings pertaining to the care and custody of the child including, but not limited to: adjudication, disposition, review of disposition, termination of parental rights and proceedings pursuant to the Inpatient Mental Health Treatment of Children Act.

SECTION 157. 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 of Human Services or the Department of Juvenile Justice 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 of Human Services 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 legal custody of the Department is changed and shall inform said court and attorney regarding the location of the child.

F. The Department of Juvenile Justice 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 a child in the legal custody of the Department is changed and shall inform said court and attorney regarding the location of the child.

G. The Department ~~may~~ of Human Services 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.

Part 10. Modifications and Appeals

SECTION 158. AMENDATORY 10 O.S. 1991, Section 1118, is amended to read as follows:

Section 1118. Any decree or order made ~~under~~ pursuant to the provisions of this ~~title~~ Code may be modified by the court at any time; provided, however, that an order terminating parental rights or an order certifying the juvenile as an adult may not be modified.

SECTION 159. AMENDATORY 10 O.S. 1991, Section 1122, is amended to read as follows:

Section 1122. A willful violation of any provision of an order of the court issued under the provisions of this ~~act~~ Code shall constitute indirect contempt of court and shall be punishable as such. Punishment for any such act of contempt shall not exceed a fine of Three Hundred Dollars (\$300.00), or imprisonment in the county jail for not more than thirty (30) days, or both such fine and imprisonment.

SECTION 160. AMENDATORY 10 O.S. 1991, Section 1123, is amended to read as follows:

Section 1123. A. Any interested party aggrieved by any order or decree may appeal to the Supreme Court in the same manner as other appeals are taken to the Supreme Court of this state; provided, however, that appeals taken from a trial court's decision in a proceeding for an adjudication of juvenile delinquency or in a proceeding certifying a juvenile to stand trial as an adult or as a youthful offender or denying such certification shall be taken to

the Court of Criminal Appeals in the same manner as other appeals are taken to the Court of Criminal Appeals of this state, and provided further that an order either certifying a juvenile to stand trial as an adult or as a youthful offender or denying such certification shall be a final order, appealable when entered.

B. The record on appeal of an order of adjudication or of an order certifying or denying certification of a juvenile to stand trial as an adult or as a youthful offender shall be completed and the appeal perfected within sixty (60) days after the date of the order.

C. The pendency of an appeal thus taken shall not suspend the order of the district court regarding a child, nor shall it discharge the child from the custody of that court or of the person, institution or agency to whose care such child has been committed, unless the Supreme Court or the Court of Criminal Appeals shall so order. The pendency of an appeal from an order of adjudication shall not prevent the district court from holding a dispositional hearing unless the appellate court shall so order. The pendency of an appeal from an order certifying a juvenile to stand trial as an adult or as a youthful offender shall not prevent the commencement of criminal proceedings against the juvenile unless stayed by the judge who issued the order of certification or by the appellate court. If the Supreme Court or the Court of Criminal Appeals does not dismiss the proceedings and discharge the child, it shall affirm or modify the order of the district court and remand the child to the jurisdiction of that court for supervision and care; and thereafter the child shall be and remain under the jurisdiction of the district court in the same manner as if such court had made such order without an appeal having been taken.

SECTION 161. AMENDATORY 10 O.S. 1991, Section 1123.1, is amended to read as follows:

Section 1123.1 In the published opinions of the appellate courts of this state, in juvenile proceedings including, but not limited to, adoption and paternity proceedings and proceedings under ~~the juvenile code~~ this Code, the initial of the child's surname shall be used rather than his name.

SECTION 162. AMENDATORY 10 O.S. 1991, Section 1123.2, is amended to read as follows:

Section 1123.2 A. All appeals of cases involving deprived or allegedly deprived children shall be initiated by filing a petition in error in the Supreme Court within thirty (30) days of the order appealed from. The record on appeal shall be completed within sixty (60) days from the date of the order.

B. The briefing schedule is established as follows:

1. Appellant's brief in chief shall be filed twenty (20) days after the trial court clerk notifies all parties that the record is complete and such notice has been filed in the office of the Clerk of the Supreme Court;

2. Appellee's answer brief shall be filed fifteen (15) days after the appellant's brief in chief is filed;

3. Appellant's reply brief may be filed within ten (10) days after the appellee's answer brief is filed; and

4. Adjudication of the appeals described ~~herein~~ in this section shall be expedited by the Supreme Court.

Part 11. Judicial Training

SECTION 163. 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. 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.

Part 12. Postadjudication Review

SECTION 164. AMENDATORY 10 O.S. 1991, Section 1116.2, as last amended by Section 1, Chapter 72, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1116.2), is amended to read as follows:

Section 1116.2 A. There is hereby established a postadjudication review board in each judicial district in the state. Members and alternate members of the postadjudication review boards shall be residents of or employed within the judicial district in which the board serves and shall be appointed by the Oklahoma Commission on Children and Youth after consultation with judges in the judicial district having juvenile docket responsibility. The Oklahoma Commission on Children and Youth may establish additional postadjudication review boards as needed for each county within a judicial district.

B. A postadjudication review board for each judicial district shall consist of at least five (5) members. Alternate review board members may be appointed to serve in the absence of a regularly appointed board member. Alternate board members shall be appointed in the same manner as regularly appointed board members. On and after September 1, 1991, currently serving board members shall serve until appointments are made by the Commission on Children and Youth. The Commission on Children and Youth shall complete initial appointments to the review boards no later than June 30, 1992.

C. Board members shall be appointed for a term of three (3) years. Members shall serve after the expiration of their terms until their respective successors shall have been appointed.

Vacancies shall be filled for the duration of unexpired terms. The review board members shall be appointed according to the following guidelines:

1. One member shall be a person who has training or experience in issues concerning child welfare, or a person who has demonstrated an interest in children through voluntary community service or professional activities;

2. Whenever possible, at least one member of the board shall be an individual who has served as a foster parent, provided that no person on the review board shall participate as a board member in any review hearing in which he is a party; and

3. No more than one person employed by any child welfare agency or juvenile court may be appointed to a board at the same time, provided such person shall not participate in any review hearing in which he is professionally involved.

D. Each postadjudication review board shall annually elect a chairperson and shall notify the Commission on Children and Youth as to the name and address of the chairman. A list of the members of each local board and its officers shall be filed with the Presiding Judge of the judicial district and each judge within the district having juvenile docket responsibility.

E. Each postadjudication review board shall meet as often as is necessary at a place it designates to carry out the duties of the board established by Section ~~1116.3~~ 1100-8-1202 of this ~~title~~ Code. The review board shall meet at least twice annually. Each review board shall be subject to the provisions of the Oklahoma Open Meeting Act, except that the actual case reviews shall be held in executive session and the names of the children in placement shall not be published.

F. As a condition of membership thereto, members and alternates of the postadjudication review boards shall attend the next available orientation program after appointment to the board.

Failure to attend an orientation program, at the discretion of the Commission on Children and Youth, may result in the removal of the board member. Members of postadjudication review boards shall attend the annual meeting or training programs or both such meeting and training programs as are authorized and directed by the Commission on Children and Youth.

G. Members of postadjudication review boards shall serve without compensation, but shall be reimbursed for travel and training expenses from monies appropriated by the Legislature for such purposes, as provided by the State Travel Reimbursement Act.

H. The Commission on Children and Youth shall be responsible for developing procedures for the removal of a member from a postadjudication review board. The grounds for the removal of a postadjudication review board member shall include but not be limited to:

1. Failure to attend board meetings as required by the Commission on Children and Youth;
2. Engaging in illegal conduct involving moral turpitude;
3. Engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; or
4. Wrongful disclosure of information as provided by Section ~~1116.4~~ 1100-8-1203 of this ~~title~~ Code.

I. Necessary staff assistance required by the postadjudication review boards may be provided by the bailiff or bailiffs, or other person designated by the court, of the judges with juvenile docket responsibility in the judicial district. Upon the request of the presiding judge, the Chief Justice of the Supreme Court may authorize additional staff to be paid from local court funds to assist the review board.

The Administrative Director of the Courts may include such additional funding requests in the annual budget for the courts as

are necessary to provide staff and administrative support for the review boards.

SECTION 165. AMENDATORY 10 O.S. 1991, Section 1116.3, as last amended by Section 2, Chapter 72, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1116.3), is amended to read as follows:

Section 1116.3 A. Review boards shall function in an advisory capacity to the district court and, in accordance with subsection C of this section, the district planning and coordination boards for services to children and youth of the Commission on Children and Youth.

