

SHORT TITLE: Juveniles; requiring certain parental liability;
effective date.

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)
SENATE BILL NO. 1073 By: Rozell

AS INTRODUCED

An Act relating to juveniles; amending 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), which relates to disposition orders; amending 21 O.S. 1991, Section 142.18, as amended by Section 10, Chapter 325, O.S.L. 1993 (21 O.S. Supp. 1993, Section 142.18), which relates to victim's compensation assessments; requiring certain parental liability; and providing an effective date.

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

SECTION 1. 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. The court may require the parent or other person to give security by bond, with surety or sureties approved by the court, for compliance with such order.

If it is consistent with the welfare of the child, the child shall be placed with his parent or legal guardian, but if it appears to the court that the conduct of such parent, guardian, legal guardian, stepparent or other adult person living in the home has contributed to such delinquency, or need of supervision or deprivation, the court may issue a written order specifying conduct to be followed by such parent, guardian, legal custodian, stepparent or other adult person living in the home with respect

to such child. The conduct specified shall be such as would reasonably prevent the child from becoming delinquent, in need of supervision or deprived, as defined by Section 1101 of this title. Such order shall remain in effect for a period of not more than one (1) year to be specified by the court, and the order may be extended or renewed by the court.

- a. If it is consistent with the welfare of the child, in cases where the child has been adjudicated to be deprived or in need of supervision due to repeated absence from school, the court may order counseling and treatment for the child and the parents of the child to be provided by the local school district, the county, the Department or a private individual or entity. Prior to final disposition, the court shall require that it be shown by the appropriate school district that a child found to be truant has been evaluated for learning disabilities, mental retardation, and hearing and visual impairments and other impediments which could constitute an educational handicap. The results of such tests shall be made available to the court for use by the court in determining the disposition of the case.
- b. In issuing orders to a parent, guardian, legal guardian, stepparent or other adult person living in the home of a child adjudicated to be a delinquent child or in making other disposition of said delinquent child, the court may consider the testimony of said parent, guardian, legal guardian, stepparent or other adult person concerning the behavior of the juvenile and his ability to exercise parental control over the behavior of the juvenile.
- c. In any dispositional order involving a child age sixteen (16) or older, the court shall make a determination, where appropriate, of the services needed to assist the child to make the transition from foster care to independent living.

No child who has been adjudicated in need of supervision or deprived upon the basis of truancy or noncompliance with the mandatory school attendance law alone may be placed in a public or private institutional facility or be removed from the custody of the lawful parent, guardian or custodian of the child. A deprived adjudication based upon repeated absence from school shall not constitute a ground for termination of parental rights.

2. The court may commit the child to the custody of a private institution or agency, including any institution established and operated by the county, authorized to care for children or to place them in family homes. In committing a child to a private institution or agency, the court shall select one that is licensed by the Department or any other state department supervising or licensing private institutions and agencies; or, if such institution or agency is in another state, by the analogous department of that state. Whenever the court shall commit a child to any institution or agency, it shall transmit with the order of commitment a summary of its information concerning the child, and such institution or agency shall give to the court such information concerning the child as the court may at any time require.

3. The court may order the child to receive counseling or other community-based services as necessary.

4. The court may commit the child to the custody of the Department; provided, any order adjudicating a child to be delinquent and committing the child to the Department shall be for an indeterminate period of time.

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 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 the Department, it shall vest the Department with authority to place the child and, upon notice to the court that an adoption petition has been filed concerning said child, invest the Department with authority to consent to the adoption of the child, and the jurisdiction of the committing court shall terminate.

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

D. No child charged in a state or municipal court with a violation of state or municipal traffic laws or ordinances, or convicted therefor, may be incarcerated in jail for any said violation unless the charge for which the arrest was made would constitute a felony if the child were an adult; provided, that nothing contained in the above section prohibits the detention of a juvenile for traffic-related offenses prior to the filing of a petition in the district court alleging delinquency as a result of said acts.

