

ENROLLED HOUSE  
BILL NO. 2692

By: Benson, Boyd (Laura),  
Voskuhl, Settle and  
Sadler of the House

and

Fisher and Long (Ed) of  
the Senate

An Act relating to juveniles; amending 10 O.S. 1991, Sections 361, 362 and 363, as amended by Sections 1, 2 and 3, Chapter 45, O.S.L. 1994 (10 O.S. Supp. 1995, Sections 361, 362 and 363), which relate to the Santa Claus Commission; transferring responsibility for the Santa Claus Commission from the Department of Central Services to the Office of Juvenile Affairs; amending 10 O.S. 1991, Section 1116.3, as last amended by Section 195, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 1116.3), which relates to postadjudication review boards; specifying scope of duties; providing for review of certain placements, if ordered by the court; amending Section 49, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1995, Section 1507.27), which relates to the Juvenile Placement Guidelines Committee; extending duration of the Committee; modifying membership; providing for removal from office of member who misses three consecutive meetings; extending time for submitting draft of recommendations; providing method for legislative approval; amending 10 O.S. 1991, Section 1123.1, as amended by Section 36, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7003-6.3), which relates to published opinions in proceedings under the Oklahoma Children's Code; providing that use of the initial of the child's surname applies to appellate opinions; amending Section 72, Chapter 352, O.S.L. 1995, as amended by Section 2 of Enrolled House Bill No. 2962 of the 2nd Session of the 45th Oklahoma Legislature, which relates to definitions used in the Oklahoma Juvenile Code; modifying definitions; amending Section 6, Chapter 290, O.S.L. 1994, as amended by Section 73, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-1.1), which relates to the Board of Juvenile Affairs; changing at-large member; expanding selection lists for selection of certain member; amending Section 7, Chapter 290, O.S.L. 1994, as amended by Section 74, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-2.1), which relates to the Executive Director and the General Counsel of the Office of Juvenile Affairs; providing that General Counsel is the

legal advisor and counsel for the Board of Juvenile Affairs; amending 10 O.S. 1991, Section 602, as amended by Section 76, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-2.3), which relates to an agreement between the Office of Juvenile Affairs and the State

Supreme Court; including the Department of Human Services in the agreement; modifying purposes of the agreement; authorizing the Office of Juvenile Affairs to repair or replace personal property of employees under certain circumstances; amending 10 O.S. 1991, Section 603, as amended by Section 79, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-3.3), which relates to community-based programs; expanding functions that are considered community-based programs; amending 10 O.S. 1991, Section 607, as amended by Section 81, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-3.5), which relates to agreements for certain community programs; including community intervention centers within scope of agreements; providing for establishment of a pilot program for community intervention centers; providing procedure for establishment of centers and selection of service providers; requiring provider to have access to certain information; providing functions of community intervention centers; authorizing community intervention center involvement in violence reduction and violence prevention program, if provided for by interlocal agreement; amending Section 83, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-3.7), which relates to cooperative agreements between the Office of Juvenile Affairs and the Department of Human Services; including community intervention centers in cooperative agreements; amending Section 4, Chapter 299, O.S.L. 1992, as amended by Section 87, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-3.11), which relates to a certain report by the Department of Juvenile Justice; removing reference to abolished committee; amending 56 O.S. 1991, Section 200.6, as last amended by Section 88, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-4.1), which relates to the Juvenile Detention Improvement Revolving Fund; modifying rate of reimbursement for certain counties; amending 10 O.S. 1991, Section 1404.1, as last amended by Section 107, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-8.1), which relates to restitution; providing for employment of juveniles in work programs; modifying distribution of net earnings of the juvenile; authorizing the Department of Juvenile Justice to enter into contracts for juvenile restitution work programs; requiring that certain records be open for inspection by the Department of Juvenile Justice; amending Section 114, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7303-1.1), which relates to custody and detention; expanding reasons child may be taken into custody prior to filing of petition; modifying

designation of juvenile detention center; making certain persons responsible for mental health expenses of child taken into custody under the Oklahoma Juvenile Code; providing certain immunity from liability; amending 10 O.S. 1991, Section 1102, as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7303-1.2), and as last amended by Section 3 of Enrolled House Bill No. 2962 of the 2nd Session of the 45th Oklahoma Legislature, which relates to jurisdiction; limiting scope of use of information concerning arrest, detention or adjudications; modifying crimes for which a municipality may assume jurisdiction pursuant to an interlocal cooperation agreement; modifying purposes for which certain fines can be earmarked; amending Section 136, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7303-6.3), which relates to published opinions of juvenile proceedings under the Oklahoma Juvenile Code; providing that use of the initial of the child's surname applies to appellate opinions; amending 10 O.S. 1991, Section 1107.1, as last amended by Section 149, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7304-1.1), which relates to detention; authorizing placement in designated sanction beds or programs under certain circumstances; amending 10 O.S. 1991, Section 1108, as last amended by Section 151, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7304-1.3), which relates to detention and transportation; modifying designation of secure detention center; amending 10 O.S. 1991, Section 1104.2, as last amended by Section 163, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7306-1.1), which relates to reverse certification; providing that certain provisions remain in effect until implementation of the Youthful Offender Act; providing procedure when the Youthful Offender Act is implemented; amending Section 18, Chapter 290, O.S.L. 1994, as amended by Section 164, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 and Section 176, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Sections 7306-2.1 and 7306-2.13), which relate to the Youthful Offender Act; providing implementation date for the Youthful Offender Act; authorizing the Office of Juvenile Affairs to provide for certain facilities through issuance of requests for proposals, subject to certain requirements; authorizing the Office of Juvenile Affairs to provide for certain facilities through programs that meet the criteria for regimented juvenile training facilities; requiring the Office of Juvenile Affairs to conduct a study on implementation of the Youthful Offender Act; providing scope of study; providing for participation by certain persons; requiring written

report by a certain date; amending Section 2, Chapter 326, O.S.L. 1993, and 10 O.S. 1991, Section 1149, as renumbered by Section 200, Chapter 352, O.S.L. 1995 (21 O.S. Supp. 1995, Sections 650.2 and 650.8), which relate to aggravated assault and battery on certain employees; providing for crime of aggravated assault and battery upon employees of the Office of Juvenile Affairs; amending 22 O.S. 1991, Sections 60.1, as last amended by Section 1, Chapter 297, O.S.L. 1995, 60.2, as last amended by Section 55, Chapter 290, O.S.L. 1994, 60.3, as last amended by Section 56, Chapter 290, O.S.L. 1994, 60.4 as last amended by Section 57, Chapter 290, O.S.L. 1994, and 60.6, as last amended by Section 2, Chapter 297, O.S.L. 1995 (22 O.S. Supp. 1995, Sections 60.1, 60.2, 60.3, 60.4 and 60.6), which relate to the Protection from Domestic Abuse Act; modifying procedures if minor child is a defendant; providing that high school attendance be a condition of licensing for operation of motor vehicles for certain students; providing for sufficiency of certain documentation; declaring certain acts unlawful; establishing procedures relating thereto; requiring notice; providing penalties; defining terms; declaring applicability of act with regard to certain minors; requiring the Department of Public Safety to establish certain forms; requiring notification; establishing minimum period of license denial or suspension; providing fees for obtaining license after certain suspension; providing for hearings before Department of Public Safety; providing for appeal; declaring certain acts unlawful; amending 47 O.S. 1991, Sections 6-103, as amended by Section 6, Chapter 217, O.S.L. 1992 and 6-105, as last amended by Section 14, Chapter 2, O.S.L. 1994 (47 O.S. Supp. 1995, Sections 6-103 and 6-105), which relate to denial of license to certain persons and instruction permits and restricted Class D licenses; modifying licensing requirements; stating duties of attendance officers and superintendents; amending 51 O.S. 1991, Section 24A.1, which relates to the Oklahoma Open Records Act; updating statutory references; providing that investigation records and notes of the Office of Juvenile System Oversight may be kept confidential with exceptions; amending 70 O.S. 1991, Section 24-101, as last amended by Section 1, Chapter 227, O.S.L. 1995 (70 O.S. Supp. 1995, Section 24-101), which relates to suspension of students; providing options for out-of-school suspension; providing for alternative in-school nonsuspension placement for certain students; providing for statewide implementation of alternative education programs within five years; amending 74 O.S. 1991, Section 30b, which relates to the Oklahoma Drug and Alcohol Abuse Policy Board; expanding membership; amending 74 O.S. 1991, Section 85.12, as last amended by Section 2 of Enrolled Senate Bill No. 775 of the 2nd Session of the 45th Oklahoma Legislature, which relates to

acquisitions excluded from the Oklahoma Central Purchasing Act; providing restrictions on certain exclusion; expanding list of excluded acquisitions; amending Section 1, Chapter 280, O.S.L. 1994 (74 O.S. Supp. 1995, Section 85.12c), which relates to exclusion from the Oklahoma Central Purchasing Act of purchases made from funds received from fund-raising activities and donations; expanding scope of provision to include purchases from such funds received by offices administered by the Office of Juvenile Affairs; amending Section 204, Chapter 352, O.S.L. 1995, which is an effective date section relating to the Youthful Offender Act; modifying effective date; repealing Section 2, Chapter 299, O.S.L. 1992, as amended by Section 189, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 601.13), which relates to the Juvenile Justice Advisory and Oversight Committee; providing for codification; providing for noncodification; providing effective dates; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 361, as amended by Section 1, Chapter 45, O.S.L. 1994 (10 O.S. Supp. 1995, Section 361), is amended to read as follows:

Section 361. There is hereby created a commission to be known as the Santa Claus Commission. The Commission shall consist of three (3) members to be appointed by the Executive Director of the Department of Central Services Office of Juvenile Affairs. The Santa Claus Commission shall have authority to provide or purchase, in accordance with the procedures in the Oklahoma Central Purchasing Act, a Christmas present for every child who is in the custody of the state residing in a child care institution of the Department of Human Services or the Office of Juvenile Affairs, a licensed child care institution or a group home or foster home, supported in whole or in part by the state, as defined by the Department of Human Services or the Office of Juvenile Affairs, who would not otherwise receive a present.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 362, as amended by Section 2, Chapter 45, O.S.L. 1994 (10 O.S. Supp. 1995, Section 362), is amended to read as follows:

Section 362. The Executive Director of the Department of Central Services Office of Juvenile Affairs shall appoint the chairperson of the Santa Claus Commission. The Commission shall meet at the call of the chairperson on at least a quarterly basis. The chairperson may call such other special meetings as may be necessary. The Commission shall work under the supervision and direction of the Department of Central Services Office of Juvenile Affairs. Upon request of the Commission, the Department of Human Services and the Office of Juvenile Affairs shall provide the Commission with a list of the eligible institutions and number of children in such institutions which are eligible to receive gifts pursuant to Section 361 of this title. Said Commission is hereby expressly authorized to receive and accept, for and on behalf of the state, gifts and contributions from any person, firm, or individual, fairly and equally distributing such gifts and contributions to the children eligible for such gifts.

SECTION 3. AMENDATORY 10 O.S. 1991, Section 363, as amended by Section 3, Chapter 45, O.S.L. 1994 (10 O.S. Supp. 1995, Section 363), is amended to read as follows:

Section 363. All claims for the purchase of gifts under the terms and provisions of Sections 361 through 363 of this title shall be approved by the Executive Director of the Department of Central Services Office of Juvenile Affairs and paid out of the funds herein as established by and for the benefit of the Santa Claus Commission.

SECTION 4. AMENDATORY 10 O.S. 1991, Section 1116.3, as last amended by Section 195, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, 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 C of this section, review~~ Review the case of every adjudicated deprived 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 alleged to be deprived and held in an out-of-home placement, other than a juvenile detention center, on a preadjudicatory or predisposition custody order for more than ninety (90) days. 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. whether the continued out-of-home placement is in the best interests of the child in light of the child's need for permanency and recognizing that permanency is in the best interests of the child,
- b. the appropriateness of the continued out-of-home placement, and
- c. 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. If ordered by the court, review the case of any juvenile alleged to be delinquent or in need of supervision held in an out-of-home placement, other than a juvenile detention center, on a preadjudicatory or predisposition custody order for more than ninety (90) days. Said cases shall be reviewed by a review board not more than forty-five (45) days after the expiration of the ninety (90) 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

4. 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 of law pertaining to individual treatment plans, information to accompany deprived children placed outside the home, and dispositional orders and Sections 1116.2 through 1116.6 of this title 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.