The duties of a review board shall be to:

1. Pursuant to the provisions of subsection G of this section, review the case of every adjudicated child at least once every six (6) months and submit to the court within ten (10) days of any review hearing its findings and recommendations:

a. such review shall include but not be limited to consideration and evaluation of:

- (1) the appropriateness of the goals and objectives of the treatment and service plan,
- (2) the appropriateness of the services provided to the child, and to the parent, stepparent, or other adult living in the home of the child, or legal guardian, or custodian;

b. reviews of cases and reports to the court shall be scheduled to ensure that the court receives the findings and recommendations of the review board prior to each regularly scheduled six-month review of the case by the court;

2. Review the case of every child held in an out-of-home placement, other than a juvenile detention center, on a preadjudicatory or predisposition custody order for more than the ninety (90) days authorized by Section ~~1107.1~~ 1100-7-102 of this

~~title~~ Code for such orders. Said cases shall be reviewed by a review board not more than forty-five (45) days after the expiration of the ninety days. Such review shall include but not be limited to consideration and evaluation of:

- a. the appropriateness of the continued out-of-home placement, and
- b. in the absence of a court-ordered treatment and service plan, the appropriateness of the services provided to the child and any family members or other adult living in the home of the child; and

3. Forward copies of the findings and recommendations of the review board to the court having jurisdiction of the case, the parent, legal guardian, attorney representing the child, custodian of the child, agency supervising the case or legal custodian of the child and to any other interested party as determined by the court. It shall be the duty of the court clerk to ensure that all documents filed pertaining to the case of an adjudicated child are properly noted and affixed in the file of the child prior to the commencement of the review process by the review board and the bailiff or bailiffs of the judges having juvenile docket responsibility within the district shall transmit the information necessary for the case reviews to the review board for that district.

B. The review board's report of its findings and recommendations shall be admitted into evidence in any dispositional hearing, and may be relied upon to the extent of its probative value, even though not competent for purposes of an adjudicatory hearing.

C. In addition to its reviewing function, a review board, as directed by the Commission on Children and Youth and in coordination with the district planning and coordination boards shall:

1. Promote and encourage all child placement agencies to maximize family stability and continuity for a child by discouraging

unnecessary changes in placement and by recruiting persons to provide placement who may be suitable and willing to adopt;

2. Review the efforts of agencies and institutions to find permanent placement for eligible children and report to the court;

3. Encourage a meeting between the various responsible public and private agencies, institutions, and officers of the court in order to facilitate cooperation and coordination of efforts; and

4. Assess community resources, and develop, if not already available, a directory of responsible persons, agencies, and institutions.

D. A review board may solicit the attendance at its meetings of persons known to the board with information concerning the case of any child subject to its review.

E. A review board shall report annually its findings, recommendations, and assessments of the effectiveness of Sections ~~1115.1~~ 1100-8-704, ~~1115.2~~ 1100-8-705, 1100-8-902 and ~~Sections 1116.1~~ 1100-8-1201 through ~~1116.6~~ 1100-8-1204 of this title Code to the Administrator of the Courts, the Supreme Court, to the court having jurisdiction of the case, to the State Postadjudication Review Advisory Board, and the Commission on Children and Youth and provide such other reports as deemed proper or that may be requested from time to time by the Commission on Children and Youth, the Governor, the Legislature, or the Supreme Court.

F. It shall be the duty of the court having jurisdiction of the case to acknowledge the receipt of the recommendations of the review board and note to the review board the actions of the court regarding the recommendations submitted by the review board.

G. The Commission on Children and Youth, in consultation with the State Postadjudication Review Advisory Board and the Office of the Court Administrator, shall establish a phase-in schedule by adjudicatory category for the reviews of cases required by this section. The schedule shall provide for the review of the cases of

all adjudicated children no later than December 31, 1993, and shall be implemented in the following order:

1. Review of the cases of all children adjudicated to be deprived and children adjudicated to be in need of treatment no later than December 31, 1992; and

2. Review of the cases of children adjudicated to be delinquent and children adjudicated to be in need of supervision no later than December 31, 1993.

SECTION 166. AMENDATORY 10 O.S. 1991, Section 1116.4, as amended by Section 3, Chapter 72, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1116.4), is amended to read as follows:

Section 1116.4 No member of a postadjudication review board or staff member of such board ~~may~~ shall disclose any information regarding individual cases acquired from case reviews or be compelled to disclose such information except:

1. When such information pertains to criminal acts or violations of any law;

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

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

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

SECTION 167. AMENDATORY 10 O.S. 1991, Section 1116.6, as amended by Section 4, Chapter 72, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1116.6), is amended to read as follows:

Section 1116.6 A. There is hereby created a State Postadjudication Review Advisory Board which shall meet at least twice each calendar year. The Advisory Board shall have the duty of overseeing the implementation of the state foster care review program in coordination with the Commission on Children and Youth.

B. The Advisory Board shall consist of eighteen (18) members appointed by the Governor. At least eight of the members appointed shall be members of the various review boards throughout the state and at least five of the members shall be judges of the district court. The members shall serve at the pleasure of the Governor.

C. The Director of the Commission on Children and Youth shall be the clerk of the Advisory Board.

The Advisory Board shall have the following duties:

1. To assist in the training of the members of the review boards; and
2. To serve, in coordination with the Commission on Children and Youth, as a clearinghouse for reports and information concerning the foster care review program and the review boards as they relate to foster care; and
3. To make recommendations to the courts, the Commission on Children and Youth, the Governor, the Legislature, and each agency affected by the report regarding proposed statutory revisions, amendments to court rules and procedures, and services provided by public and private agencies as they relate to foster care; and
4. To work with both public and private agencies concerned with foster care and adoption exchanges to inform the public of the need for temporary and permanent homes and other services needed by deprived children.

D. The Commission on Children and Youth, with the assistance of the Administrative Director of the Courts and the State Postadjudication Review Advisory Board, shall be responsible for developing and administering training procedures and rules for the administration of the State Postadjudication Review Advisory Board System.

E. The Commission on Children and Youth shall include activities of the review boards and a report of the findings and recommendations of the review boards in the annual report required by Section ~~601.9~~ 1100-6-205 of this ~~title~~ Code.

Part 13. Termination of Parental Rights

SECTION 168. AMENDATORY 10 O.S. 1991, Section 1130, as last amended by Section 2, Chapter 360, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1130), is amended to read as follows:

Section 1130. A. The finding that a child is delinquent, in need of supervision or deprived shall not deprive the parents of the child of their parental rights, but a court may terminate the rights of a parent to a child in the following situations:

1. Upon a written consent of a parent, including a parent who is a minor, acknowledged as provided in paragraph (4) of Section 60.5 of this title, who desires to terminate his parental rights; provided that the court finds that such termination is in the best interests of the child; or

2. A finding that a parent who is entitled to custody of the child has abandoned ~~it~~ the child; or

3. A finding that:

- a. the child is deprived, as defined in this ~~title~~ Code, and
- b. such condition is caused by or contributed to by acts or omissions of the parent, and
- c. termination of parental rights is in the best interests of the child, and

d. the parent has failed to show that the condition which led to the making of said finding has not been corrected although the parent has been given three (3) months to correct the condition; provided, that the parent shall be given notice of any hearing to determine if the condition has been corrected. The court may extend the time in which such parent may show the condition has been corrected, if, in the judgment of the court, such extension of time would be in the best interest of the child. During the period that the parent has to correct the condition the court may return the child to the custody of its parent or guardian, subject to any conditions which ~~it~~ the court may wish to impose or the court may place the child with an individual or an agency; or

4. A finding that a parent who does not have custody of the child has willfully failed to contribute to the support of the child as provided in a decree of divorce or in some other court order during the preceding year or, in the absence of such order, consistent with the parent's means and earning capacity; provided, that the incarceration of a parent shall not prevent termination of parental rights under this section; or

5. A conviction in a criminal action pursuant to the provisions of Sections 843, 845, 1021.3, 1111 and 1123 of Title 21 of the Oklahoma Statutes or a finding in a deprived child action either that:

a. the parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse that is heinous or shocking to the court or that the child or sibling of such child has

suffered severe harm or injury as a result of such physical or sexual abuse, or

- b. the parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse subsequent to a previous finding that such parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse; or

6. A conviction in a criminal action that the parent has caused the death of a sibling of the child as a result of the physical or sexual abuse or chronic neglect of such sibling; or

7. A finding that all of the following exist:

- a. the child is deprived, as defined in this title, and
- b. custody of the child has been placed outside the home of a natural or adoptive parent, guardian or extended family member, and
- c. the parent whose rights are sought to be terminated has been sentenced to a period of incarceration of not less than ten (10) years, and
- d. the continuation of parental rights would result in harm to the child based on consideration of the following factors, among others: the duration of incarceration and its detrimental effect on the parent/child relationship; any previous incarcerations; any history of criminal behavior, including crimes against children; the age of the child; the evidence of abuse or neglect of the child or siblings of the child by the parent; and the current relationship between the parent and the child

and the manner in which the parent has exercised parental rights and duties in the past, and

- e. termination of parental rights is in the best interests of the child.

Provided, that the incarceration of a parent shall not in and of itself be sufficient to deprive a parent of his parental rights; or

8. A finding that all of the following exist:

- a. the child is deprived as defined in this title, and
- b. custody of the child has been placed outside the home of a natural or adoptive parent, guardian or extended family member, and
- c. the parent whose rights are sought to be terminated has a mental illness or mental deficiency, as defined by Section 6-201 of Title 43A of the Oklahoma Statutes, which renders the parent incapable of adequately and appropriately exercising parental rights, duties and responsibilities, and
- d. the continuation of parental rights would result in harm or threatened harm to the child, and
- e. the mental illness or mental deficiency of the parent is such that it will not respond to treatment, therapy or medication and, based upon competent medical opinion, the condition will not substantially improve, and
- f. termination of parental rights is in the best interests of the child.

Provided, a finding that a parent has a mental illness or mental deficiency shall not in and of itself deprive the parent of his parental rights.