E. The court may 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, 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. In addition to the provisions of this section for parents to pay court costs or reimbursements to the court fund, the parents may be liable for civil damages as provided in Section 10 of Title 23 of the Oklahoma Statutes, victim's compensation pursuant to Section 142.18 of Title 21 of the Oklahoma Statutes, and when a child is ordered pursuant to this section to pay restitution or a fine or both restitution and a fine, the parents shall be jointly liable

with the child for the payment of said restitution or fine or both such restitution and fine. When any parent is financially able but has willfully failed to pay court costs or to reimburse the court fund, or to pay any victim's compensation, restitution or fine or any combination of court costs, reimbursements, victim's compensation, restitution or fine as required by this section or other provisions of law or 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, reimbursements, victim's compensation, restitution or fine or any combination of costs, reimbursements, victim's compensation, restitution or fine to be paid in installments and shall set the amount and due date of each installment. A parent may be found to be financially able to pay ~~court costs or to reimburse the court fund or to pay court costs and to reimburse the court fund~~ in installments even though the court has previously found the parent indigent.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 142.18, as amended by Section 10, Chapter 325, O.S.L. 1993 (21 O.S. Supp. 1993, Section 142.18), is amended to read as follows:

Section 142.18 A. In addition to the imposition of any costs, penalties or fines imposed pursuant to law, any person convicted of, pleading guilty to or agreeing to a deferred judgment procedure under the provisions of Section 991c of Title 22 of the Oklahoma Statutes for a felony involving criminally injurious conduct shall be ordered to pay a victim compensation assessment of at least Thirty Dollars (\$30.00), but not to exceed Ten Thousand Dollars (\$10,000.00), for each crime for which he was convicted or for which he agreed to a deferred judgment procedure. In imposing this penalty, the court shall consider factors such as

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the severity of the crime, the prior criminal record, and the ability of the defendant to pay, as well as the economic impact of the victim compensation assessment on the dependents of the defendant.

B. In addition to the imposition of any costs, penalties or fines imposed pursuant to law, any person convicted of, pleading guilty to or agreeing to a deferred judgment procedure under the provisions of Section 991c of Title 22 of the Oklahoma Statutes for a felony or misdemeanor offense, not including traffic offenses and not including misdemeanor offenses of the Oklahoma Wildlife Conservation Code, Section 1-101 of Title 29 of the Oklahoma Statutes, or statutes relating to water safety, not described in subsection A of this section, the court shall levy a victim compensation assessment of at least Twenty-five Dollars (\$25.00), but not to exceed One Thousand Dollars (\$1,000.00) for each felony and at least Ten Dollars (\$10.00), but not to exceed Three Hundred Dollars (\$300.00) for each misdemeanor upon every fine, penalty, and forfeiture imposed and collected. When a cash bond is posted for any offense included in this subsection, the bond shall also include a sufficient amount to cover the minimum amount for victim compensation assessment.

C. The victim compensation assessment levied by the court pursuant to Section 1116 of Title 10 of the Oklahoma Statutes shall not exceed Two Thousand Dollars (\$2,000.00) for each criminally injurious act committed on a victim by the delinquent child. The parents of any child under the age of eighteen (18) years, living with the parents at the time of any criminally injurious act for which victim's compensation is assessed shall be jointly liable with the child to pay the assessment.

D. All monies collected pursuant to this section shall be forwarded monthly by the court clerk to the Victims Compensation Revolving Fund.

E. In any municipal court of record in which the defendant is convicted of a crime involving violence, the threat of violence, or sexual assault, the court shall levy and collect a victims compensation assessment of Twenty-five Dollars (\$25.00). The

municipal court clerk collecting said assessment is authorized to deduct ten percent (10%) of the amount collected from said Twenty-five Dollars (\$25.00) for administrative costs. In any municipal court of record in which the defendant is convicted of driving under the influence of alcohol or other intoxicating substance, or both alcohol and other intoxicating substance, the court shall levy and collect a victims compensation assessment of Fifteen Dollars (\$15.00). The municipal court clerk collecting said assessment is authorized to deduct ten percent (10%) of the amount collected from said Fifteen Dollars (\$15.00) for administrative costs. All victims compensation assessments collected by the municipal court clerk shall be forwarded to the Crime Victims Compensation Fund on a quarterly basis.

SECTION 3. This act shall become effective September 1, 1994.

44-2-2032

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