SECTION 5. AMENDATORY Section 49, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1995, Section 1507.27), is amended to read as follows:

Section 1507.27 A. There is hereby established until June 1, ~~1996~~ 1997, the Juvenile Placement Guidelines Committee. The Committee shall undertake a full, good faith and thorough study, analysis and evaluation of the placement policies for juveniles within this state and develop uniform sanctions and appropriate adjudication standards for juveniles who have committed felony and misdemeanor crimes. In performing this function, the Committee shall consider risk assessment criteria developed by the Department of Human Services and sanction guidelines developed by the Serious and Habitual Juvenile Offender Program prior to the effective date of this act.

B. The Juvenile Placement Guidelines Committee shall consist of ~~seventeen (17)~~ eighteen (18) members appointed as follows:

1. One member who shall be the Chief Justice of the Supreme Court or a designee;

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

~~2.~~ 3. One member shall be a district attorney or assistant district attorney, to be appointed by the District Attorneys Council;

~~3.~~ 4. One member shall be a practicing attorney having substantial experience representing juvenile defendants, to be appointed by the Oklahoma Bar Association;

~~4.~~ 5. One member shall be an active law enforcement officer, to be appointed by the Cabinet Secretary for the Department of Safety and Security;

~~5.~~ 6. One member shall be either an attorney from the Oklahoma Indigent Defense System or an attorney from the office of a county indigent defender, to be appointed by the members of the Oklahoma Indigent Defense System Board;

~~6.~~ 7. Two members shall be appointed by the President Pro Tempore of the Senate;

~~7.~~ 8. Two members shall be appointed by the Speaker of the House of Representatives;

~~8.~~ 9. Two members shall be appointed by the Governor;

~~9.~~ 10. One member shall be the Director of the Victim's Compensation Board or a designee;

~~10.~~ 11. 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.~~ 12. One member shall be the Administrative Director of the Courts or a designee;

~~12.~~ 13. One member shall be a member of the Commission on Children and Youth, to be appointed by the members of the Commission;

~~13. Until July 1, 1995, one member shall be the Division Administrator of the Office of Juvenile Justice or a designee. Effective July 1, 1995, the~~ 14. One member shall be the Executive Director of the Office of Juvenile Affairs or a designee; and

~~14.~~ 15. One member shall be the Chairman of the Pardon and Parole Board or a designee.

C. Each member of the Juvenile Placement Guidelines Committee initially appointed shall make ~~his~~ the appointment known to the President Pro Tempore of the Senate and the Speaker of the House of Representatives by September 1, 1994. Appointed members shall serve at the pleasure of the appointing authority. Beginning July 1, 1996, any member who misses three consecutive meetings shall be removed from the Committee. The vacancy shall be filled pursuant to subsection E of this section.

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

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

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

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

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

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

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

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

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

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

- a. to recommend policies that assure the protection of the public from juveniles committing felony and misdemeanor crimes,
- b. to recommend policies that assure the fair, consistent and appropriate placement of the juvenile in relation to the seriousness of the offense committed by the juvenile,
- c. to coordinate placement policies,
- d. to review current placement practices for juveniles in relation to facility resources, including but not limited to the capacity of local and state secure and nonsecure facilities,
- e. to recommend policies that assure appropriate sanctions for juvenile offenders for whom secure placement is not appropriate, including but not limited to: community service programs, restitution, probation, payment of fines, rehabilitation, and special treatment programs,
- f. to systematically collect and analyze the data obtained from studies, research and the empirical experience of public and private agencies concerning juvenile placement processes,
- g. to systematically collect and analyze information concerning juvenile placement actually imposed,
- h. to systematically collect and analyze information regarding effectiveness of juvenile placement actually imposed,
- i. to recommend guidelines for determining when secure placement is appropriate for serious juvenile offenders and habitual juvenile offenders,
- j. to recommend a presumptive or fixed period of secure placement for serious juvenile offenders and habitual juvenile offenders if commitment to a secure facility is proper, based on appropriate combination of reasonable offense and offender characteristics,
- k. to recommend a presumptive or fixed period of placement for serious juvenile offenders and habitual juvenile offenders that are not placed in a secure facility,
- l. to recommend guidelines for the disposition orders provided for in paragraph 6 of subsection A of Section ~~1116 7303-5.3~~ of Title 10 of the Oklahoma Statutes this title,
- m. to create fiscal projections for implementation of proposed changes to placement guideline policies,

- n. to consider present fiscal limitations within the juvenile justice system in the State of Oklahoma,
  - o. to consider public policy relating to placement policy,
  - p. to consider factors relevant to appropriate juvenile placement, including but not limited to: severity of offense, criminal history of the juvenile offender, aggravating and mitigating circumstances of the offense, performance under probationary supervision, deterrence, reformation, prevention of recidivism, effective capacity of state and local secure and nonsecure facilities and other placement sanctions available, and
  - q. to perform any other act necessary to complete the specific purposes of the Committee.
2. The Juvenile Placement Guidelines Committee shall:
- a. prepare a report on the Committee findings concerning Oklahoma juvenile placement policies,
  - b. draft recommended juvenile placement guidelines and submit the recommended draft to the President Pro Tempore of the Senate and the Speaker of the House of Representatives not later than ~~November 1, 1995~~ February 1, 1997, and
  - c. submit a summary of recommended changes to existing juvenile placement policy and project the impact of those changes on correctional resources and public policy. The summary shall be submitted to the President Pro Tempore of the Senate and the Speaker of the House of Representatives with the recommended draft of sentence policy changes.

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

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

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

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

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

SECTION 6. AMENDATORY 10 O.S. 1991, Section 1123.1, as amended by Section 36, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7003-6.3), is amended to read as follows:

Section 7003-6.3 In the published opinions of the appellate courts of this state in proceedings including, but not limited to, ~~in~~ adoption and paternity proceedings and other proceedings under this Code, the initial of the child's surname shall be used rather than ~~his~~ the name of the child.

SECTION 7. AMENDATORY Section 72, Chapter 352, O.S.L. 1995, as amended by Section 2 of Enrolled House Bill No. 2962 of the

2nd Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 7301-1.3 When used in the Oklahoma Juvenile Code, unless the context otherwise requires:

1. "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition filed pursuant to the provisions of Article III of the Oklahoma Juvenile Code are supported by the evidence and whether a juvenile should be adjudged to be a ward of the court;

2. "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 Board of Juvenile Affairs and which are used for the temporary detention of juveniles in lieu of secure detention in a juvenile detention facility;

3. "Board" means the Board of Juvenile Affairs;

4. "Child" or "juvenile" means any person under eighteen (18) years of age, except for any person sixteen (16) or seventeen (17) years of age who is charged with any crime specified in subsection A of Section 7306-1.1 of this title, or any person thirteen (13), fourteen (14) or fifteen (15) years of age who is charged with murder in the first degree pursuant to subsection B of Section 7306-1.1 of this title, or any individual who has been certified as an adult pursuant to Section 7303-4.3 of this title, or any individual against whom the imposition of judgment and sentence has been deferred for any crime specified in subsection A or B of Section 7306-1.1 of this title, any individual against whom the imposition of judgment and sentence has been deferred after certification as an adult pursuant to Section 7303-4.3 of this title; provided that any person under eighteen (18) years of age who is not convicted after being charged with a crime pursuant to Section 7306-1.1 of this title, or any individual who is not convicted after certification as an adult pursuant to Section 7303-4.3 of this title, shall continue to be subject to the jurisdiction of the juvenile court;

5. "Child or juvenile in need of mental health treatment" means a juvenile in need of mental health treatment as defined by the Inpatient Mental Health Treatment of Children Act;

6. "Child or juvenile in need of supervision" means a juvenile who:

- a. has repeatedly disobeyed reasonable and lawful commands or directives of the parent, legal guardian, or other custodian, ~~or~~
- b. is willfully and voluntarily absent from his home without the consent of the 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, as specified in Section 10-106 of Title 70 of the Oklahoma Statutes, if the juvenile is subject to compulsory school attendance, or
- d. has been served with an ex parte or final protective order pursuant to the Protection from Domestic Abuse Act;

7. "Community-based" means a facility, program or service, or open group home or other suitable place located near the home or family of the juvenile, 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, diversion programs for first-time offenders, transitional living, independent living and other rehabilitative services;

8. "Community intervention center" means a facility which serves as a receiving center for children who are taken into custody and which performs at least one of the functions provided for in subsection D of Section 7302-3.3 of this title;

9. "Community residential center" means a residential facility for no more than twenty juveniles 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;

~~9.~~ 10. "Day treatment" means a program which provides intensive services to juveniles 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;

~~10.~~ 11. "Delinquent child or juvenile" means a juvenile who:  
a. has violated any federal or state law or municipal ordinance except a traffic statute or traffic ordinance or any provision of the Oklahoma Wildlife Conservation Code, ~~or~~ has violated any lawful order of the court made pursuant to the provisions of the Oklahoma Juvenile Code, or  
b. has habitually violated traffic laws or traffic ordinances;

~~11.~~ 12. "Department" means the Department of Juvenile Justice;

~~12.~~ 13. "Deputy Director" means the Deputy Director of the Department of Juvenile Justice;

~~13.~~ 14. "Dispositional hearing" means a hearing to determine the order of disposition which should be made with respect to a juvenile adjudged to be a ward of the court;

14. 15. "Executive Director" means the Executive Director of the Office of Juvenile Affairs;

~~15.~~ 16. "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;

~~16.~~ 17. "Group home" means a residential facility housing no more than twelve juveniles 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;

~~17.~~ 18. "Independent living program" means a program designed to assist a juvenile 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.~~ 19. "Institution" means a residential facility offering care and treatment for more than twenty residents. Said institution may:

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

19. 20. "Juvenile detention facility" means a secure facility which meets the certification standards of the Department and which

is entirely separate from any prison, jail, adult lockup, or other adult facility, for the temporary care of children;

~~20.~~ 21. "Mental health facility" means a mental health facility as defined by the Inpatient Mental Health Treatment of Children Act;

~~21.~~ 22. "Office" means the Office of Juvenile Affairs;

~~22.~~ 23. "Person responsible for a juvenile's health or welfare" includes a parent, a legal guardian, custodian, a foster parent, a person eighteen (18) years of age or older with whom the juvenile's parent cohabitates or any other adult residing in the home of the child, an agent or employee of a public or private residential home, institution or facility, or an owner, operator, or employee of a child care facility as defined by Section 402 of this title;

~~23.~~ 24. "Preliminary inquiry" or "intake" means a mandatory, preadjudicatory interview of the juvenile and, if available, the parents, legal guardian, or other custodian of the juvenile, which is performed by a duly authorized individual to determine whether a juvenile comes within the purview of the Oklahoma Juvenile Code, whether nonadjudicatory alternatives are available and appropriate, and if the filing of a petition is necessary;

~~24.~~ 25. "Probation" means a legal status created by court order whereby a delinquent juvenile is permitted to remain outside a Department of Juvenile Justice facility directly or by contract under prescribed conditions and under supervision by the Department, subject to return to the court for violation of any of the conditions prescribed;

~~25.~~ 26. "Rehabilitative facility" means a facility maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of juveniles in need of supervision;

~~26.~~ 27. "Secure detention" means the temporary care of juveniles who require secure custody in physically restricting facilities:

- a. while under the continuing jurisdiction of the court pending court disposition, or
- b. pending placement by the Department of Juvenile Justice after adjudication;

~~27.~~ 28. "Training school" or "secure facility" means a facility, maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of delinquent juveniles or youthful offenders 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; and

~~28.~~ 29. "Transitional living program" means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting juveniles 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.

SECTION 8. AMENDATORY Section 6, Chapter 290, O.S.L. 1994, as amended by Section 73, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-1.1), is amended to read as follows:

Section 7302-1.1 A. There is hereby created, effective February 1, 1995, the Board of Juvenile Affairs which shall consist

of seven (7) members who shall be appointed by the Governor with the advice and consent of the Senate.

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

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

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

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

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

1. Be a citizen of the United States;

2. Be a resident of this state;

3. Be a qualified elector of this state; and

4. Not have been convicted of a felony pursuant to the laws of this state, the laws of any other state, or the laws of the United States.