B. An order directing the termination of parental rights is a final appealable order.

C. A parent or guardian of a child may petition the court to terminate the parental rights of a parent or the parents of a child for any of the grounds listed in paragraphs 1, 2 or 4 of subsection A of this section. A prior finding by a court that a child is delinquent, deprived or in need of supervision shall not be required for the filing of such petition by the parent or guardian.

SECTION 169. AMENDATORY 10 O.S. 1991, Section 1131, is amended to read as follows:

Section 1131. A. A parent shall be given actual notice of any hearing to terminate his parental rights if the whereabouts of the parent can be ascertained. The notice shall indicate the relief requested, and the hearing shall not be held until at least ten (10) days after the receipt of such notice, except with the consent of the parent, ~~if known~~. If the court finds that the whereabouts of the parent cannot be ascertained, ~~it~~ the court may order that notice be given by publication and a copy mailed to the last-known address of the parent. The notice shall be published once in a newspaper of general circulation in the county in which the action to terminate parental rights is brought, and the hearing shall not be held for at least ten (10) days after the date of publication of the notice. Except as otherwise provided by subsection B of this section, if a parent has not received actual notice of the hearing at which he is deprived of his parental rights, the order depriving him of those rights shall not become final for a period of six (6) months after the hearing. Nothing in this section shall prevent a court from immediately taking custody of a child and ordering whatever action may be necessary to protect his health or welfare.

B. For the purpose of terminating parental rights, a father or putative father of a child born out of wedlock who has not, prior to commencement of a proceeding to terminate parental rights to such child, exercised parental rights and duties or whose consent is not required pursuant to Section 60.6 of this title shall not be deemed

to have parental rights to such child. The father or putative father shall be entitled to notice and an opportunity to be heard pursuant to this section and Section 29.1 of this title, except that the court may:

1. Waive notice to a putative father whose identity is unknown to the mother of the child born out of wedlock and the mother of the child signs a sworn statement before the court that the identity of the father or putative father of the child is unknown and the court is satisfied, after inquiry into the matter, that his identity is unknown and with due diligence could not be determined; the willful and deliberate falsification of said sworn statement shall be perjury and shall, upon conviction, be punishable as otherwise provided by law. The waiver of notice by the court pursuant to this paragraph shall not constitute grounds to challenge an adoption of the child; and

2. When the identity of the father or putative father of a child born out of wedlock is known but his whereabouts is unknown and the court, after inquiry, is satisfied that after diligent search his whereabouts remains unknown, order that notice be given by publication as provided in subsection A of this section and a copy mailed to the last-known address, if known, of such father or putative father. When notice is given by publication the order terminating parental rights shall not become final for a period of fifteen (15) days from the date of the order.

SECTION 170. AMENDATORY 10 O.S. 1991, Section 1132, is amended to read as follows:

Section 1132. The termination of parental rights terminates the parent-child relationship, including the parent's right to the custody of the child ~~and his~~, the parent's right to visit the child, ~~his~~ the parent's right to control the child's training and education, the necessity for the parent to consent to the adoption of the child ~~and~~, the parent's right to the earnings of the child,

and the parent's right to inherit from or through the child. Provided, that nothing ~~herein~~ in this section shall in any way affect the right of the child to inherit from the parent.

SECTION 171. AMENDATORY 10 O.S. 1991, Section 1133, is amended to read as follows:

Section 1133. A. After parental rights have been terminated, a court may award custody of the child to any qualified person or agency with authority to consent to the adoption of the child, or the court, in its discretion, may reserve the authority to consent to the adoption of the child; but a court ~~cannot~~ shall not consent to or authorize any person or agency to consent to the adoption of a child unless the rights of the parents have been terminated in accordance with the provisions of this ~~act~~ part of this article.

B. When an interlocutory or final decree of adoption has been rendered, a decree terminating parental rights cannot be challenged on any ground either by a direct or a collateral attack, more than three (3) months after its rendition. The minority of the natural parent shall not operate to prevent this time limit from running.

SECTION 172. AMENDATORY 10 O.S. 1991, Section 1134, is amended to read as follows:

Section 1134. A. Except as otherwise provided for in subsection B of this section, an action to adopt a child ~~may~~ shall not be combined with an action to terminate parental rights and ~~when~~ if the rights of a parent have been terminated, neither an interlocutory nor a final decree of adoption ~~may~~ shall be rendered until the decree terminating parental rights has become final.

B. This section shall not apply to:

1. A proceeding to adopt a child without the consent of a parent when the court has determined that consent is not legally required; or

2. A proceeding to adopt a child born out of wedlock when the mother of the child is granting consent to the adoption and is a party to the action; or

3. Proceedings pursuant to the provisions of Section 60.6 of this title.

SECTION 173. AMENDATORY 10 O.S. 1991, Section 1145, is amended to read as follows:

Section 1145. Whenever parental rights of a child have been terminated and the child is committed to the Department of ~~Public Welfare~~ Human Services, the Director of ~~Public Welfare~~ Human Services shall serve as the legal guardian of the estate of the child, until another guardian is legally appointed, for the purpose of preserving the child's property rights, securing for the child any benefits to which he may be entitled under social security programs, insurance, claims against third parties, and otherwise, and receiving and administering such funds or property for the care and education of the child.

ARTICLE IX

Records

SECTION 174. AMENDATORY 10 O.S. 1991, Section 1125, is amended to read as follows:

Section 1125. A. The court shall make and keep records of all cases brought before ~~it~~ the court. The court shall devise and cause to be printed such forms for social and legal records and such other papers as may be required.

B. As used in this ~~title~~ Code:

1. "Records" shall include but not be limited to written or printed documents, papers, logs, reports, files, case notes, films, photographs, audio or visual tape recordings, and shall include information entered into and maintained in an automated or computerized information system;

2. "Juvenile court record" means legal and social records other than adoption records, including but not limited to agency, law enforcement and district attorney's records, filed with the court that are related to a child who is the subject of a court proceeding pursuant to the provisions of ~~Title 10 of the Oklahoma Statutes~~ this title;

3. "Agency record" means records prepared, obtained or maintained by a public or private agency with regard to a child who is or has been under its care, custody or supervision or to a family member or other person living in the home of such child and shall include but not be limited to:

- a. any study, plan, recommendation, assessment or report made or authorized to be made by such agency for the purpose of determining or describing the history, diagnosis, custody, condition, care or treatment of such child, or
- b. any records made in the course of any investigation or inquiry conducted by an agency to determine whether a child is or may be a deprived child, a delinquent child, a child in need of supervision or a child in need of treatment;

4. "District Attorney's records" means any records prepared or obtained by an office of a district attorney relating to juvenile cases and any records prepared or obtained for the prosecution of crimes against children that constitute a legal or social record of a child as defined by this section;

5. "Law enforcement records" means any contact, incident or similar reports, arrest records, disposition records, detention records, fingerprints, or photographs related to a child and shall include but not be limited to reports of investigations or inquiries conducted by a law enforcement agency to determine whether a child is or may be subject to the provisions of this title as a deprived

child, a delinquent child, a child in need or supervision or a child in need of treatment. Law enforcement records pertaining to juveniles shall be maintained separately from records pertaining to adults;

6. "Nondirectory education records" means any records maintained by a public or private school, including a vocational-technical school, regarding a child who is or has been a student at the school which are categorized as private or confidential records pursuant to the federal Family Educational Rights and Privacy Act of 1974 and any rules promulgated pursuant to said act;

7. "Legal record" means any petition, docket, motion, finding, order, judgment, pleading, paper or other document, other than social records, filed with the court;

8. "Social record" means social studies and medical, psychological, clinical or other treatment reports or studies, educational records and agency records other than legal records filed with the court; and

9. "Participating agency" means any public or private agency that has entered into a contract or an interagency agreement under the Interlocal Cooperation Act in accordance with the rules and guidelines adopted pursuant to Section ~~14~~ 1100-6-309 of this ~~act~~ Code or the Serious and Habitual Juvenile Offender Act for the purpose of accessing and sharing information necessary for the care, treatment, and supervision of children and youth.

SECTION 175. AMENDATORY 10 O.S. 1991, Section 1125.1, as amended by Section 1, Chapter 306, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1125.1), is amended to read as follows:

Section 1125.1 A. Except as provided by this section and except as otherwise specifically provided by state and federal laws, the following records are confidential and shall not be open to the general public or inspected or their contents disclosed:

1. Juvenile court records;

2. Agency records;
3. District attorney's records;
4. Law enforcement records;
5. Nondirectory education records; and
6. Social records.

B. Except as authorized by ~~Sections 620.6~~ Section 1100-6-309 of this Code and ~~1125 through 1125.4~~ of this title article and except as otherwise specifically provided by state and federal laws pertaining to the confidentiality of records and information and the inspection, release, disclosure, correction or expungement of such information, including but not limited to state and federal laws pertaining to education records, medical records, drug or alcohol treatment records, law enforcement, or social service records, the records listed in subsection A of this section shall be confidential and shall be inspected, released, disclosed, corrected or expunged only pursuant to an order of the court.

C. An order of the court authorizing the inspection, release, disclosure, correction or expungement of confidential records shall be entered by the court only after a review of the records by the court and a determination by the court, with due regard for the confidentiality of the records and the privacy of persons identified in the records, that a compelling reason exists and such inspection, release or disclosure is necessary for the protection of a legitimate public or private interest.