E. The Board shall be composed of:

1. One member who shall have training or experience in social work;

2. One member who shall have training or experience in juvenile or criminal justice or related behavior sciences;

3. One member who shall be an attorney licensed by this state who shall be selected from lists submitted by the Indigent Defense System and each of the two offices of county indigent defender;

4. One member who shall be selected from a list submitted by the Oklahoma Commission on Children and Youth;

5. One member who shall be an attorney licensed by this state who shall be selected from a list submitted by the District Attorneys Council from the state at large;

6. One member who shall be an educator within a public school system of this state; and

7. One member who shall be from the public ~~at large~~.

F. Any member of the Board may be removed from office in the manner provided by law for the removal of officers not subject to impeachment.

G. 1. The Board shall hold meetings as necessary at a place and time to be fixed by the Board. The Board shall elect, at its first meeting, one of its members to serve as chair and another of its members to serve as vice-chair. At the first meeting in each calendar year thereafter, the chair and vice-chair for the ensuing year shall be elected. Special meetings may be called by the chair or by five members of the Board by delivery of written notice to each member of the Board. A majority of members serving on the Board shall constitute a quorum of the Board.

2. Members of the Board shall receive necessary travel expenses according to the provisions of the State Travel Reimbursement Act,

but shall receive no other compensation. Travel expenses shall be paid from funds available to the Office of Juvenile Affairs.

H. The Board shall:

1. Adopt and promulgate rules for its government and may adopt an official seal for the Office of Juvenile Affairs;
2. Appoint and fix the compensation of the Executive Director of the Office of Juvenile Affairs;
3. Be the rulemaking body for the Office of Juvenile Affairs;
4. Review and approve the budget request of the Office of Juvenile Affairs to the Governor;
5. Assist the Office of Juvenile Affairs in conducting periodic reviews and planning activities related to the goals, objectives, priorities, and policies of the Office;
6. Provide a public forum for receiving comments and disseminating information to the public and the regulated community regarding goals, objectives, priorities, and policies of the Office of Juvenile Affairs at least quarterly. The Board shall have the authority to adopt nonbinding resolutions requesting action by the Office of Juvenile Affairs in response to comments received or upon the Board's own initiative; and
7. Establish contracting procedures for the Office of Juvenile Affairs and guidelines for rates of payment for services provided by contract; provided, the Board shall not increase any rates of payment at any time the Legislature is not in session.

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

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

3. Any rules adopted by the Commission for Human Services related to personnel and other administrative issues and the custody, care and supervision of children adjudicated to be delinquent or in need of supervision and subject to review by the Legislature during the 1st Session of the 45th Oklahoma Legislature may be finally adopted and promulgated by the Board of Juvenile Affairs pursuant to the Administrative Procedures Act.

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

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

SECTION 9. AMENDATORY Section 7, Chapter 290, O.S.L. 1994, as amended by Section 74, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-2.1), is amended to read as follows:

Section 7302-2.1 A. The Board of Juvenile Affairs shall appoint the Executive Director of the Office of Juvenile Affairs. The Executive Director shall serve at the pleasure of the Board.

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

C. The Executive Director shall provide for the administration of the Office of Juvenile Affairs and shall:

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

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

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

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

D. The Executive Director shall employ an attorney to be designated the "General Counsel" who shall be the legal advisor for the Office of Juvenile Affairs and the Department of Juvenile Justice. Except as provided in this subsection, the General Counsel is authorized to appear for and represent the Board, Office and Department in any litigation that may arise in the discharge of the duties of the Board, Office or Department.

It shall continue to be the duty of the Attorney General to give an official opinion to the Executive Director of the Office of Juvenile Affairs, the Deputy Director of the Department of Juvenile Justice, the Office of Juvenile Affairs and the Department of Juvenile Justice, and to prosecute and defend actions therefor, if requested to do so. The Attorney General may levy and collect costs, expenses of litigation and a reasonable attorney's fee for such legal services from the Office or Department. Neither the Office nor Department shall contract for representation by private legal counsel unless approved by the Attorney General. Such contract for private legal counsel shall be in the best interests of the state. The Attorney General shall be notified by the Office of Juvenile Affairs or its counsel of all lawsuits against the Office of Juvenile Affairs or the Department of Juvenile Justice or

officers or employees thereof, that seek injunctive relief which would impose obligations requiring the expenditure of funds in excess of unencumbered monies in the agency's appropriations or beyond the current fiscal year. The Attorney General shall review any such cases and may represent the interests of the state, if the Attorney General considers it to be in the best interest of the state to do so, in which case the Attorney General shall be paid as provided in this subsection. Representation of multiple defendants in such actions may, at the discretion of the Attorney General, be divided with counsel for the Office and Department as necessary to avoid conflicts of interest.

E. In the event of the Executive Director's temporary absence, the Executive Director may delegate the exercise of such powers and duties to a designee during the Executive Director's absence. In the event of a vacancy in the position of Executive Director, the Board of Juvenile Affairs shall appoint a new 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.

SECTION 10. AMENDATORY 10 O.S. 1991, Section 602, as amended by Section 76, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-2.3), is amended to read as follows:

Section 7302-2.3 ~~The Office of Juvenile Affairs through its Department of Juvenile Justice and the Department of Human Services shall enter into an agreement with the State Supreme Court under the Interlocal Cooperation Act into an agreement acceptable to that Court in its capacity as the constitutional manager of the State Court System:~~

- ~~1. To provide intake services, probation services and parole services for the district courts in every county in Oklahoma except those counties with duly constituted juvenile bureaus;~~
- ~~2. To maintain a Uniform Juvenile Statewide Court Reporting System;~~
- ~~3. To establish such standards and procedures as may be required by state or federal law;~~
- ~~4. To employ and/or assign necessary staff sufficient to carry out provisions of this section; and~~
- ~~5. To contract with private or public agencies now in existence or hereafter created~~

1. To develop and recommend educational programs for judges whose docket responsibilities include cases involving the care, custody, guardianship, or support of children, for persons who provide services to children within the jurisdiction of the courts, and for attorneys who practice before courts with such jurisdiction;

2. To identify areas in which improvements may be made in the administration and procedures of the courts and to make appropriate recommendations; and

3. To identify areas in which improvements may be made in the services subject to oversight by the courts and to make appropriate recommendations.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7302-2.4 of Title 10, unless there is created a duplication in numbering, reads as follows:

The Office of Juvenile Affairs is authorized to repair or replace the personal property of an employee if the personal property is damaged or destroyed by a juvenile who is in the custody of the Office of Juvenile Affairs while the employee is engaged in the performance of official duties for the Office of Juvenile Affairs. Any personal property repaired or replaced shall be

comparable in kind, quality and cost to the original property. Reimbursement shall not duplicate insurance coverage carried by the employee.

SECTION 12. AMENDATORY 10 O.S. 1991, Section 603, as amended by Section 79, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-3.3), is amended to read as follows:

Section 7302-3.3 The Department of Juvenile Justice, in its role as planner and coordinator for juvenile justice and delinquency prevention services, is hereby authorized to and shall enter into agreements for the establishment and maintenance of community-based prevention and diversionary youth services programs which may include, but are not limited to: Emergency shelter, diagnosis, crisis intervention, counseling, group work, case supervision, job placement, alternative diversion programs for first-time offenders, 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 community intervention centers. The Department shall enter into agreements based on need as indicated in the State Plan for Services to Children and Youth.

SECTION 13. AMENDATORY 10 O.S. 1991, Section 607, as amended by Section 81, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-3.5), is amended to read as follows:

Section 7302-3.5 A. The Department of Juvenile Justice is authorized to enter into agreements to establish or maintain community-based youth service programs ~~and~~, shelters and community intervention centers 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 and community intervention centers to children in the custody of the Department through financial agreements, as authorized in Sections 7302-3.3 and 7302-3.4 of ~~Title 10 of the Oklahoma Statutes~~ this title.

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

C. 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.

D. The Department shall implement a pilot program for establishment of community intervention centers. The centers shall be established pursuant to interlocal agreements between one or more municipalities, a service provider and the Office of Juvenile

Affairs pursuant to rules promulgated by the Office. The program shall provide for selection of the provider by the municipality, with the approval by the Office of Juvenile Affairs. The provider must have access to the management information system provided for in Section 7302-3.8 of this title. The community intervention center shall perform at least one of the following functions: assessment, information gathering, processing, service as a center for law enforcement to bring children who have been taken into custody, and service as a facility for limited short-term holding for a period not to exceed twenty-four (24) hours, unless extended by a court of competent jurisdiction for a period not to exceed forty-eight (48) additional hours. Community intervention centers also may work with community-based organizations, neighborhoods, and municipal organizations to implement violence prevention programs and programs to reduce violence in the community, if this function is provided for in the interlocal agreement.

SECTION 14. AMENDATORY Section 83, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-3.7), is amended to read as follows:

Section 7302-3.7 The Office of Juvenile Affairs through the Department of Juvenile Justice is hereby authorized to, and shall, enter into cooperative agreements with the Department of Human Services for the use by both Departments of existing community-based programs, management information and client tracking systems, facility certification systems, community intervention centers and other shared resources as deemed necessary or appropriate by both Departments.

SECTION 15. AMENDATORY Section 4, Chapter 299, O.S.L. 1992, as amended by Section 87, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-3.11), is amended to read as follows:

Section 7302-3.11 A. The Department of Juvenile Justice shall from time to time, but not less often than annually, review its programs and services and submit a report to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Supreme Court of the State of Oklahoma, the Board of Juvenile Affairs, and the Oklahoma Commission on Children and Youth, ~~and the Juvenile Justice Advisory and Oversight Committee,~~ analyzing and evaluating the effectiveness of the programs and services being carried out by the 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 Office of Juvenile Affairs operated by the 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.

B. Beginning July 1, ~~1997~~ 1998, and at least annually thereafter, the Department of Juvenile Justice shall review the implementation of the Youthful Offender Act 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, the Oklahoma Court of Criminal Appeals, the Board of Juvenile Affairs, and the Oklahoma Commission on Children and Youth,

~~and the Juvenile Justice Advisory and Oversight Committee,~~ analyzing and evaluating the effectiveness of the Youthful Offender Act and any problems which have occurred which have limited the effectiveness of the Youthful Offender Act.

SECTION 16. AMENDATORY 56 O.S. 1991, Section 200.6, as last amended by Section 88, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-4.1), is amended to read as follows:

Section 7302-4.1 A. There is hereby created in the State Treasury a revolving fund for the Department of Juvenile Justice to be designated the "Juvenile Detention Improvement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies appropriated to the Juvenile Detention Improvement Revolving Fund and monies which may otherwise be available to the Department of 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 provided for in Section 7304-1.3 of this title. The participation of local resources shall be a requirement for the receipt by counties of said funds and the Department shall establish a system of rates for the reimbursement of secure detention costs to counties. The methodology for the establishment of said rates may include, but not be limited to, consideration of detention costs, the size of the facility, services provided and geographic location. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

1. Beginning July 1, 1995, the rate of reimbursement of approved operating cost shall be eighty-five percent (85%) for the Department of Juvenile Justice and fifteen percent (15%) for the county.

2. Beginning July 15, 1997, the rate of reimbursement of approved operating cost shall be fifty percent (50%) for the Department of Juvenile Justice and fifty percent (50%) for any county that has failed to establish the beds required by the provisions of subsection A of Section 7302-6.8 of this title.

3. 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.~~ 4. 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 provided for in Section 7304-1.3 of this title.

~~4.~~ 5. The Department of Juvenile Justice shall, from appropriated state monies or from available federal grants, provide for payment pursuant to contract for transportation personnel and vehicle-related costs and reimburse for eligible travel costs for

counties utilizing the juvenile detention facilities identified in the "State Plan for the Establishment of Juvenile Detention Services" in accordance with the provisions of the State Travel Reimbursement Act and in accordance with Section 7304-1.3 of this title.

SECTION 17. AMENDATORY 10 O.S. 1991, Section 1404.1, as last amended by Section 107, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-8.1), is amended to read as follows:

Section 7302-8.1 A. There is hereby created a program of juvenile crime victim restitution to be administered by the Office of Juvenile Affairs through its Department of Juvenile Justice. The program shall be known as the "Juvenile Offender Victim Restitution Work Program".

B. The Board of Juvenile Affairs shall promulgate rules necessary for the implementation of the provisions of this section. Until the rules are promulgated by the Board, the rules promulgated by the Commission for Human Services shall remain in effect.