1. Any order authorizing the disclosure, release or inspection of said records pursuant to this subsection may be conditioned on such terms and restrictions as the court deems necessary and appropriate.

2. Upon the filing of a petition for an order of the court pursuant to this section, the court shall set a date for a hearing and shall provide for reasonable notice to the agency holding the records and the person who is the subject of the record if said

person is eighteen (18) years of age or older or to the parents of a child less than age eighteen (18) who is the subject of the record, to the attorneys, if any, of such person, child or parents and any other interested party as ordered by the court. The hearing may be closed at the court's discretion.

3. The Department of Human Services or the Department of Juvenile Justice shall not be required to produce confidential records or information listed in subsection A of this section pursuant to a subpoena duces tecum issued in a divorce or custody action except upon the filing of a petition as required by this subsection.

D. Any agency or person may seek an order from the juvenile court prohibiting the release of information subject to disclosure without an order of the court pursuant to ~~Sections 620.6~~ Section 1100-6-309 of this Code and ~~1125 through 1125.4~~ of this ~~title~~ article. The court may, for good cause shown, prohibit the release of such information or authorize release of the information upon such conditions as the court deems necessary and appropriate.

E. In accordance with the provisions of the Serious and Habitual Juvenile Offender Act and Section ~~620.6~~ 1100-6-309 of this ~~title~~ Code:

1. Information included in the records listed in subsection A of this section may be entered in and maintained in the Juvenile Justice Information System and other automated information systems related to services to children and youth; and

2. Said information systems may be accessed by participating agencies as defined by subsection B of Section ~~1125~~ 1100-9-101 of this ~~title~~ Code.

F. Nothing in ~~Sections 620.6~~ Section 1100-6-309 of this Code and ~~1125 through 1125.4~~ of this ~~title~~ article shall be construed as:

1. Authorizing the inspection of records or the disclosure of information contained in records relating to the provision of

benefits or services funded, in whole or in part, with federal funds, except in accord with federal statutes and regulations governing the receipt or use of such funds;

2. Authorizing the disclosure of information required to be kept confidential by ~~Sections~~ Section 55.1, 57, 60.17 or 60.29 of this title;

3. Abrogating any privilege, including the attorney-client privilege, or affecting any limitation on such privilege found in any other statutes;

4. Limiting or otherwise affecting access of parties to a juvenile proceeding to records filed with or submitted to the court;

5. Limiting or otherwise affecting access of agencies to information subject to disclosure, review, or inspection by contract or as a condition for the receipt of public funds or participation in any program administered by the agency;

6. Prohibiting the Department of Human Services from summarizing the outcome of an investigation to the person who reported a known or suspected instance of child abuse or neglect; and

7. Prohibiting the person or agency conducting a preliminary inquiry relating to an alleged delinquent act as authorized by Section 1103 of this title from providing information, as to the disposition of the matter by the district attorney, to the person or agency which referred the matter, including but not limited to whether a petition was filed or an alternative action taken, and the basis for such and the terms of any agreement entered into by the child for payment of restitution, including but not limited to community services.

SECTION 176. AMENDATORY 10 O.S. 1991, Section 1125.2, as last amended by Section 2, Chapter 306, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1125.2), is amended to read as follows:

Section 1125.2 A. Juvenile court records may be inspected, and their contents shall be disclosed, without a court order to the following upon showing of proper credentials:

1. The court having the child currently before it in any proceeding pursuant to this title, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, and court-appointed special advocates;

2. Members of review boards established pursuant to Sections ~~1115.2, 1116.2, 1116.6 and 1150.2~~ 1100-8-705, 1100-8-1103, 1100-8-1201 and 1100-8-1204 of this ~~title~~ Code. In addition to juvenile court records, members of such review boards may inspect, without a court order, information including but not be limited to:

- a. psychological and medical records,
- b. placement history and information, including the names and addresses of foster parents,
- c. family assessments,
- d. treatment or service plans, and
- e. school records;

3. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to this title or the prosecution of crimes against children;

4. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of this title or representing a child pursuant to subsection B of Section 846 of Title 21 of the Oklahoma Statutes. Said attorney may also access other records listed in subsection A of Section ~~1125.1~~ 1100-9-103 of this ~~title~~ Code for use in the legal representation of the child;

5. ~~Employees of juvenile bureaus established by Section 1201 of this title in the course of their official duties pursuant to this title, and employees~~ of the Department of Human Services in the

course of their official duties pursuant to this title and Title 56 of the Oklahoma Statutes;

6. Employees of a law enforcement agency in the course of their official duties pertaining to investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

7. Employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under eighteen (18) years of age. Records or information disclosed pursuant to this paragraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation; provided, records pertaining to any alleged or adjudicated abuse or neglect of the person shall not be inspected or disclosed;

8. The Oklahoma Commission on Children and Youth as provided by Sections ~~601.2~~ 1100-6-201 and ~~601.6~~ 1100-6-202 of this ~~title~~ Code;

9. The Department of Human Services, the Department of Juvenile Justice, or other public or private agency or individual having court-ordered custody or custody pursuant to Department of Human Services or Department of Juvenile Justice placement of the child who is the subject of the record;

10. The child who is the subject of the record and the parents, legal guardian, legal custodian or foster parent of said child; and

11. A federally recognized Indian tribe in which the child who is the subject of the record is a member or is eligible to become a member of the tribe and is the biological child of a member of an Indian tribe pursuant to the Federal Indian Child Welfare Act, P.L. 95-608, and the Oklahoma Indian Child Welfare Act, Section 40 et seq. of this title; provided such Indian tribe, in the course of its official duties, is:

- a. investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody, or
- b. providing services to or for the benefit of a child including but not limited to protective, emergency, social and medical services, or
- c. the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

The records that are to be provided to Indian tribes under this subsection shall include all case records, reports, and documents as defined in Section ~~1125~~ 1100-9-101 of this ~~title~~ Code.

B. In accordance with the rules adopted for such purpose pursuant to the Serious and Habitual Juvenile Offender Act, and Section ~~620.6~~ 1100-6-309 of this ~~title~~ Code, the records listed in subsection A of Section ~~1125.1~~ 1100-9-102 of this ~~title~~ Code may be inspected and their contents disclosed without a court order to the following:

1. Participating agencies as defined by Section ~~1125~~ 1100-9-101 of this ~~title~~ Code;

2. The following, provided that the inspection of records and disclosure authorized by this paragraph may be limited to summaries or to information directly necessary for the purpose of such inspection or disclosure:

- a. pursuant to the provisions of this title, a person, agency, hospital or clinic authorized or directed by the court or the Department of Human Services to care for, treat, examine, evaluate or supervise a child or

to treat, examine, or evaluate the parent, legal guardian or other adult person living in the home of the child,

- b. a legally recognized school that is not a participating agency in which the child who is the subject of the record is currently enrolled, and
- c. individuals or agencies engaged in legitimate research for educational, scientific or public purposes or for the purpose of an audit authorized by law. No information identifying the subjects of the records shall be made available or disclosed unless it is essential to the research or audit purpose; and

3. The chairman of any standing or special committee of the Legislature where a subpoena, authorized by law, has been issued by the committee requesting the records.

C. Records and their contents disclosed without an order of the court as provided by this section shall remain confidential. The use of such information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for commercial, political or any other unauthorized purpose.

SECTION 177. AMENDATORY Section 3, Chapter 306, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1125.2A), is amended to read as follows:

Section 1125.2A A. Department of Human Services agency records pertaining to a child may be inspected and their contents disclosed without a court order to the following upon showing of proper credentials:

1. The court having the child currently before it in any proceeding pursuant to Title 10 of the Oklahoma Statutes, any district court or tribal court to which such proceedings may be

transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, court-appointed special advocates, and members of review boards established pursuant to Section ~~1150.2~~ 1100-6-1103 of this ~~title~~ Code;

2. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to ~~Title 10 of the Oklahoma Statutes~~ this title or the prosecution of crimes against children;

3. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of ~~Title 10 of the Oklahoma Statutes~~ this title or representing a child pursuant to subsection B of Section 846 of Title 21 of the Oklahoma Statutes. Said attorney may also access other records listed in subsection A of Section ~~1125.1~~ 1100-9-102 of this ~~title~~ Code for use in the legal representation of the child;

~~4. Employees of juvenile bureaus established by Section 1201 of Title 10 of the Oklahoma Statutes in the course of their official duties pursuant to Title 10 of the Oklahoma Statutes;~~

~~5.~~ Employees of a law enforcement agency of this or another state and employees of a child protective service of another state or federally recognized Indian tribe in the course of their official duties pertaining to investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

~~6.~~ 5. Employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under eighteen (18) years of age. Records or information disclosed pursuant to this subparagraph may consist of summaries or may be limited to the information or records necessary for the purpose of

the investigation; provided, records pertaining to any alleged or adjudicated abuse or neglect of the person shall not be inspected or disclosed;

~~7.~~ 6. The Oklahoma Commission on Children and Youth as provided by Sections ~~601.2~~ 1100-6-202 and ~~601.6~~ 1100-6-501 of this ~~title~~ Code;

~~8.~~ 7. Members of multidisciplinary teams designated by the Department of Human Services, investigating a report of known or suspected child abuse or neglect or providing services to a child or family which is the subject of the report;

~~9.~~ 8. A physician who has before him or her a child whom the physician reasonably suspects may be abused or neglected;

~~10.~~ 9. Any public or private agency or person authorized by the Department to diagnose, or provide care, treatment, supervision or other services to a child who is the subject of a report or record of delinquency, child abuse or neglect, or other adjudicatory category, provided the Department may limit such disclosure to summaries or to information directly necessary for the purpose of such disclosure;

~~11.~~ 10. Any federally recognized Indian tribe or state or county child protective services or child welfare agency providing for or supervising the diagnosis, care, treatment, supervision or other services provided such child; and

~~12.~~ 11. The parents of the child who is the subject of such records; provided that records pertaining to any alleged or adjudicated abuse or neglect of said child shall not be inspected or disclosed pursuant to this paragraph.

B. Nothing in this section shall be construed as prohibiting the Department of Human Services from disclosing such confidential information as may be necessary to secure appropriate care, treatment, protection or supervision of a child alleged to be abused or neglected.

SECTION 178. AMENDATORY Section 2, Chapter 78, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1125.2B), is amended to read as follows:

Section 1125.2B Department of Human Services agency records and Department of Juvenile Justice agency records pertaining to a child may be inspected and their contents disclosed and released without a court order to a federally recognized Indian tribe in which the child who is the subject of the record is a member or is eligible to become a member of the tribe and is the biological child of a member of an Indian tribe pursuant to the Federal Indian Child Welfare Act, P.L. 95-608, and the Oklahoma Indian Child Welfare Act, Section 40 et seq. of ~~Title 10 of the Oklahoma Statutes~~ this title; provided such Indian tribe, in the course of its official duties, is:

- a. investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody, or
- b. providing services to or for the benefit of a child including but not limited to protective, emergency, social and medical services, or
- c. the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

The records that are to be provided to Indian tribes under this section shall include all case records, reports, and documents as defined in Section ~~1125~~ 1100-9-101 of ~~Title 10 of the Oklahoma Statutes~~ this Code.

SECTION 179. AMENDATORY 10 O.S. 1991, Section 1125.3, is amended to read as follows:

Section 1125.3 A. The confidentiality restrictions otherwise provided by law for juvenile court records shall not apply:

1. Upon the adjudication of a juvenile offender for a serious act or for habitual criminal acts as defined in Section ~~2~~ 1100-4-710 of this ~~act~~ Code. The court having jurisdiction shall note on the juvenile court record of such juvenile offenders that said record is no longer confidential;

2. Upon the certification of a juvenile pursuant to Section ~~1112~~ 1100-8-302 of ~~Title 10 of the Oklahoma Statutes~~ this Code; or

3. Upon the charging or certification of a juvenile pursuant to Section ~~1104.2~~ 1100-8-301 of ~~Title 10 of the Oklahoma Statutes~~ this title.

B. The confidentiality restrictions provided by law for law enforcement records pertaining to juveniles shall not apply to the arrest records of juveniles defined by Section ~~2~~ 1100-4-710 of this ~~act~~ Code as serious offenders or habitual juvenile offenders or to juveniles charged or certified pursuant to Section ~~1104.2~~ 1100-8-301 of ~~Title 10 of the Oklahoma Statutes~~ this Code or certified pursuant to Section ~~1112~~ 1100-7-302 of ~~Title 10 of the Oklahoma Statutes~~ this Code.

C. Except as provided by this subsection, the fingerprinting of persons under the age of eighteen (18) shall be as otherwise provided by law for the fingerprinting of adults.

1. When a child is detained or arrested in the course of an investigation of a criminal offense and:

- a. a comparison of the fingerprints of the child with fingerprints found during the investigation of the offense is negative, or
- b. a court finds that the child did not commit the alleged offense,

all law enforcement records of the arrest and, if applicable, juvenile court and agency records shall be amended to reflect said facts immediately after the comparison or court finding;

2. Fingerprints obtained pursuant to this subsection shall be retained in a central state depository and in a local depository maintained by a duly constituted law enforcement agency;

3. Fingerprints obtained and maintained pursuant to this subsection may be used only by law enforcement officers for comparison purposes in connection with the investigation of a crime or to establish identity in instances of death, serious illness, runaways, or emergency; and

4. If a child is reported to a law enforcement agency as a missing child or a custodial parent, legal guardian or legal custodian of a child requests the issuance of a fingerprint card pursuant to the provisions of the Oklahoma Minor Identification Act, the provisions of the Oklahoma Minor Identification Act shall apply. With the voluntary and informed consent of the parent, legal guardian or legal custodian of the child, fingerprints obtained and maintained pursuant to the Oklahoma Minor Identification Act may be used by law enforcement officers as provided by paragraph 3 of this subsection.

D. When a delinquent child has escaped or run away from a training school or other institutional placement for delinquents, the name and description of the child may be released to the public by the agency having custody of the child as necessary and appropriate for the protection of the public and the apprehension of the child.

SECTION 180. AMENDATORY 10 O.S. 1991, Section 1125.4, as amended by Section 1, Chapter 178, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1125.4), is amended to read as follows:

Section 1125.4 A. No adjudication by the court upon the status of a child in a juvenile proceeding shall operate to impose any of

the civil disabilities ordinarily resulting from conviction of a crime, nor shall a child be deemed a criminal by reason of such adjudication, nor shall any arrest or detention under this title or any adjudication in a juvenile proceeding be deemed a detention or an arrest or conviction for purposes of employment, civil rights, or any statute, regulation, license, questionnaire, application, or any other public or private purposes.

B. The court shall order the records of a person alleged or adjudicated to be delinquent to be sealed in accordance with the provisions of this section.

1. When the person has been adjudicated to be delinquent, the record shall be sealed when:

a. one (1) year has elapsed from the later of:

(1) dismissal or closure of the case by the court, or

(2) notice to the court by the Department of Human Services or a juvenile bureau of final discharge of such person from the supervision of the Department of Human Services or juvenile bureau, and

b. the person has not been found guilty of or admitted to or not contested the commission of a subsequent criminal offense in either a juvenile or adult proceeding, and

c. no juvenile or adult proceeding for a criminal offense is pending.

2. When a juvenile court intake has been completed and:

a. the case has been dismissed, or

b. no petition has been filed pending fulfillment of conditions of a voluntary probation, or

c. a petition has been filed but no adjudication has occurred pending the fulfillment of conditions of a preadjudicatory probation,

the records shall be sealed one (1) year after such dismissal or completion of the conditions of a voluntary or preadjudicatory probation.

C. The Administrative Office of the Courts shall establish on or before January 1, 1994, a system for sealing records as required by subsection B of this section and order that said records be sealed in accordance with the procedures established pursuant to said system.

D. Upon the sealing of the records, or any part of the records, of a person alleged or adjudicated to be delinquent pursuant to this title, all sealed records and official actions subject to the order shall be deemed never to have occurred, and the person who is the subject of said records and all juvenile justice agencies may properly reply upon any inquiry in the matter that no such action ever occurred and no such record exists with respect to such person.

E. Upon the entry of an order to seal the records of a juvenile:

1. The court clerk shall seal all juvenile court records pertaining to the person, except that a confidential index shall be maintained for the purpose of locating records subject to inspection or release pursuant to subsection F of this section.

a. All law enforcement and district attorney records pertaining to said person, except basic identification information, shall be sealed, and

b. Except where such documents are necessary to maintain state or federal funding, all juvenile court personnel records pertaining to said person shall be sealed.

2. Members of the judiciary, district attorneys, the defendant, the defendant's counsel and employees of ~~juvenile bureaus~~ and the Department of Human Services and the Department of Juvenile Justice assigned juvenile court intake responsibilities may access records that have been sealed pursuant to this section without a court order

for the purpose of determining whether to dismiss, seek a voluntary probation or file a petition in a case where the person who is the subject of the sealed record is alleged to have committed a subsequent juvenile delinquent act. Provided, records sealed pursuant to this section may be used in a subsequent juvenile delinquent prosecution of the case only after the issuance of a court order unsealing the records.

F. A record of any child alleged or adjudicated to be delinquent pursuant to this title, or any evidence given in such cause, or any records sealed pursuant to this section, shall not in any civil, criminal or other cause or proceeding in any court be lawful or proper evidence against the child for any purpose whatever, except as provided by this subsection. Unsealed records of a person alleged or adjudicated to be delinquent may be inspected without a court order, and the court shall issue an order unsealing sealed records, for use for the following purposes:

1. In subsequent cases against the same child pursuant to this title;

2. In an adult criminal proceeding pursuant to Sections ~~1104.2~~ 1100-8-301 and ~~1112~~ 1100-8-302 of ~~Title 10 of the Oklahoma Statutes~~ this Code;

3. Upon conviction of a criminal offense in an adult proceeding, in connection with the sentencing of such person;

4. If the person is placed in the custody or under the supervision of the Department of Corrections, by the Department of Corrections personnel for the treatment and classification of such person; or

5. In accordance with the guidelines adopted pursuant to the Serious and Habitual Juvenile Offender Act and Section ~~14~~ 1100-6-309 of this ~~act~~ Code, for maintaining juvenile justice and criminal justice statistical information.