C. The programs developed under the provisions of this section shall provide restitution to a victim by requiring the ~~child~~ juvenile to work or provide a service for the victim, or to make monetary restitution to the victim from money earned from such a program. Restitution shall be made through the employment of the juvenile in work programs. The supervised work or service program shall not deprive the ~~child~~ juvenile of schooling which is appropriate to the ~~child's~~ juvenile's age, need, and specific rehabilitative goals of the juvenile. ~~Provided, such~~ The program shall not prohibit the ~~child~~ juvenile from fulfilling restitution ~~obligation~~ obligations through jobs the ~~child~~ juvenile has found, by performing volunteer services for the community, or by doing work for the victim.

D. Agreements for participation in the programs under this section may include restitution not in excess of actual damages caused by the ~~child~~ juvenile which shall be paid from the net earnings of the ~~child~~ juvenile received through participation in a constructive program of service or education acceptable to the ~~child~~ juvenile, the victim, the Department of Juvenile Justice, the district attorney and/or the district court. During the course of such service, the ~~child~~ juvenile shall be paid no less than the federal minimum wage. In considering ~~such a~~ restitution agreement, the Department of Juvenile Justice, the district attorney and/or the district court shall take into account the ~~child's~~ juvenile's age, physical and mental capacity of the juvenile. The service shall be designed to relate to the ~~child~~ juvenile a sense of responsibility for the injuries caused to the person or property of another. If a petition has not been filed, the district attorney shall approve the nature of the work, the number of hours to be spent performing the assigned tasks and shall further specify that as part of a plan of treatment and rehabilitation, that ~~fifty percent (50%)~~ seventy-five percent (75%) or more of the ~~child's~~ juvenile's net earnings of the juvenile shall be used for restitution in order to provide positive reinforcement for the work performed. If a petition has been filed, the district court may approve the nature of the work, the number of hours to be spent performing the assigned tasks and may further specify that as part of a plan of treatment and rehabilitation, that ~~fifty percent (50%)~~ seventy-five percent (75%) or more of the ~~child's~~ juvenile's net earnings of the juvenile shall be used for restitution.

E. The Department of Juvenile Justice may enter into contracts with private service providers for implementation of the program required by this section. The Department may require, as a

condition of the contract, that the service provider pay restitution directly to the victim or victims and pay any amounts due to the juvenile directly to the juvenile. The records of any service provider that contracts with the Department pursuant to this section shall be subject to inspection by any employee of the Department of Juvenile Justice designated by the Executive Director of the Office of Juvenile Affairs. The Department of Juvenile Justice may subsidize the employment of a ~~child~~ juvenile for the purposes of participation in a work program as provided by this section.

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

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

2. Damage to any property or injury to any person, which results from the services of the ~~child~~ juvenile pursuant to this section.

SECTION 18. AMENDATORY Section 114, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7303-1.1), is amended to read as follows:

Section 7303-1.1 A. A child may be taken into custody prior to the filing of a petition alleging that the child is delinquent or in need of supervision:

1. By a peace officer, without a court order for any criminal offense for which the officer is authorized to arrest an adult without a warrant, or if the child is willfully and voluntarily absent from the home of the child without the consent of the parent, legal guardian, legal custodian or other person having custody and control of the child for a substantial length of time or without intent to return, or if the child's surroundings are such as to endanger the welfare of the child;

2. By an employee of the court without a court order, if the child is willfully and voluntarily absent from the home of the child without the consent of the parent, legal guardian, legal custodian or other person having custody and control of the child for a substantial length of time or without intent to return, or if the child's surroundings are such as to endanger the welfare of the child;

3. Pursuant to an order of the district court issued on the application of the office of the district attorney. The application presented by the district attorney shall 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 probable cause to believe the child has committed a crime or is in violation of the terms of probation, parole or order of the court; ~~and~~

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

5. Pursuant to an emergency ex parte or a final protective order of the district court issued pursuant to the Protection from Domestic Abuse Act.

B. Whenever a child is taken into custody as a delinquent child or a child in need of supervision, the child shall be detained, held temporarily in the custodial care of a peace officer or other person employed by a police department, or be released to the custody of the child's parent, legal guardian, legal custodian, attorney or other responsible adult, upon the written promise of such person to bring the child to the court at the time fixed if a petition is to be filed and to assume responsibility for costs for damages caused by the child if the child commits any delinquent acts after being released regardless of whether or not a petition is to be filed. It shall be a misdemeanor for any person to sign the written promise and then fail to comply with the terms of the promise. Any person convicted of violating the terms of the written promise shall be subject to imprisonment in the county jail for not more than six (6) months or a fine of not more than Five Hundred Dollars (\$500.00) or both such fine and imprisonment. In addition, if a parent, legal guardian, legal custodian, attorney or other responsible adult is notified that the child has been taken into custody, it shall be a misdemeanor for such person to refuse to assume custody of the child within a timely manner. If detained, the 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 the 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~~ secure 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. 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, legal guardian, legal custodian, or other responsible adult or to any other person appointed by the court, or be detained pursuant to Article IV of the Oklahoma Juvenile Code in such place as shall be designated by the court, subject to further order.

C. 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 the health of the child, 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 the child's parent, legal guardian, legal custodian, or other person having custody and control of the child 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 child's parent, legal guardian, legal custodian, or other person legally competent to authorize said medical treatment. The child's parent, legal guardian, legal custodian, or other person having custody and control 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.

D. A child who has been taken into custody as otherwise provided by this Code 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. The child's parent, legal guardian, legal custodian, or other person having custody and control shall be responsible for such mental health 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 mental health evaluation or treatment shall have any liability, civil or criminal, for giving such authorization.

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

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

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

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

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

- b. No peace officer, any employee of the court or person acting pursuant to court order authorizing such treatment in accordance with the provisions of this subsection for any child found in need of such medical treatment shall have any liability, civil or criminal.

SECTION 19. AMENDATORY 10 O.S. 1991, Section 1102, as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7303-1.2), and as last amended by Section 3 of Enrolled House Bill No. 2962 of the 2nd Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 7303-1.2 A. 1. Upon the filing of a petition, or upon the assumption of custody pursuant to the provisions of Section 7303-1.1 of this title, the district court of the county in which a child:

- a. resides,
- b. is found, or
- c. is alleged to be or is found to be in need of supervision,

shall have jurisdiction of any child who is or is alleged to be 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, 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 7302-5.4 of this title.

3. For the convenience of the parties and in the interest of justice, a proceeding under the Oklahoma Juvenile Code may be transferred to the district court in any other county.

4. Any arrest or detention under the Oklahoma Juvenile Code or any adjudication in a juvenile proceeding shall not be considered an arrest, detention or conviction for purposes of employment, civil rights, or any statute, regulation, license, questionnaire, application, or any other public or private purposes, unless otherwise provided by law.

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 7303-1.1 of this title may retain jurisdiction of a delinquent child in such proceeding notwithstanding the fact that the child is subject to the jurisdiction of another district court within the state. Any adjudication and disposition made by the court in which said petition is filed shall control over prior orders in regard to the child.

C. The district court in which a petition is filed which alleges that a child is in need of supervision can issue any temporary order or grant any interlocutory relief authorized by this

Code notwithstanding the fact that another district court within the state has jurisdiction of the child.

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

E. 1. A municipality may enter into an interlocal cooperation agreement with the district court pursuant to the Interlocal Cooperation Act, Sections 1001 through 1008 of Title 74 of the Oklahoma Statutes, to assume jurisdiction of cases involving children under eighteen (18) years of age charged with violating municipal ordinances relating to vandalism, shoplifting, trespassing, assault, battery, assault and battery, illegal possession of firearms, truancy, curfews, possession of low-point beer 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, public intoxication and failure to appear for a court appearance or comply with a court order. For the purposes of this subsection, "district court" shall mean the district court judicial district or districts in which the contracting municipality is situated. The chief juvenile judge of the district court judicial district is hereby authorized to enter into the interlocal cooperation agreement as provided for in this section for and on behalf of said judicial district if the judge determines that the agreement is constitutional and complies with state and federal law. Provided, if there is no chief juvenile judge in the judicial district, then the presiding judge of the judicial administrative district that includes the contracting judicial district may enter into the agreement for and on behalf of said judicial district if the judge determines that the agreement is constitutional and complies with state and federal law.

2. A child under eighteen (18) years of age who is taken into custody for the alleged violation of a municipal ordinance relating to truancy may be held pursuant to Section 10-109 of Title 70 of the Oklahoma Statutes.

3. A child under eighteen (18) years of age who is taken into custody for the alleged violation of a municipal ordinance relating to curfews may be held temporarily under the custodial care of a peace officer or other person employed by a police department only until the child's parent, legal guardian, legal custodian, attorney or other responsible adult assumes custody or, if such a person cannot be located within a reasonable time of the taking of the child into custody or if such a person refuses to assume custody, until temporary shelter is found for the child. In no event shall the child be placed in a jail, lockup, or detention facility. The temporary custody provided for by this paragraph shall be utilized as a means of returning the child to the child's home or other place of shelter.

4. Notwithstanding any other provision of this Code, a child less than eighteen (18) years of age, who is taken into custody for the alleged violation of a municipal ordinance relating to one or more of the offenses listed in paragraph 1 of this subsection other

than truancy or curfew violations, and who can be prosecuted in municipal court for such offense pursuant to jurisdiction assumed by the municipal court pursuant to the provisions of paragraph 1 of this subsection, may be temporarily detained by the municipality in a municipal juvenile facility, as defined by this paragraph, but only pursuant to the following conditions:

- a. the municipality shall immediately take all reasonable steps to attempt to locate the child's parent, legal guardian, legal custodian, attorney or another responsible adult and determine if said parent, legal guardian, legal custodian, attorney or other responsible adult is willing to appear at the municipal juvenile facility and assume personal custody of the child upon the child's release from such facility,
- b. the child shall be released to the personal custody of the child's parent, legal guardian, legal custodian, attorney or other responsible adult as soon as practicable and upon the written promise of such person to return the child to municipal court to answer the municipal charges on the date and at the time set by the municipal court and to assume responsibility for costs for damages by the child if the child causes damages while committing any acts in violation of municipal ordinances listed in this section after being released. Municipalities may enact ordinances providing penalties for failure to comply with the written promise and for refusal to assume custody of a child in a timely manner,
- c. the child shall be detained in the municipal juvenile facility for no longer than twenty-four (24) hours; provided, if the child's parent, legal guardian, legal custodian, attorney or other responsible adult fails to appear at the municipal juvenile facility and assume personal custody of the child within said twenty-four-hour period, then custody or release of the child shall be determined pursuant to the provisions of Section 7303-1.1 of this title,
- d. the child shall be provided with adequate fresh drinking water,
- e. the child shall be provided with adequate food not less than three times in a twenty-four-hour period,
- f. the child shall be provided with adequate bathroom facilities and bedding, and
- g. the child shall be provided with any necessary medical care and treatment.

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

In lieu of operating a municipal juvenile facility with trained municipal employees, the municipality may contract with an independent public or private facility properly certified by the Office of Juvenile Affairs for performance of the detention services authorized by the provisions of this paragraph. For the purposes of this section, a "municipal juvenile facility" shall mean a secure facility which is entirely separate from any jail, adult lockup, or other adult facility, or is spatially separate if contained inside any jail, adult lockup, or other adult facility which is certified by the Office of Juvenile Affairs for use for the temporary detention of juveniles as authorized by the provisions of this paragraph. The provisions of this paragraph shall not restrict or limit the use of municipal juvenile facilities for detention of juveniles who are detained pursuant to other provisions of law. In no event shall a juvenile be held in an adult facility that does not meet the definition of a municipal juvenile facility.

5. Pursuant to an interlocal cooperation agreement between a municipality and the district court, as authorized by the provisions of paragraph 1 of this subsection, a child less than eighteen (18) years of age may be charged, prosecuted and, if convicted, fined for violating a municipal ordinance relating to one or more of the offenses listed in paragraph 1 of this subsection; provided that the maximum fine which may be imposed shall not exceed the maximum fine authorized by law. When assessing punishment, the court also may require appropriate community service work, not to exceed ninety (90) hours, in lieu of a fine if the product of multiplying the number of hours of community service work by the prevailing minimum wage does not result in a number which exceeds the maximum fine authorized by law, or restitution, or both community service work and restitution. In addition, during any calendar year that any child:

- a. fails to appear for a court date on more than one occasion,
- b. is convicted of two or more of the offenses listed in paragraph 1 of this subsection, which offenses occurred on different days, or
- c. fails to pay any fine or cost properly assessed by a municipal court,

and after the expiration of ninety (90) days, the court clerk shall mail notice of such occurrence to the Department of Public Safety, which department shall thereafter suspend or deny driving privileges for such child for six (6) months. The suspension may be modified as provided in Section 6-107.2 of Title 47 of the Oklahoma Statutes. In addition, the court may require the child to receive counseling or other community-based services, as necessary.

If a child is prosecuted for an offense in a municipal court, the child shall not be prosecuted for the offense in the district court. The municipal court may also impose costs as authorized by law.

6. Any fines and costs properly assessed against any child and which remain unpaid after three (3) months may be assessed by the municipal judge against the child's parent, parents, legal guardian or legal custodian and collected and paid as provided for in Section 27-122 of Title 11 of the Oklahoma Statutes. Provided however, prior to such latter assessment, the court clerk shall give such child's parent, parents, legal guardian or legal custodian notice by certified mail to their place of residence or personal service of such action proposed to be taken.

7. All municipal arrest records, prosecution records, court records, and court proceedings for cases involving children less

than eighteen (18) years of age charged with violating municipal ordinances relating to one or more of the offenses listed in paragraph 1 of this subsection shall be kept confidential and shall not be open to public inspection except by order of the municipal court or as otherwise provided by Article VII of this Code and Section 620.6 of this title.

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

1. To fund local programs which address problems of juvenile crime;
2. To fund the costs of prosecutions authorized pursuant to the provisions of subsection E of this section;
3. To fund the costs of detention authorized pursuant to the provisions of subsection E of this section; ~~and~~
4. To fund administrative costs related to local programs that address problems of juvenile crime or related to the prosecution, detention, or punishment authorized pursuant to the provisions of subsection E of this section; and
5. To fund the costs of community intervention centers authorized pursuant to Section 7302-3.5 of this title.

Such earmarked funds shall not be used by the municipality for any purpose other than the purposes set forth in paragraphs 1 through 4 5 of this subsection.

SECTION 20. AMENDATORY Section 136, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7303-6.3), is amended to read as follows:

Section 7303-6.3 In the published opinions of the appellate courts of this state ~~and~~ in juvenile proceedings under the Oklahoma Juvenile Code, the initial of the child's surname shall be used rather than the child's surname.

SECTION 21. AMENDATORY 10 O.S. 1991, Section 1107.1, as last amended by Section 149, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7304-1.1), is amended to read as follows:

Section 7304-1.1 A. When a child is taken into custody pursuant to the provisions of the Oklahoma Juvenile 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, 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, 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 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 7302-9.2 of this title;

5. The child is detained for the commission of a crime that would constitute a habitual criminal act as defined by Section 7302-9.2 of this title;

6. The child is currently charged with a felony act as defined by Section 7302-9.2 of this title or misdemeanor and:

- a. is on probation or parole on a prior delinquent offense,
- b. is on pre-adjudicatory community supervision,
- c. is currently on release status on a prior delinquent offense, or
- d. has willfully failed or there is reason to believe that the child will willfully fail to appear for juvenile court proceedings.

C. A child who has violated a court order and has had the order revoked or modified pursuant to Section 7303-5.3 of this title may be placed into an Office of Juvenile Affairs-designated sanction

detention bed or an Office of Juvenile Affairs-approved sanction program.

D. A child shall be detained in secure detention only in accordance with the guidelines adopted pursuant to Section 7302-9.3 of this title.

~~D.~~ E. 1. Except as otherwise provided in this section, no child 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 Office of Juvenile Affairs, 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 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 in a county jail or other adult detention facility a person provided for in Section ~~1104.3~~ 7304-1.2 of this title if written or electronically transmitted confirmation is received from the state seeking return of the individual that the person is a person provided for in Section 7304-1.2 of this title and if, during the time of detention, the person is detained in a facility meeting the requirements of 7304-1.3 of this title.

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

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

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

The time limitation provided for in this paragraph shall not include the actual travel time required for transporting the person to the jail, police station, or similar law enforcement office. If the time limitation established by this paragraph is exceeded, this circumstance shall not constitute a defense in any subsequent delinquency or criminal proceeding.

~~E.~~ F. 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.~~ G. Any juvenile detention facility shall be available for use by any eligible Indian child as that term is defined by the Oklahoma Indian Child Welfare Act, providing that the use of the juvenile detention facility meets the requirements of the Oklahoma Juvenile Code. The Indian tribe may contract with any juvenile detention facility for the providing of detention services.

~~G.~~ H. Each member of the staff of a juvenile detention facility shall satisfactorily complete a training program provided or approved by the Department of Juvenile Justice.

SECTION 22. AMENDATORY 10 O.S. 1991, Section 1108, as last amended by Section 151, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7304-1.3), is amended to read as follows:

Section 7304-1.3 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 Juvenile Justice shall not be ordered to provide detention unless said Department has designated and is operating detention services or facilities.

B. County sheriffs, their designee, private contractors under contract with the Department of 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, interfacility transfer, discharge, medical or dental attention, court appearance, or placement designated by the Department. No private contract for transportation services shall be entered into by the Department unless the private contractor demonstrates to the satisfaction of the Department that such contractor is able to obtain insurance or provide self-insurance to indemnify the Department against possible lawsuits and meets the requirements of subparagraphs a, b and d of paragraph 4 of subsection C of this section. The Department of 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 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~~ secure detention center as follows:

1. A fee for the cost of personal services at the rate of Twelve Dollars (\$12.00) 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 Six Dollars (\$6.00) per meal; and
4. Meals for juveniles being transported, not to exceed Six Dollars (\$6.00) per meal.

The Department of Juvenile Justice shall process and mail reimbursement claims within sixty (60) days of receipt. Payments for services provided by a county sheriff's office shall be paid to the county and deposited in the sheriff service fee account.

C. 1. All juvenile detention facilities shall be certified by the Office of Juvenile Affairs. To be certified, a juvenile detention facility shall be required to meet standards for certification promulgated by the Board of Juvenile Affairs. Until such standards are promulgated, the standards promulgated by the Oklahoma Commission for Human Services shall remain in effect.

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 D of this section and in accordance with Section 7302-6.8 of this title. The boards of county commissioners are hereby

authorized to create multi-county trust authorities for the purpose of operating juvenile detention facilities.

3. In order to operate the juvenile detention facilities designated in the State Plan for the Establishment of Juvenile Detention Services and in Section 7302-6.8 of this title, the boards of county commissioners in the designated host counties shall:

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

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

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

5. All counties to be served by a ~~regional~~ secure 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 7304-1.1 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.

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

1. The Board of Juvenile Affairs 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 7302-4.1 of this title. 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 Board which shall set the contract amount in accordance with the services offered and the degree of compliance with standards for certification. Until the procedures are established by the Board, the procedures established by the Commission for Human Services shall remain in effect.

2. The Board of Juvenile Affairs 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 Board within two (2) years of the date of the initial grant or contract.

E. The State Department of Health, with the assistance of the Office of 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. 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.

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

F. The State Board of Health shall promulgate 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 23. AMENDATORY 10 O.S. 1991, Section 1104.2, as last amended by Section 163, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7306-1.1), is amended to read as follows:

Section 7306-1.1 A. Any person sixteen (16) or seventeen (17) years of age who is charged with murder, kidnapping, robbery with a dangerous weapon, robbery in the first degree if personal injury results, 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, sodomy, trafficking in illegal drugs, manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, or dispense a controlled dangerous substance, or assault and battery with a deadly weapon, shall be considered as an adult. The provision of this subsection shall be effective until the implementation date for the Youthful Offender Act. Upon the effective date of the Youthful Offender Act, prosecution of juveniles subject to this subsection shall be in accordance with Sections 7306-2.7 and 7306-2.8 of this title.

B. Any person thirteen (13), fourteen (14) ~~or~~, fifteen (15), sixteen (16), or seventeen (17) years of age who is charged with murder in the first degree shall be considered as an adult.

C. Upon the arrest and detention, such 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.

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

certification of such accused person as a child to the juvenile division of the district court. The warrant shall be personally served together with a certified copy of the information on the accused person and on a custodial parent, guardian or next friend of the accused person.

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

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

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

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 or as a youthful offender.

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.

F. Upon completion of the criminal preliminary hearing, if the accused person is certified as a child to the juvenile division of

the district court, then all adult court records relative to the accused person and this charge shall be expunged and any mention of the accused person shall be removed from public record. If the accused person is certified as a youthful offender, the provisions of the Youthful Offender Act shall govern the disposition of such records.

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

SECTION 24. AMENDATORY Section 18, Chapter 290, O.S.L. 1994, as amended by Section 164, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7306-2.1), is amended to read as follows:

Section 7306-2.1 Sections 7306-2.1 through 7306-2.13 of this title shall be known and may be cited as the "Youthful Offender Act". The Youthful Offender Act shall be implemented beginning July 1, 1997.

SECTION 25. AMENDATORY Section 176, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7306-2.13), is amended to read as follows:

Section 7306-2.13 A. Prior to the implementation of the Youthful Offender Act, the Office of Juvenile Affairs shall establish at least one and not more than two secure facilities for persons certified as youthful offenders. Each facility shall provide for the housing of not more than one hundred twenty (120) youthful offenders. It is the intent of the Legislature that the Office of Juvenile Affairs locate existing facilities that can be remodeled and used for this purpose. The Department of Juvenile Justice shall be responsible for operating the facilities.

B. The Office of Juvenile Affairs may provide for the facility or facilities required by this section by:

1. Issuing requests for proposals to private contractors for such a facility, subject to applicable state laws for contracting with private entities and subject to legislative approval; or

2. Establishing at least one and not more than two programs that meet the criteria for regimented juvenile training facilities.

SECTION 26. The Office of Juvenile Affairs shall conduct a study of the fiscal and case-load impact of implementing the Youthful Offender Act. The study shall include a detailed analysis of the number of eligible youth who may be sentenced as youthful offenders, projections as to probable placements and length of placements for these offenders, and proposals and cost estimates for establishment of programs and facilities for youthful offenders, including any plans for issuing requests for proposals to private contractors for facilities for youthful offenders. The study shall include participation by law enforcement personnel, judges having juvenile docket responsibility, and the District Attorneys Council. The Office of Juvenile Affairs shall submit a written report of its findings to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate by December 1, 1996.

SECTION 27. AMENDATORY Section 2, Chapter 326, O.S.L. 1993 (21 O.S. Supp. 1995, Section 650.2), is amended to read as follows:

Section 650.2 A. Every person in the custody of the Oklahoma Department of Corrections who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of a Department of Corrections employee while said employee

is in the performance of his duties shall, upon conviction thereof, be guilty of a felony.

B. Every person in the custody of the Department of Human Services who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of a Department of Human Services employee while said employee is in the performance of his duties shall, upon conviction thereof, be guilty of a felony.

C. Every person in the custody of the Office of Juvenile Affairs who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of an Office of Juvenile Affairs employee while said employee is in the performance of his duties shall, upon conviction thereof, be guilty of a felony.

SECTION 28. AMENDATORY 10 O.S. 1991, Section 1149, as renumbered by Section 200, Chapter 352, O.S.L. 1995 (21 O.S. Supp. 1995, Section 650.8), is amended to read as follows:

Section 650.8 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 Office of Juvenile Affairs or maintained by a private contractor pursuant to a contract with the Office of Juvenile Affairs 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 29. AMENDATORY 22 O.S. 1991, Section 60.1, as last amended by Section 1, Chapter 297, O.S.L. 1995 (22 O.S. Supp. 1995, Section 60.1), is amended to read as follows:

Section 60.1 As used in ~~Section 60 et seq. of this title~~ the Protection from Domestic Abuse Act and in the Domestic Abuse Reporting Act, Sections 40.5 ~~and 40.6~~ through 40.7 of this title and Section 150.12B of Title 74 of the Oklahoma Statutes:

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

2. "Stalking" means the willful, malicious, and repeated following of a person by an adult, emancipated minor, or minor thirteen (13) years of age or older, with the intent of placing the person in reasonable fear of death or great bodily injury;

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

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

5. "Dating relationship" means a courtship or engagement relationship. For purposes of this act, a casual acquaintance or ordinary fraternization between persons in a business or social context shall not constitute a dating relationship.