G. 1. Records of a delinquency proceeding may be used to show the bias, if any, should the person who is the subject of the records be a witness in a civil or criminal proceeding either while a child or after he becomes an adult. If the record has been sealed, the court may enter an order authorizing the inspection or release of said records upon the request of the district attorney or said person.

2. Subsequent to a record being sealed as provided by this section:

- a. the district attorney, the arresting agency, and the Oklahoma State Bureau of Investigation may request the court to unseal the records for the purpose of a criminal investigation. When the court finds that there is a compelling reason and it is in the interest of justice to do so, the court may order the record unsealed.
- b. any person or agency having a legitimate interest in a delinquency case or proceeding may petition the court for an order unsealing the record of the case. Upon the filing of a petition, the court shall set a date for a hearing and shall provide thirty (30) days' notice to all interested parties. The hearing may be closed at the court's discretion. If, after a hearing, the court determines that there is a compelling reason and it is necessary for the protection of a legitimate public or private interest to unseal the records, the court may order all or a portion of the record unsealed.

H. Any record ordered to be sealed pursuant to this section, if not unsealed within ten (10) years of the order, shall be obliterated or destroyed at the end of the ten-year period.

NONCODE SECTIONS

SECTION 181. 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 or 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 and provided further, a second or subsequent violation of

this section by a minor shall constitute a felony offense, triable in a criminal proceeding if the minor is certified to stand trial as an adult pursuant to Section 1112 of Title 10 of the Oklahoma Statutes.

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

SECTION 182. AMENDATORY 21 O.S. 1991, Section 1283, as amended by Section 3, Chapter 151, O.S.L. 1992 (21 O.S. Supp. 1993, Section 1283), is amended to read as follows:

Section 1283. A. It shall be unlawful for any person having previously been convicted of any felony in any court of a 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. 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 183. 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. Beginning with the 1996-97 school year, there is hereby created a statewide system of alternative education programs whereby each public school district which serves students in grades seven through twelve shall provide an alternative education program for those children most at risk of not completing a high school education. The alternative education system does not include the area vocational-technical school districts.

B. The alternative education program of each school district shall meet the criteria required for Alternative Approaches grants as provided in Section 1210.562 of this title.

C. A school district shall provide alternative education services by:

1. Directly providing alternative education programs;
2. Entering into an interlocal cooperative agreement with another school district or districts as provided in Section 5-117b of this title;
3. Contracting with public or private nonprofit organizations;
4. Entering into a written agreement with other school districts within a county to establish a countywide alternative education program; or
5. Entering into a written agreement with other school districts in other counties to establish a regional alternative education program.

D. On or before March 1, 1995, each school district which serves students in grades seven through twelve shall conduct a needs assessment to identify the number of children who would benefit most from alternative education and their specific educational needs.

E. On or before May 10, 1996, each school district which serves students in grades seven through twelve shall develop a plan for meeting the identified needs of the school district for establishing, continuing or expanding alternative education services. The plan, which shall include participation from parents, students, teachers and lay persons, and annual updates, shall include but not be limited to:

1. Addressing such issues as student identification criteria, method of referral, transportation and the appropriateness of returning the student to the traditional school or classroom;
 2. A budget of projected expenditures;
 3. Appropriate collaborative efforts with other state agencies;
- and
4. A program evaluation.

F. On or before May 10, 1996, the plan shall be approved by the local board of education and submitted to the State Board of Education. The plan shall be on file at the district administrative

office and made available to the public on request. Thereafter, the plan shall be included in the Comprehensive Local Education Plan of the district as provided in Section 3-104.2 of this title.

G. A qualified and properly certified teacher in an alternative education program shall be paid a five percent (5%) increment above the designated step for that teacher within the adopted salary schedule of the local school district for that school year.

H. The State Department of Education shall provide technical assistance and training to school administrators in identifying alternative education needs, areas of deregulation, program and plan development, and models of existing successful alternative education programs. The State Department of Education shall also provide training for teachers participating in alternative education.

SECTION 184. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 18-202 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. The Legislature recognizes that protecting the safety of students is one of the highest priorities for schools. Only a safe environment can provide students with an optimal learning opportunity. But suspension or expulsion policies designed to ensure safety in schools may put the local community at risk, and propel the student toward juvenile crime. In an effort to stem these increasing risks, alternative education programs can provide a preventative and remedial option for students who have become or are at-risk of becoming disengaged from the learning process. The Oklahoma alternative approaches grant program as provided in Section 1210.562 of this title, has demonstrated success in providing educational experiences for many students who were at-risk of not completing a high school education. Although proactive programs such as alternative education have a higher cost factor than the traditional classroom approach, in the long term they are cost-effective for both the student and community.

B. Local school districts shall be eligible to claim a funding differential for each student in grades seven through twelve attending an alternative education program approved by the home school district. The funding differential shall be calculated as follows:

1. Calculate the average daily membership of students attending in an approved alternative education program and multiply that membership by a weight of 1.48. The product shall be the alternative education student value;

2. Determine the State Aid formula student value as follows:

- a. multiply each student attending in an approved alternative education program by the Base Foundation Support Level for the current school year, and
- b. multiply each student participating in an approved alternative education program by the Incentive Aid guarantee for the current school year times twenty, and
- c. add the products of subparagraphs a and b of this paragraph;

3. Subtract the product of paragraph 2 of this subsection from the product of paragraph 1 of this subsection. The remainder shall be the alternative education funding differential the school district is eligible to claim from state-appropriated funding.

C. All revenue received and expended for students participating in an alternative education program shall be reported by program dimension within the Oklahoma Cost Accounting System to the State Department of Education by September 15th of each school year.

D. The State Board of Education is authorized to promulgate rules as necessary to establish the process by which the alternative education funding differential can be claimed and processed during the school year in which the student participates in an alternative education program.

SECTION 185. 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. 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 Section 183 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.

SECTION 186. The reforms provided for in Sections 2 through 185 of this act shall be funded either by the income tax changes pursuant to Section 189 of this act or by the sales and use tax rate change pursuant to Sections 190 through 193 of this act.

SECTION 187. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 41.29b of Title 62, unless there is created a duplication in numbering, reads as follows:

A. In order that the Legislature may guarantee that the increased revenue generated as a result of the tax changes contained in this act shall be appropriated to fund the juvenile justice reforms provided for in this act, the Office of State Finance shall present as part of the official certification process for each fiscal year an estimate of all revenues which will accrue to the General Revenue Fund as a result of the tax changes contained in this act. The estimate shall show the increased revenue from personal income taxes or sales and use taxes as a result of the provisions of this act separately. The estimate shall further account for changes to such revenue which result from growth or decline in said tax sources due to economic circumstances.

B. The Office of State Finance shall separately account for and report monthly revenues which it determines accrued to the General Revenue Fund which were attributable to the tax increases contained in this act.

C. Funds separately accounted for herein shall be used only to fund the reforms provided for in this act and for no other purpose. Any appropriation or expenditure of any of such funds for any other purpose shall be null and void and of no effect.

D. Increased certification for fiscal year 1995, as a result of the tax changes contained in this act, shall not be available for appropriation prior to July 1, 1995.

E. The Office of State Finance shall track appropriations of revenues which are deposited to the credit of the General Revenue Fund of the State Treasury which are attributable to the changes contained in this act on a fiscal year basis and shall provide an accounting to the Governor, Speaker of the House of Representatives

and President Pro Tempore of the Senate, within thirty (30) days after the end of the fiscal year.

F. The provisions of subsections B, D and E of this section shall cease to have the force and effect of law on July 1, 2005.

SECTION 188. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 41.29c of Title 62, unless there is created a duplication in numbering, reads as follows:

The revenue generated pursuant to this act for the purpose of funding the juvenile justice reforms provided for in the Juvenile Justice Code shall be in addition to existing revenues and resources currently used to fund the juvenile justice system.

SECTION 189. AMENDATORY 68 O.S. 1991, Section 2355, as amended by Section 1, Chapter 311, O.S.L. 1992 (68 O.S. Supp. 1993, Section 2355), is amended to read as follows:

Section 2355. A. Individuals. For all taxable years beginning after December 31, ~~1989~~ 1994, a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, which tax shall be computed at the option of the taxpayer under one of the two following methods:

METHOD 1. Single individuals and married individuals filing separately not deducting federal income tax:

1/2% tax on first \$1,000.00 or part thereof

1% tax on next \$1,500.00 or part thereof

2% tax on next \$1,250.00 or part thereof

3% tax on next \$1,150.00 or part thereof

4% tax on next \$1,300.00 or part thereof

5% tax on next \$1,500.00 or part thereof

6% tax on next \$2,300.00 or part thereof

7% tax on next \$5,000.00 or part thereof

7.5% tax on the remainder.

Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to

file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code not deducting federal income tax:

1/2% tax on first \$2,000.00 or part thereof
1% tax on next \$3,000.00 or part thereof
2% tax on next \$2,500.00 or part thereof
3% tax on next \$2,300.00 or part thereof
4% tax on next \$2,400.00 or part thereof
5% tax on next \$2,800.00 or part thereof
6% tax on next ~~\$6,000.00~~ \$4,000.00 or part thereof
7% tax on next \$7,000.00 or part thereof
7.5% tax on the remainder.