SECTION 30. AMENDATORY 22 O.S. 1991, Section 60.2, as last amended by Section 55, Chapter 290, O.S.L. 1994 (22 O.S. Supp. 1995, Section 60.2), is amended to read as follows:

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

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

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

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

IN THE DISTRICT COURT IN AND FOR \_\_\_\_\_ COUNTY  
STATE OF OKLAHOMA

\_\_\_\_\_)  
Plaintiff )  
)  
vs. ) Case No. \_\_\_\_\_  
)  
)  
\_\_\_\_\_)  
Defendant )

PETITION FOR PROTECTIVE ORDER

Plaintiff, being sworn, states:

1. (Check one or more)

- The defendant caused or attempted to cause serious physical harm to \_\_\_\_\_.
- The defendant threatened \_\_\_\_\_ with imminent serious physical harm.
- The defendant has stalked or harassed \_\_\_\_\_.

2. The incident causing the filing of this petition occurred on or about \_\_\_\_\_.  
(date)

(Describe what happened:)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

(check one)

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

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

The plaintiff and the victim are related as follows:

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

5. (Check A or B)

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

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

order the defendant to cease harassment of the victim.

order the defendant to leave the residence located at \_\_\_\_\_ on or before \_\_\_\_\_.

order the defendant who is a minor child to leave the residence located at \_\_\_\_\_ by immediately placing the defendant in ~~the temporary custody of the Department of Human Services~~ any type of care authorized for children taken into custody pursuant to subsection A of Section 7303-1.1 of Title 10 of the Oklahoma Statutes.

Circle age of defendant: Thirteen (13), fourteen (14), fifteen (15), sixteen (16), or seventeen (17) years.

\_\_\_\_\_ (describe other relief that plaintiff requests)

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

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

order the defendant not to abuse or injure the victim.

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

order the defendant not to threaten the victim.

order the defendant to cease stalking the victim.

order the defendant to cease harassment of the victim.

order the defendant to leave the residence located at \_\_\_\_\_ on or before \_\_\_\_\_.

order the defendant who is a minor child to leave the residence located at \_\_\_\_\_ by immediately placing the defendant in ~~the temporary custody of the Department of Human Services~~ any type of care authorized for children taken into custody pursuant to subsection A of Section 7303-1.1 of Title 10 of the Oklahoma Statutes.

Circle age of defendant: Thirteen (13), fourteen (14), fifteen (15), sixteen (16), or seventeen (17) years.

\_\_\_\_\_ (describe other relief that plaintiff requests)

order the defendant to pay attorney fees of the plaintiff in the sum of \_\_\_\_\_ on or before \_\_\_\_\_.

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

7. [ ] Victim is a resident of the county wherein this petition is filed.

[ ] Defendant is a resident of the county wherein this petition is filed.

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

\_\_\_\_\_  
Plaintiff

Witness my hand and seal, affixed on the \_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Court Clerk, Deputy Court Clerk,  
or Notary Public

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

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

SECTION 31. AMENDATORY 22 O.S. 1991, Section 60.3, as last amended by Section 56, Chapter 290, O.S.L. 1994 (22 O.S. Supp. 1995, Section 60.3), is amended to read as follows:

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

1. An order to the defendant not to abuse or injure the victim;
2. An order to the defendant not to visit, assault, molest, harass or otherwise interfere with the victim;
3. An order to the defendant not to threaten the victim;
4. An order to the defendant not to stalk the victim;
5. An order to the defendant not to harass the victim;
6. An order to the defendant to leave the residence; or
7. An order removing the defendant who is a minor child from the residence by immediately placing the child in ~~the temporary custody of the Department of Human Services~~ any type of care authorized for children taken into custody pursuant to subsection A of Section 7303-1.1 of Title 10 of the Oklahoma Statutes.

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

SECTION 32. AMENDATORY 22 O.S. 1991, Section 60.4, as last amended by Section 57, Chapter 290, O.S.L. 1994 (22 O.S. Supp. 1995, Section 60.4), is amended to read as follows:

Section 60.4 A. A copy of the petition, notice of hearing and a copy of any ex parte order issued by the court shall be served upon the defendant in the same manner as a summons. Ex parte orders shall be given priority for service by the sheriff's office and can be served twenty-four (24) hours a day. When the defendant is a minor child who is ordered removed from the residence of the victim, in addition to those documents served upon the defendant, a copy of the petition, notice of hearing and a copy of any ex parte order issued by the court shall be delivered with the child to the caretaker of the place where such child is taken ~~into custody by the Department of Human Services~~ pursuant to Section 7303-1.1 of Title 10 of the Oklahoma Statutes.

B. Within fifteen (15) days of the filing of the petition the court shall schedule a full hearing on the petition, regardless of whether an emergency ex parte order has been previously issued, requested or denied. Provided, however, when the defendant is a minor child who has been removed from the residence and placed in the temporary custody of the Department of Human Services pursuant to Section 7303-1.1 of Title 10 of the Oklahoma Statutes, the court shall schedule a full hearing on the petition within seventy-two (72) hours, regardless of whether an emergency ex parte order has been previously issued, requested or denied.

C. At the hearing, the court may grant any protective order to bring about the cessation of domestic abuse against the victim or stalking or harassment of the victim, ~~including committing any minor child into the custody of the Department of Human Services.~~ If the court grants a protective order and the defendant is a minor child, the court shall order a preliminary inquiry in a juvenile proceeding to determine whether further court action pursuant to the Oklahoma Juvenile Code be taken against a juvenile defendant.

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

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

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

F. When necessary to protect the victim and when authorized by the court, protective orders granted pursuant to the provisions of this section may be served upon the defendant by a peace officer, sheriff, constable, or policeman or other officer whose duty it is to preserve the peace, as defined by Section 99 of Title 21 of the Oklahoma Statutes.

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

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

SECTION 33. AMENDATORY 22 O.S. 1991, Section 60.6, as last amended by Section 2, Chapter 297, O.S.L. 1995 (22 O.S. Supp. 1995, Section 60.6), is amended to read as follows:

Section 60.6 A. Except as otherwise provided by this section, any person who ~~has~~:

1. Has been served with an ex parte or final protective order and is in violation of such protective order, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by a term of imprisonment in the county jail of not more than one (1) year, or both such fine and imprisonment; ~~and~~

~~B.~~ Any person who ~~after~~ 2. After a previous conviction of a violation of a protective order, is convicted of a second or subsequent offense pursuant to the provisions of this section shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by a term of imprisonment in the county jail of not less than ten (10) days and not more than one (1) year. In addition to the term of imprisonment, the person may be punished by a fine of not less than One Thousand Dollars (\$1,000.00) and not more than Five Thousand Dollars (\$5,000.00).

~~C.~~ B. 1. Any person who has been served with an ex parte or final protective order who violates ~~said~~ the protective order and without justifiable excuse causes physical injury or physical impairment to the plaintiff or to any other person named in said protective order shall, upon conviction, be guilty of a misdemeanor and shall be punished by a term of imprisonment in the county jail for not less than twenty (20) days nor more than one (1) year. In addition to the term of imprisonment, the person may be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00).

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

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

~~D.~~ C. The minimum sentence of imprisonment issued pursuant to the provisions of ~~subsections~~ paragraph 2 of subsection A and subsection B and C of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation, provided the court may subject any remaining penalty under the

jurisdiction of the court to the statutory provisions for suspended sentences, deferred sentences or probation.

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

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

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

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-107.3 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Department of Public Safety shall deny a license, restricted license, or instruction permit for the operation of a motor vehicle to any person under eighteen (18) years of age who does not, at the time of application, present documentation that the person:

1. Is enrolled in a public or private secondary school, including any area vocational-technical school, of this state or any other state;

2. Has received a diploma or certificate of completion issued to the person from a secondary school of this state or any other state;

3. Is enrolled and making satisfactory progress in a program leading to a Certificate of High School Equivalency issued from the State Department of Education, or has obtained such certificate;

4. Is excused from such requirement pursuant to any lawful excuse as defined in this section or due to circumstances beyond the control of the person; or

5. Is excused from such requirement pursuant to subsection C of this section.

B. 1. Persons under eighteen (18) years of age who are receiving education by other means including education at home, pursuant to Section 4 of Article XIII of the Oklahoma Constitution, shall satisfy the documentation requirement of subsection A of this section by providing a written statement from the parent or guardian of the child to the Department of Public Safety that the child is receiving instruction by other means pursuant to Section 4 of Article XIII of the Oklahoma Constitution. The documentation shall be signed by the parents, custodial parent, or legal guardian.

2. Any person who falsifies the information required in such documentation, upon conviction, shall be guilty of a misdemeanor.

C. 1. Persons under eighteen (18) years of age, who do not meet the provisions of paragraphs 1 through 4 of subsection A of this section or the provisions of subsection B of this section, may retain or be issued a driver license if:

a. the person is employed at least twenty-four (24) hours per week, and

b. the employer of the person verifies the employment on a form prescribed by the Department of Public Safety.

2. Any person who has retained or been issued a driver license pursuant to this subsection who leaves the employment shall have

fifteen (15) days from the date of termination of employment to provide verification of employment from a new employer.

3. Any employer who falsifies verification of employment shall be subject to an administrative fine of not more than Fifty Dollars (\$50.00) to be assessed by the Department of Public Safety.

D. School district attendance officers, upon request, shall provide documentation of the enrollment status of a student on a form which has been established and approved by the Department of Public Safety to any student under eighteen (18) years of age who is properly enrolled in a school under the jurisdiction of the attendance officer, for presentation to the Department of Public Safety on application for or reinstatement of an instruction permit, restricted license, or license to operate a motor vehicle. Except as provided in subsection E of this section, whenever a student over fourteen (14) years of age and under eighteen (18) years of age withdraws from school, the attendance officer shall notify the Department of Public Safety of such withdrawal through a documentation of enrollment status form. Within fifteen (15) working days of receipt of such notice, the Department of Public Safety shall provide written notice by certified mail with return receipt requested to the student that the license of the student will be canceled or the application of the student will be denied thirty (30) days following the date the notice to the student was sent unless documentation of compliance with the provisions of this section is received by the Department of Public Safety before such time. After the thirty-day period, the Department of Public Safety shall cancel the driving privileges of the student.

E. When the withdrawal from school of a student is due to circumstances beyond the control of the student or is pursuant to any lawful excuse or is for the purpose of transfer to another school, including education at home, pursuant to Section 4 of Article XIII of the Oklahoma Constitution, as confirmed in writing by a parent or guardian of the student, no notice as required by subsection D of this section shall be sent to the Department of Public Safety, or if sent, such notice will be disregarded by the Department of Public Safety. If the student is applying for a license, restricted license, or instruction permit, the attendance officer shall provide the student with documentation to present to the Department of Public Safety to excuse the student from the provisions of this section. The board of education of a public school district or the appropriate school official of any private secondary school shall be the sole judge of whether the withdrawal of a student is due to circumstances beyond the control of the student or is made pursuant to lawful excuse.

F. As used in this section:

1. "Withdrawal" means more than ten (10) consecutive days or parts of days of unexcused absences or fifteen (15) days or parts of days total unexcused absences during a single semester;

2. "Lawful excuse" means absence from school pursuant to any valid physical or mental illness or pursuant to any legal excuse as provided in Section 10-105 of Title 70 of the Oklahoma Statutes, but shall not include marriage;

3. "Circumstances beyond the control of the person" shall not include marriage, suspension or expulsion from school, or imprisonment in a jail, penitentiary or other correctional institution; and

4. "Documentation of enrollment status" means the necessary identifying information concerning a student's eligibility to be issued or to retain a license or permit. Such documentation shall not include any information which is considered an education record

pursuant to the Family Education Rights and Privacy Act, 20 U.S.C., Sections 1232g through 1232i, unless compliance is made with the restrictions regarding disclosure of the information.

G. The provisions of this section shall be inapplicable with respect to any minor upon whom rights of majority have been conferred pursuant to Sections 91 through 94 of Title 10 of the Oklahoma Statutes.