METHOD 2. Single individuals and married individuals filing separately deducting federal income tax:

1/2% tax on first \$1,000.00 or part thereof
1% tax on next \$1,500.00 or part thereof
2% tax on next \$1,250.00 or part thereof
3% tax on next \$1,150.00 or part thereof
4% tax on next \$1,200.00 or part thereof
5% tax on next \$1,400.00 or part thereof
6% tax on next \$1,500.00 or part thereof
7% tax on next \$1,500.00 or part thereof
8% tax on next \$2,000.00 or part thereof
9% tax on next \$3,500.00 or part thereof
10% tax on next \$4,000.00 or part thereof
10.5% tax on the remainder.

Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code deducting federal income tax:

1/2% tax on ~~the~~ first \$2,000.00 or part thereof

1% tax on ~~the~~ next \$3,000.00 or part thereof
2% tax on ~~the~~ next \$2,500.00 or part thereof
3% tax on ~~the~~ next \$1,400.00 or part thereof
4% tax on ~~the~~ next \$1,500.00 or part thereof
5% tax on ~~the~~ next \$1,600.00 or part thereof
6% tax on ~~the~~ next \$1,250.00 or part thereof
7% tax on ~~the~~ next \$1,750.00 or part thereof
8% tax on ~~the~~ next \$3,000.00 or part thereof
9% tax on ~~the~~ next \$6,000.00 or part thereof
10% tax on next \$6,000.00 or part thereof
10.5% tax on the remainder.

B. Nonresident aliens. In lieu of the rates set forth in subsection A above, there shall be imposed on nonresident aliens, as defined in the Internal Revenue Code, a tax of eight percent (8%) instead of thirty percent (30%) as used in the Internal Revenue Code, with respect to the Oklahoma taxable income of such nonresident aliens as determined under the provision of the Oklahoma Income Tax Act.

Every payer of amounts covered by this subsection ~~B~~ shall deduct and withhold from such amounts paid each payee an amount equal to eight percent (8%) thereof. Every payer required to deduct and withhold taxes under this subsection shall for each quarterly period on or before the last day of the month following the close of each such quarterly period, pay over the amount so withheld as taxes to the Tax Commission, and shall file a return with each such payment. Such return shall be in such form as the Tax Commission shall prescribe. Every payer required under this subsection to deduct and withhold a tax from a payee shall, as to the total amounts paid to each payee during the calendar year, furnish to such payee, on or before January 31, of the succeeding year, a written statement showing the name of the payer, the name of the payee and his social security account number, if any, the total amount paid subject to

taxation, and the total amount deducted and withheld as tax and such other information as the Tax Commission may require. Any payer who fails to withhold or pay to the Tax Commission any sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma.

C. Corporations. For all taxable years beginning after December 31, 1989, a tax is hereby imposed upon the Oklahoma taxable income of every corporation doing business within this state or deriving income from sources within this state in an amount equal to six percent (6%) thereof.

There shall be no additional Oklahoma income tax imposed on accumulated taxable income or on undistributed personal holding company income as those terms are defined in the Internal Revenue Code.

D. Certain foreign corporations. In lieu of the tax imposed in the first paragraph of subsection C, for all taxable years beginning after December 31, 1989, there shall be imposed on foreign corporations, as defined in the Internal Revenue Code, a tax of six percent (6%) instead of thirty percent (30%) as used in the Internal Revenue Code, where such income is received from sources within Oklahoma, in accordance with the provisions of the Internal Revenue Code and the Oklahoma Income Tax Act.

Every payer of amounts covered by this subsection ~~D~~ shall deduct and withhold from such amounts paid each payee an amount equal to six percent (6%) thereof. Every payer required to deduct and withhold taxes under this subsection shall for each quarterly period on or before the last day of the month following the close of each such quarterly period, pay over the amount so withheld as taxes to the Tax Commission, and shall file a return with each such payment. Such return shall be in such form as the Tax Commission shall prescribe. Every payer required under this subsection to deduct and withhold a tax from a payee shall, as to the total amounts paid to

each payee during the calendar year, furnish to such payee, on or before January 31, of the succeeding year, a written statement showing the name of the payer, the name of the payee and his social security account number, if any, the total amounts paid subject to taxation, the total amount deducted and withheld as tax and such other information as the Tax Commission may require. Any payer who fails to withhold or pay to the Tax Commission any sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma.

E. Fiduciaries. A tax is hereby imposed upon the Oklahoma taxable income of every trust and estate at the same rates as are provided in subsection A of this section for single individuals. Fiduciaries are not allowed a deduction for any federal income tax paid.

F. Tax rate tables. For all taxable years beginning after December 31, 1991, in lieu of the tax imposed by subsection A of this section, there is hereby imposed for each taxable year on the taxable income of every individual, whose taxable income for such taxable year does not exceed the ceiling amount, a tax determined under tables, applicable to such taxable year which shall be prescribed by the Tax Commission and which shall be in such form as it determines appropriate. In the table so prescribed, the amounts of the tax shall be computed on the basis of the rates prescribed by subsection A of this section. For purposes of this subsection, the term ceiling amount means with respect to any taxpayer, the amount determined by the Tax Commission for the tax rate category in which such taxpayer falls.

SECTION 190. AMENDATORY 68 O.S. 1991, Section 1354, as last amended by Section 1, Chapter 383, O.S.L. 1992 (68 O.S. Supp. 1993, Section 1354), is amended to read as follows:

Section 1354. 1. There is hereby levied upon all sales, not otherwise exempted in the Oklahoma Sales Tax Code, Section 1350 et

seq. of this title, an excise tax of ~~four and one-half percent~~
~~(4.5%)~~ four and three-quarters percent (4.75%) of the gross receipts
or gross proceeds of each sale of the following:

(A) Tangible personal property, except newspapers and
periodicals;

(B) Natural or artificial gas, electricity, ice, steam, or any
other utility or public service, except water, sewage and refuse and
those specifically exempt pursuant to the provisions of Section 1357
of this title;

(C) Transportation for hire to persons by common carriers,
including railroads both steam and electric, motor transportation
companies, taxicab companies, pullman car companies, airlines, and
other means of transportation for hire, excluding:

(1) transportation services provided by a tourism service
broker which are incidental to the rendition of tourism brokerage
services by such broker to a customer regardless of whether or not
such transportation services are actually owned and operated by the
tourism service broker. For purposes of this subsection, "tourism
service broker" means any person, firm, association or corporation
or any employee of such person, firm, association or corporation
which, for a fee, commission or other valuable consideration,
arranges or offers to arrange trips, tours or other vacation or
recreational travel plans for a customer, and

(2) transportation services provided by a funeral establishment
to family members and other persons for purposes of conducting a
funeral in this state;

(D) Telecommunications services that originate and terminate in
this state and that originate or terminate in this state and are
charged to the consumer's telephone number or account in this state
regardless of where the billing for such service is made, and all
local telecommunications service and rental charges, including all
installation and construction charges and all service and rental

charges having any connection with transmission of any message or image.

(1) The term "telecommunications services" shall mean the transmission of any interactive, two-way electromagnetic communications, including voice, image, data and information, through the use of any medium such as wires, cables, microwaves, cellular radio, radio waves, light waves, or any combination of those or similar media, but shall not include the following:

- a. sales of value-added nonvocal services in which computer processing applications are used to act on the form, content, code, or protocol of the information to be transmitted, including charges for the storage of data or information for subsequent retrieval but not including services commonly known as voice mail,
- b. any interstate telecommunications service which is:
 - (1) rendered by a company for private use within its organization, or
 - (2) used, allocated, or distributed by a company to its affiliated group, or
- c. sales of any carrier access services, right of access services, telecommunications services to be resold, or telecommunications services used in the subsequent provision of, use as a component part of, or integrated into end-to-end telecommunications service,

(2) The term "telecommunications services" shall include, but not be limited to sales of any interstate telecommunications services which:

- a. entitle the subscriber to inward or outward calling respectively between a station associated with an access line in the local telephone system area or a station directly connected to any interexchange

carrier's facilities and telephone or radiotelephone stations in diverse geographical locations specified by the subscriber, or

- b. entitle the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges, and

(3) The term "interstate" includes any international service that either originates or terminates outside of the fifty (50) United States and the District of Columbia;

(E) Printing or printed matter of all types, kinds, or character and, except for services of printing, copying or photocopying performed by a privately owned scientific and educational library sustained by monthly or annual dues paid by members sharing the use of such services with students interested in the study of geology, petroleum engineering or related subjects, any service of printing or overprinting, including the copying of information by mimeograph, multigraph, or by otherwise duplicating written or printed matter in any manner, or the production of microfiche containing information from magnetic tapes or other media furnished by customers;

(F) Service of furnishing rooms by hotel, apartment hotel, public rooming house, motel, public lodging house, or tourist camp;

(G) Service of furnishing storage or parking privileges by auto hotels or parking lots;

(H) Computer hardware, software, coding sheets, cards, magnetic tapes or other media on which prewritten programs have been coded, punched, or otherwise recorded, including the gross receipts from the licensing of software programs;

(I) Foods, confections, and all drinks sold or dispensed by hotels, restaurants, or other dispensers, and sold for immediate

consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;