H. The Department of Public Safety shall establish the necessary and appropriate documentation forms sufficient to enable school districts to comply with the provisions of this section. Upon establishment of such forms, the State Department of Public Safety shall notify each school district and the State Board of Education of the content thereof.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-107.4 of Title 47, unless there is created a duplication in numbering, reads as follows:

Whenever a license or instruction permit for the operation of a motor vehicle is canceled or denied pursuant to Section 34 of this act, the license or privilege to operate a motor vehicle shall remain canceled or denied for a minimum period of sixty (60) days or until the person whose license or permit has been canceled or denied reaches eighteen (18) years of age, whichever period is the shortest. After the minimum period, the licensee or applicant may at any time apply for driving privileges by presenting sufficient documentation to the Department of Public Safety pursuant to Section 34 of this act and paying the fee required for issuance or renewal of a Class D license.

SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-107.5 of Title 47, unless there is created a duplication in numbering, reads as follows:

Any person aggrieved by a denial or cancellation of driving privileges pursuant to Section 34 of this act may submit, within thirty (30) days of the denial or of the receipt of notice of cancellation, a written request to the Department of Public Safety for a hearing before the Department of Public Safety. The hearing shall be held within ten (10) days of the receipt by the Department of the request, to determine whether the person is entitled to a license or is subject to cancellation of a license under the provisions of Sections 34 through 37 of this act and Sections 6-103 and 6-105 of Title 47 of the Oklahoma Statutes. Appeal from the decision of the Department may be taken to any court of competent jurisdiction as provided for in Section 6-211 of Title 47 of the Oklahoma Statutes.

SECTION 37. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-107.6 of Title 47, unless there is created a duplication in numbering, reads as follows:

Any person who creates, writes, publishes, enters, or submits false information relating to the attendance, nonattendance, verification of attendance or enrollment of a person in a school or a program of education pursuant to Section 34 of this act, knowing that such information is false, or any person who knowingly aids or abets another in the creation or submission of such information, upon conviction, shall be guilty of a misdemeanor.

SECTION 38. AMENDATORY 47 O.S. 1991, Section 6-103, as amended by Section 6, Chapter 217, O.S.L. 1992 (47 O.S. Supp. 1995, Section 6-103), is amended to read as follows:

Section 6-103. A. Except as otherwise provided by law, the Department of Public Safety shall not issue a driver's license to:

1. Any person who is under the age of ~~sixteen (16)~~ eighteen (18) years, except that the Department may issue a Class D license to any person who:

- a. is sixteen (16) years of age before January 1, 1997,  
or
- b. attains sixteen (16) years of age on or after January 1, 1997, and meets the requirements of Section 34 of this act;

2. Any person whose driving privilege is under suspension, revocation, cancellation or denial in this or any other state until such privilege has been reinstated by the state withdrawing such privilege;

3. Any person whose driving privilege has been revoked for a period of three (3) years pursuant to the provisions of paragraph 4 of Section 6-205.1 of this title, until the person has furnished a report from a licensed physician that the person has been free from alcohol or drug abuse for at least the preceding twelve-month period;

4. Any person who is required by Section 6-101 et seq. of this title to take an examination, unless such person shall have successfully passed such examination;

5. Any person who is required under the laws of this state to deposit proof of financial responsibility and who has not deposited such proof;

6. Any person who is physically deformed or who is afflicted with any mental disease or physical condition that would impair the driving ability of such a person or when the Commissioner of Public Safety, from information concerning such person or from the records and reports on file in the Department of Public Safety, determines that the operation of a motor vehicle by such person on the highways would be inimical to public safety or welfare;

7. Any person who is a nonresident as defined in Section 1-137 of this title;

8. Any alien unless such person presents valid documentation of identity issued pursuant to the laws of the United States; or

9. Any person who possesses a valid license to operate a motor vehicle issued by another state until such other state license has been surrendered.

B. Any applicant who is denied a license under the provisions of this section shall have the right to an appeal as provided in Section 6-211 of this title.

SECTION 39. AMENDATORY 47 O.S. 1991, Section 6-105, as last amended by Section 14, Chapter 2, O.S.L. 1994 (47 O.S. Supp. 1995, Section 6-105), is amended to read as follows:

Section 6-105. A. Any person under the age of sixteen (16) years may be permitted to operate a motor vehicle as follows: Any secondary school student who is at least fifteen and one-half (15 1/2) years of age and is regularly enrolled and receiving instruction in or has satisfactorily completed a prescribed secondary school driver education course, as defined by Section 19-113 et seq. of Title 70 of the Oklahoma Statutes, a driver education course, certified by the Department of Public Safety, from a parochial, private, or other nonpublic secondary school, or a commercial driver training course, as defined by Sections 801 through 808 of this title may apply for a restricted Class D license. The Department of Public Safety, after the applicant has successfully passed all parts of the examination other than the driving test and is in compliance with Section 34 of this act, may issue to the applicant a restricted Class D license which shall entitle the applicant having such license in his immediate

possession to operate a Class D motor vehicle upon the public highways while accompanied by a licensed driver who is eighteen (18) years of age or older and who is actually occupying a seat beside the driver. This restricted driver's license shall be issued for the same period as all other driver's licenses; provided, such restricted license may be suspended or canceled at the discretion of the Department for violation of restrictions, for failing to give the required or correct information on the application or for violation of any traffic laws of this state pertaining to the operation of a motor vehicle. The holder of such restricted license who is at least sixteen (16) years of age who has been issued such restricted license for a minimum of thirty (30) days may have the restriction requiring an accompanying driver removed by satisfactorily completing a driver's examination. The Department shall cause such examination to be conducted not more than three times during the first six (6) months after date of eligibility of the holder of said restricted license to have the restriction removed and not more than one time every three (3) months thereafter upon request of the holder thereof.

B. The Department may issue a Class D license with a motorcycle restriction to any person fourteen (14) years of age or older, who is in compliance with Section 34 of this act and has met all the requirements of the rules and regulations of the Department except the driving test on the motor-driven cycle to enable the person to gain knowledge and experience in handling and operation of such vehicle. The Department may issue such license restricting the person while having the license in ~~his~~ their immediate possession to operate a motor-driven cycle with a piston displacement not to exceed one hundred twenty-five (125) cubic centimeters, between the hours of 4:30 a.m. to 9:00 p.m. only, while wearing approved protective headgear, while accompanied by and receiving instruction from a parent, legal guardian or any person twenty-one (21) years of age or older who is properly licensed to operate a Class A, B or C commercial motor vehicle with a motorcycle endorsement or a Class D motor vehicle with a motorcycle endorsement, and who has visual contact with the operator.

The holder of any such restricted license may apply on or after thirty (30) days from date of issuance to have the restriction of being accompanied by a licensed driver removed by successfully completing the driving portion of a test.

C. The Department may in its discretion issue a special permit to any person who has attained the age of fourteen (14) years, authorizing such person to operate farm vehicles between the farm and the market to haul commodities grown on such farm. Provided that such special permit shall be temporary and shall expire not more than thirty (30) days after the issuance thereof. Special permits shall be issued only to farm residents and shall be issued only during the time of the harvest of the principal crops grown on said farm. Provided that the Department shall not issue a special permit pursuant to this subsection until the Department is fully satisfied after the examination of said application and other evidence furnished in support thereof that said person is physically and mentally developed to such a degree that the operation of a motor vehicle by said person would not be inimical to public safety.

D. The Department may issue an instructor's permit to any qualified secondary school driver education instructor as defined by the Oklahoma State Board of Education Rules and Regulations for Oklahoma High School Driver and Traffic Safety Education, any driver education instructor, certified by the Department of Public Safety, of a parochial, private, or other nonpublic secondary school upon a

proper application to the State Board of Education or the Department of Public Safety in the case of secondary schools that are not regulated by the State Board of Education or a commercial driver training course instructor as provided for in Sections 801 through 808 of this title. The Department shall promulgate rules for the issuance of such permits. Any instructor as defined in this subsection who has been issued a permit may instruct any person:

1. Who is at least fifteen and one-half (15 1/2) years of age; or
2. Who is at least fifteen (15) years of age and of secondary school sophomore or higher educational standing~~+~~l while regularly enrolled and certified by said instructor as a student taking a prescribed course of secondary school driver education, a driver education course, certified by the Department of Public Safety, from a parochial, private, or other nonpublic secondary school or a commercial driver training course as defined by Sections 801 through 808 of this title to operate a motor vehicle while accompanied by and receiving instruction from said instructor who is actually occupying a seat beside the driver.

E. In addition to the licenses to operate motor vehicles, the Department may issue cards for purposes of identification only. Said identification cards shall be issued and renewed in the same manner as driver's licenses in this state and for a fee of Seven Dollars (\$7.00) to any Oklahoma resident. The application for an identification card by any person under the age of sixteen (16) shall be signed and verified by the parent or legal guardian before a person authorized to administer oaths. Such cards shall be valid for a period of four (4) years from the month of issuance. Provided, however, such identification cards issued to persons sixty-five (65) years of age or older shall be valid indefinitely from the month of issuance, and no person sixty-five (65) years of age or older shall be charged any type of fee to obtain an identification card. The fees derived pursuant to this section shall be apportioned as provided in Section 1104 of this title.

The Oklahoma Tax Commission is hereby authorized to reimburse, from funds available to that agency, each motor license agent issuing an identification card to a person sixty-five (65) years of age or older, an amount not to exceed One Dollar (\$1.00) for each card so issued. The Oklahoma Tax Commission shall develop procedures for claims for such reimbursement.

F. The Department may issue a temporary photo license bearing appropriate restrictions to any person who has been authorized a limited or modified license for a specified period of time. The Department shall collect a fee of Twenty-five Dollars (\$25.00) for such temporary photo license, in addition to any other fee, which shall be deposited in the General Revenue Fund. The Department or a motor license agent, upon receipt of authorization from the Department, upon issuance of a temporary photo license, shall additionally collect a fee of Five Dollars (\$5.00), to be allocated in the same manner as for a replacement license.

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-106.1 of Title 70, unless there is created a duplication in numbering, reads as follows:

It shall be the duty of the attendance officer of each school district to carry out the duties and responsibilities required of the attendance officers by Section 34 of this act. If the attendance officer is unable to carry out the duties and responsibilities, the school district superintendent shall be charged with such duties and responsibilities. Documentation of enrollment status shall be provided to a student by the school

district last attended by the student and shall be based upon the last semester's attendance if the student requires documentation during a time when school is not in session.

SECTION 41. AMENDATORY 51 O.S. 1991, Section 24A.1, is amended to read as follows:

Section 24A.1 Sections 24A.1 through ~~24A.19~~ 24A.22 of this title and Section 7 42 of this act shall be known as the "Oklahoma Open Records Act".

SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 24A.23 of Title 51, unless there is created a duplication in numbering, reads as follows:

Unless otherwise provided by law, the Office of Juvenile System Oversight may keep its investigatory records and notes confidential, unless ordered by a court of competent jurisdiction to disclose the information.

SECTION 43. AMENDATORY 70 O.S. 1991, Section 24-101, as last amended by Section 1, Chapter 227, O.S.L. 1995 (70 O.S. Supp. 1995, Section 24-101), is amended to read as follows:

Section 24-101. A. Any pupil who is guilty of immorality or violation of the regulations of a public school, or who has been adjudicated as a delinquent for an offense that is not a violent offense, as defined in subsection E of this section, may be suspended out-of-school by the principal of such school, ~~which only pursuant to the provisions of this subsection.~~ The suspension shall not extend beyond the current school semester and the succeeding semester. A pupil suspended out-of-school pursuant to this subsection shall be placed in a supervised, structured environment in either a home-based school work assignment setting or another appropriate setting in accordance with a plan prescribed by the school administration that provides education to and monitoring of the student, which shall be complied with by the parent or legal guardian. Unless the district board of education has adopted a policy authorizing appeal to a committee under circumstances as provided in this section and the out-of-school suspension falls within the category of suspensions to which appeal to a committee is authorized, the suspended pupil shall have the right to appeal from the decision of ~~such principal~~ out-of-school suspension to the board of education of the district, which shall, upon a full investigation of the matter, determine the guilt or innocence of the pupil and the reasonableness of the term of the suspension, and its decision shall be final. A district board of education may adopt policies and procedures applicable to out-of-school suspensions of ten (10) or fewer school days, the length of time to be set by the board, by which a pupil shall have the right to appeal the decision of the principal to a committee composed of administrators or teachers or a combination of administrators and teachers. The committee shall, upon full investigation of the matter, determine the guilt or innocence of the pupil and the reasonableness of the term of the out-of-school suspension. The policy adopted by the board may, but is not required to, provide for appeal of the committee's decision to the board.

B. Before a pupil is suspended out-of-school, pursuant to subsection A of this section, the principal shall consider and apply, if appropriate, alternative in-school placement options that are not to be considered suspension, such as placement in an alternative school setting, reassignment to another classroom or in-school detention.

C. A pupil who has been suspended out-of-school from a public or private school in the State of Oklahoma or another state for a violent act or an act showing deliberate or reckless disregard for

the health or safety of faculty or other pupils shall not be entitled to enroll in a public school of this state, and no public school shall be required to enroll such pupil, until the terms of the suspension have been met or the time of suspension has expired.

~~C.~~ D. No public school of this state shall be required to provide education services in the regular school setting to any pupil who has been adjudicated as a delinquent for an offense defined in subsection ~~D~~ E of this section as a violent offense or convicted as an adult of an offense defined in subsection ~~D~~ E of this section as a violent offense or who has been removed from a public or private school in the State of Oklahoma or another state by administrative or judicial process for a violent act or an act showing deliberate or reckless disregard for the health or safety of faculty or other pupils until the school in which such pupil is subsequently enrolled determines that the pupil no longer poses a threat to self, other pupils, or faculty. Until the school in which such pupil subsequently enrolls or re-enrolls determines that the pupil no longer poses a threat to self, other pupils, or faculty, the school may provide education services through an alternative school setting, home-based instruction, or other appropriate setting. Education and related services for such pupils on an individualized education plan (IEP) pursuant to the Individuals with Disabilities Education Act (IDEA), P.L. No. 101-476, shall be provided the education and related services in accordance with the pupil's individualized education plan.

~~D.~~ E. For purposes of this section, "violent offense" shall include those offenses listed as the exceptions to the term "nonviolent offense" as specified in Section 571 of Title 57 of the Oklahoma Statutes. "Violent offense" shall not include the offense of assault.

SECTION 44. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1210.568 of Title 70, unless there is created a duplication in numbering, reads as follows:

Beginning with the first semester of the 1996-1997 school year, the State Board of Education shall implement a statewide system of alternative education programs which shall be phased-in within five (5) years. Beginning with the first semester of the 2000-2001 school year, all school districts of this state shall provide alternative education programs that conform to the requirements of statutes and rules applicable to alternative education. An alternative education program may be offered by an individual school district or may be offered jointly by school districts that have formed interlocal cooperative agreements pursuant to Section 5-117b of Title 70 of the Oklahoma Statutes.

SECTION 45. AMENDATORY 74 O.S. 1991, Section 30b, is amended to read as follows:

Section 30b. A. There is hereby created the Oklahoma Drug and Alcohol Abuse Policy Board.

B. A chairperson shall be appointed by the members of the Oklahoma Drug and Alcohol Abuse Policy Board at the first meeting. The chairperson may establish such committees, subcommittees, or other working groups in order to accomplish the goals of the Board.

C. The Board shall be composed of the following members:

1. The Governor or his designee;
2. The Attorney General;
3. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;
4. The Director of the Oklahoma State Bureau of Investigation;
5. The Commissioner of Public Safety;

6. The Commissioner of the Department of Mental Health and Substance Abuse Services;

7. The Commissioner of Health;

8. The Adjutant General of the Military Department;

9. The Superintendent of Public Instruction;

10. The Director of Corrections;

11. The Director of the Department of Human Services;

12. The Director of the Alcoholic Beverage Laws Enforcement Commission;

13. The Executive Director of the District Attorneys' Council;

14. The Executive Director of the Oklahoma Commission on Children and Youth; ~~and~~

15. The Executive Director of the Office of Juvenile Affairs;  
and

16. Two appointees of the Governor, who shall be private citizens appointed to serve for one-year terms.

D. Any other state or local agency or individual may become a nonvoting member of the Board upon approval of a two-thirds (2/3) majority of the voting members set forth in subsection C of this section.

E. Other officers, excluding the chairperson, may be elected at the discretion of the voting Board members.

F. The Board shall hold meetings at least quarterly and at such other times as the chairperson deems necessary.

SECTION 46. AMENDATORY 74 O.S. 1991, Section 85.12, as last amended by Section 2 of Enrolled Senate Bill No. 775 of the 2nd Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 85.12 A. The provisions of this section shall not be construed to affect any law relating to fiscal or accounting procedure except such as may be directly in conflict herewith; and all claims, warrants and bonds shall be examined, inspected and approved as now provided by law.

B. The following acquisitions shall not be included within the purview of the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title:

1. Food and other products produced by state institutions and agencies;

2. Contracts for construction of new buildings and for the repair, maintenance or modernization of old buildings by state educational institutions included within The Oklahoma State System of Higher Education;

3. The printing or duplication of publications or forms of whatsoever kind or character by state agencies, which service is performed upon their own equipment, by their own employees. In order to be exempt from the Oklahoma Central Purchasing Act pursuant to this paragraph, the state agency may only use equipment owned or leased by the agency and may only utilize that equipment for printing services required by the agency in performing duties imposed upon the agency or functions authorized to be performed by the agency. Any use of the equipment by the agency pursuant to an agreement or contract with any other entity resulting in delivery of intermediate or finished products to the entity purchasing or using the products shall be subject to the provisions of the Oklahoma Central Purchasing Act;

4. Acquisitions by The Oklahoma State System of Higher Education on any institution or entity comprising the same insofar as such acquisitions relate to textbooks, laboratory supplies, instructional materials and specialized laboratory equipment;

5. Department of Transportation and Transportation Commission contractual services or right-of-way purchases. Contracts awarded pursuant to bids let by the Transportation Commission for the maintenance or construction of streets, roads, highways, bridges, or underpasses, or any other transportation facilities under the control of the Department of Transportation, the acquisitions of equipment or materials accruing to the Department of Transportation required in Federal-Aid contracts, and contracts for public service type announcements initiated by the Department of Transportation. Contractual services as used herein shall not include advertising or public relations services;

6. Utility services where rates therefor are regulated by a state or federal regulatory commission, or by city ordinance or by an Indian Tribal Council for use by the Department of Corrections only;

7. Acquisition of products and services by the University Hospitals and the University Hospitals Authority. The Authority shall develop standards for the acquisition of products and services and may elect to utilize Central Purchasing when appropriate. Such standards shall foster economy, short response time, and shall include appropriate safeguards and written records to assure appropriate competition and economical and efficient purchasing and shall be approved by the Director of Central Purchasing;

8. Contracts for custom harvesting by the Department of Corrections for the Department or its institutions;

9. Contracts with private prison contractors which are subject to the contracting procedures of Section 561 of Title 57 of the Oklahoma Statutes;

10. Acquisitions of aircraft by agencies authorized by the Legislature to purchase aircraft;

11. Purchases by the Oklahoma Municipal Power Authority;

12. Grand River Dam Authority;

13. Purchases by rural water, sewer, gas or solid waste management districts created pursuant to Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes;

14. Purchases by the Oklahoma Ordnance Works Authority or Midwestern Oklahoma Development Authority, except that the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority shall remain subject to the provisions of Section 85.32 of this title;

15. Contracts entered into by the Oklahoma Industrial Finance Authority for the services of an appraiser or for acquisition of insurance when it is determined by its Board of Directors that an emergency exists and for the services of legal counsel when approved by the Attorney General;

16. Expenditure of monies appropriated to the State Board of Education for the purpose of Local, State-supported Programs and State-supported Programs except monies appropriated for the Administrative and Support Functions of the State Department of Education;

17. Contracts entered into by the State Department of Vocational and Technical Education for the development, revision or updating of vocational curriculum materials;

18. Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;

19. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of Section 5066.4 of this title;

20. Purchases made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;

21. Purchases of products available to an agency through a General Services Administration contract or other federal contract if the item is on current state contract and the terms of such contract are more favorable to the agency than the terms of a state contract for the same products as determined by the State Purchasing Director;

22. Contracts for managed health care services entered into by the state entity designated by law or the Department of Human Services, as specified in paragraph 1 of subsection A of Section 1010.3 of Title 56 of the Oklahoma Statutes;

23. Purchases of products by the Forestry Service of the State Department of Agriculture as authorized by the federal General Services Administration through a General Services Administration contract or other federal contract if the item is not on current state contract or the terms of such federal contract are more favorable to the agency than the terms of a state contract for the same products;

24. Purchases amounting to less than that requiring competitive bid pursuant to Section 85.7 of this title. The Director of Central Services shall promulgate rules related to such purchases in excess of Seven Hundred Fifty Dollars (\$750.00) and not exceeding Two Thousand Five Hundred Dollars (\$2,500.00) to ensure competitiveness and fairness in such purchases;

25. Purchases or acquisitions of clothing for clients of the Department of Human Services and purchases and acquisitions of food for group homes operated by the Department of Human Services; ~~and~~

26. Purchases made or contracts entered into by the Oklahoma Energy Resources Board; and

27. Purchases or acquisitions of clothing for juveniles in the custody of the Office of Juvenile Affairs and purchases and acquisitions of food for group homes operated by the Office of Juvenile Affairs.

C. Notwithstanding the exclusions provided herein, any agency or common schools of Oklahoma, any municipality of the state, any rural fire protection district and county officers may, unless the contract with the state specifies otherwise, avail themselves of the provisions of the Oklahoma Central Purchasing contracts and the services of the Purchasing Director. Provided further, however, that any subdivision of government and any rural fire protection district of the state may designate the office of Oklahoma Central Purchasing as its agent for the purchase or procurement of any item or service contracted or available to the state.

D. Further, notwithstanding the exclusions provided herein, the purchasing policies and procedures of the Oklahoma Ordnance Works Authority, the University Hospitals Authority and the Midwestern Oklahoma Development Authority shall be subject to approval by the Director of the Department of Central Services, and said Director shall make periodic audits of the purchasing policies and procedures of the Oklahoma Ordnance Works Authority, the University Hospitals Authority and the Midwestern Oklahoma Development Authority to ensure that said purchasing policies and procedures, as approved, are being followed.

SECTION 47. AMENDATORY Section 1, Chapter 280, O.S.L. 1994 (74 O.S. Supp. 1995, Section 85.12c), is amended to read as follows:

Section 85.12c A. Purchases made from funds received by local offices administered by the Department of Human Services for fund-raising activities and donations for the benefit of clients and potential clients at the local offices where such purchases may not otherwise be paid for from appropriated funds, shall not be subject

to requirements of the Oklahoma Central Purchasing Act. Monies received by such fund-raising activities or donations shall be maintained in an Agency Special Account, and expenditure control shall reside at the local offices. Monies received by such fund-raising activities or donations from the local office, vending operations administered by employees of the Department of Human Services, and all other nonrestricted cash and cash-equivalent items received by employees of the Department of Human Services shall be deposited in the Agency Special Account established for this purpose. Such deposits shall be made at local banking institutions approved by the State Treasurer.

B. Purchases made from funds received by local offices administered by the Office of Juvenile Affairs for fund-raising activities and donations for the benefit of clients and potential clients at the local offices where such purchases may not otherwise be paid for from appropriated funds shall not be subject to requirements of the Oklahoma Central Purchasing Act. Monies received by such fund-raising activities or donations shall be maintained in an agency special account, and expenditure control shall reside at the local offices. Monies received by such fund-raising activities or donations from the local office, vending operations administered by employees of the Office of Juvenile Affairs, and all other nonrestricted cash and cash-equivalent items received by employees of the Office of Juvenile Affairs shall be deposited in the agency special account established for this purpose. The deposits shall be made at local banking institutions approved by the State Treasurer.

SECTION 48. AMENDATORY Section 204, Chapter 352, O.S.L. 1995, is amended to read as follows:

Section 204. Sections ~~164~~ 7306-2.1 through ~~176~~ 7306-2.13 of ~~this act~~ Title 10 of the Oklahoma Statutes shall become effective July 1, ~~1996~~ 1997.

SECTION 49. REPEALER Section 2, Chapter 299, O.S.L. 1992, as amended by Section 189, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 601.13), is hereby repealed.

SECTION 50. NONCODIFICATION The provisions of Section 26 of this act shall not be codified in the Oklahoma Statutes.

SECTION 51. Sections 1 through 4, 6 through 23, and 26 through 50 of this act shall become effective July 1, 1996.

SECTION 52. Sections 24 and 25 of this act shall become effective July 1, 1997.

SECTION 53. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 21st day of May, 1996.

Speaker of the House of Representatives

Passed the Senate the 22nd day of May, 1996.

President

of the Senate