(J) Advertising of all kinds, types, and characters, including any and all devices used for advertising purposes and the servicing of any advertising devices except those specifically exempt pursuant to the provisions of Section 1357 of this title;

(K) Dues or fees to clubs including free or complimentary dues or fees which have a value equivalent to the charge that would have otherwise been made, including any fees paid for the use of facilities or services rendered at a health spa or club or any similar facility or business;

(L) Tickets for admission to or voluntary contributions made to places of amusement, sports, entertainment, exhibition, display, or other recreational events or activities, including free or complimentary admissions which have a value equivalent to the charge that would have otherwise been made;

(M) Charges made for the privilege of entering or engaging in any kind of activity, such as tennis, racquetball, or handball, when spectators are charged no admission fee;

(N) Charges made for the privilege of using items for amusement, sports, entertainment, or recreational activity, such as trampolines or golf carts;

(O) The rental of equipment for amusement, sports, entertainment, or other recreational activities, such as bowling shoes, skates, golf carts, or other sports or athletic equipment;

(P) The gross receipts from sales from any vending machine without any deduction for rental to locate the vending machine on the premises of a person who is not the owner or any other deductions therefrom;

(Q) The gross receipts or gross proceeds from the rental or lease of tangible personal property, including rental or lease of personal property when the rental or lease agreement requires the

vendor to launder, clean, repair, or otherwise service the rented or leased property on a regular basis, without any deduction for the cost of the service rendered. If the rental or lease charge is based on the retail value of the property at the time of making the rental or lease agreement and the expected life of the property, and the rental or lease charge is separately stated from the service cost in the statement, bill, or invoice delivered to the consumer, the cost of services rendered shall be deducted from the gross receipts or gross proceeds;

(R) Flowers, plants, shrubs, trees, and other floral items, whether or not produced by the vendor, sold by persons engaged in florist or nursery business in this state, including all orders taken by an Oklahoma business for delivery in another state. All orders taken outside this state for delivery within this state shall not be subject to the taxes levied in this section;

(S) Tangible personal property sold to persons, peddlers, solicitors, or other salesmen, for resale when there is likelihood that this state will lose tax revenue due to the difficulty of enforcing the provisions of the Oklahoma Sales Tax Code because of:

(1) the operation of the business;

(2) the nature of the business;

(3) the turnover of independent contractors;

(4) the lack of place of business in which to display a permit or keep records;

(5) lack of adequate records;

(6) the fact that the persons are minors or transients;

(7) the fact that the persons are engaged in service businesses; or

(8) any other reasonable reason;

(T) Any taxable services and tangible personal property including materials, supplies, and equipment sold to contractors for the purpose of developing and improving real estate even though said

real estate is intended for resale as real property, hereby declared to be sales to consumers or users, however, taxable materials, supplies and equipment sold to contractors as provided by this subsection which are purchased as a result of and subsequent to the date of a contract entered into either prior to the effective date of any law increasing the rate of sales tax imposed by this article, or entered into prior to the effective date of an ordinance or other measure increasing the sales tax levy of a political subdivision shall be subject to the rate of sales tax applicable, as of the date such contract was entered into, to sales of such materials, supplies and equipment if such purchases are required in order to complete the contract. Such rate shall be applicable to purchases made pursuant to the contract or any change order under the contract until the contract or any change order has been completed, accepted and the contractor has been discharged from any further obligation under the contract or change order or until two (2) years from the date on which the contract was entered into whichever occurs first. The increased sales tax rate shall be applicable to all such purchases at the time of sale; however, the Oklahoma Tax Commission shall prescribe rules and regulations and shall provide procedures for the refund to a contractor of sales taxes collected on purchases eligible for the lower sales tax rate authorized by this subsection;

(U) Any taxable services and tangible personal property sold to persons who are primarily engaged in selling their services, such as repairmen, hereby declared to be sales to consumers or users.

2. All solicitations or advertisements in print or electronic media by Group Three vendors, for the sale of tangible property to be delivered within this state, shall contain a notice that the sale is subject to Oklahoma sales tax, unless the sale is exempt from such taxation.

SECTION 191. AMENDATORY 68 O.S. 1991, Section 1354.2, is amended to read as follows:

Section 1354.2 (A) There is hereby levied upon all sales, not otherwise exempted in the Oklahoma Sales Tax Code, an excise tax of ~~four and one-half percent (4.5%)~~ four and three-quarters percent (4.75%) of the gross receipts or gross proceeds of each sale of tangible personal property to the consumer-user in this state by an out-of-state vendor who engages in business in this state through the continuous, regular or systematic solicitation of retail sales by advertisement in the newspapers or radio or television media operating within Oklahoma. The tax shall be collected, reported, and remitted or paid in accordance with the Oklahoma Sales Tax Code.

(B) For purposes of administration of the sales tax laws, a sale occurs within this state if delivery or transfer of possession of the tangible personal property occurs within this state.

(C) Any advertisement soliciting sales to the Oklahoma consumer, subject to this section, to be published or broadcasted by newspapers or radio or television media operating in this state, shall contain a notice that the sale is subject to Oklahoma sales or use tax and shall include the sales tax permit number issued the advertising vendor by the Oklahoma Tax Commission. It shall be the duty of the vendor to provide such notice in advertisements referred to herein. No penalty as a result of this act shall lie against any newspaper, broadcaster or other Oklahoma advertising media.

(D) Any out-of-state vendor required to collect, report and remit or pay sales or use tax in accordance with this act shall be entitled to the discount allowed other vendors pursuant to the Oklahoma Sales Tax Code.

(E) Any out-of-state vendor doing business in this state subject to this act shall be subject to all the civil and criminal penalties and liabilities imposed by the Oklahoma Sales Tax Code on vendors within the state.

(F) All sales or use tax revenues collected pursuant to this act shall be apportioned in the same manner as other sales or use tax revenues.

SECTION 192. AMENDATORY 68 O.S. 1991, Section 1354.3, is amended to read as follows:

Section 1354.3 (A) There is hereby levied upon all sales, not otherwise exempted in the Oklahoma Sales Tax Code, Sections 1350 et seq. of Title 68 of the Oklahoma Statutes, or the Oklahoma Use Tax Code, Sections 1401 et seq. of Title 68 of the Oklahoma Statutes, an excise tax of ~~four and one-half percent (4.5%)~~ four and three-quarters percent (4.75%) of the gross receipts or gross proceeds of each sale or use of tangible personal property to or by a consumer-user in this state purchased from an out-of-state vendor who engages in business in this state through the continuous, regular or systematic solicitation of retail sales by advertisement through mail order or catalog publications. The tax shall be collected, reported and remitted or paid and apportioned in the same manner as any other sales or use tax levied by this state.

(B) Any out-of-state vendor required to collect, report or remit or pay sales or use tax in accordance with this act shall be entitled to the discount allowed other vendors required to collect and report Oklahoma sales or use tax.

SECTION 193. AMENDATORY 68 O.S. 1991, Section 1402, is amended to read as follows:

Section 1402. There is hereby levied and there shall be paid by every person storing, using, or otherwise consuming within this state, tangible personal property purchased or brought into this state, an excise tax on the storage, use, or other consumption in this state of such property at the rate of ~~four and one-half percent (4.5%)~~ four and three-quarters percent (4.75%) of the purchase price of such property. Said tax shall not be levied on tangible personal property intended solely for use in other states, but which is

stored in Oklahoma pending shipment to such other states or which is temporarily retained in Oklahoma for the purpose of fabrication, repair, testing, alteration, maintenance, or other service. The tax in such instances shall be paid at the time of importation or storage of the property within the state and a subsequent credit shall be taken by the taxpayer for the amount so paid upon removal of the property from the state. Such tax is hereby levied and shall be paid in an amount equal to ~~four and one-half percent (4.5%)~~ four and three-quarters percent (4.75%) of the purchase price of such tangible personal property.

SECTION 194. REPEALER 10 O.S. 1991, Section 601, as amended by Section 1, Chapter 299, O.S.L. 1992, and Section 4, Chapter 299, O.S.L. 1992 (10 O.S. Supp. 1993, Sections 601 and 610), are hereby repealed.

SECTION 195. REPEALER 10 O.S. 1991, Sections 1201, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210 and 1211, are hereby repealed.

SECTION 196. Sections 5 and 186 through 193 of this act shall become effective immediately upon approval of this act by a vote of the people.

SECTION 197. Sections 1 through 4 and 6 through 185 of this act shall become effective July 1, 1995.

SECTION 198. The Ballot Title for the proposed act shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure creates a new Juvenile Justice Code. It transfers certain children from the custody and supervision of the Department of Human Services. It creates a new juvenile justice agency. The new agency would be the Department of Juvenile Justice. The new department would oversee court procedure and

programs for delinquent children and children in need of supervision. The bill also provides for additional bed space for detention and secure facilities. The bill makes changes in the tax law to fund the act. The funding would either be through income tax changes or increased sales tax.

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

 / YES, FOR THE ACT

 / NO, AGAINST THE ACT

SECTION 199. The Chief Clerk of the House of Representatives, immediately after the passage of this resolution, shall prepare and file one copy thereof, including the Ballot Title set forth in SECTION 198 hereof, with the Secretary of State and one copy with the Attorney General.

44-2-8604

SD/KSM