

ENROLLED HOUSE
BILL NO. 2755

By: Coleman and Perry of the
House

and

Brown, Roberts and
Hendrick of the Senate

An Act relating to children; amending Sections 93 and 95, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Sections 7302-6.1 and 7302-6.3), which relate to juvenile facilities; modifying duties of the Department of Juvenile Justice; requiring assessment of certain skills relating to reading ability of juveniles; requiring provision of reading program consisting of certain components to juveniles; requiring Board of Juvenile Affairs to provide policies regarding individualized service plans; and providing an effective date.

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

SECTION 1. AMENDATORY Section 93, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-6.1), is amended to read as follows:

Section 7302-6.1 A. In addition to the other powers and duties prescribed by law, the Department of Juvenile Justice shall have the following duties and powers with regard to juveniles placed in Department-operated institutions and facilities:

1. Provide for the care, education, training, treatment and rehabilitation of juveniles who are placed in the institutions and facilities. The Department shall provide for a uniform system of assessment of the reading ability of each juvenile upon initial placement in a Department-operated institution or facility. The assessment shall include, but not be limited to, the following skills:

- a. the level of word decoding skills of the juvenile,
- b. the level of vocabulary and spelling ability of the juvenile, and
- c. the comprehension level of the juvenile.

The Department may give assistance to local school districts in providing an education to such juveniles, may supplement such education, and may provide facilities for such purposes. It shall be the duty of the Department to assure that juveniles in the aforesaid institutions and facilities receive educational services which ~~will stress basic literacy skills, including but not limited to curricula requirements stressing reading~~ provide each juvenile with a balanced and comprehensive reading program, which includes as its primary and foundational components:

- (1) an organized, systematic, explicit skills program that may include phonics, word recognition strategies and other word decoding skills to

- address the needs of the individual juvenile as determined by the entry level needs assessment,
(2) a strong language arts and comprehension program that includes a balance of oral and written language, an ongoing individualized evaluation and diagnosis that informs the teacher and an assessment that assures accountability, and
(3) writing, mathematics, science and vocational-technical education; and

2. Transfer from a juvenile institution to another facility under the jurisdiction of the Department, a juvenile who has been adjudicated delinquent, if the Department believes it advisable to do so; transfer from a facility for juveniles in need of supervision to another such facility, a juvenile who has been adjudicated in need of supervision, provided that such transfer is consistent with the treatment needs of the juvenile; transfer from a juvenile institution or facility to a state school for the mentally retarded, any juvenile eligible for admission thereto, if the juvenile appears to be in need of the care and treatment provided at such school; transfer from a facility for delinquent or in need of supervision juveniles to an appropriate facility or to the Department of Mental Health and Substance Abuse Services any juvenile found by the court to be a juvenile in need of mental health treatment pursuant to the Inpatient Mental Health Treatment of Children Act and committed to inpatient mental health treatment as provided by the Inpatient Mental Health Treatment of Children Act. If a transfer is made pursuant to this paragraph, the Department shall comply with the notification requirements of Section 7303-5.4 of ~~Title 10 of the Oklahoma Statutes~~ this title; and

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

4. Release any juvenile from a juvenile institution for placement in a group home, transitional living program, independent living program, other community-based facility or program or out-of-home care subject to terms and conditions specified by the Department; and

5. Provide parole services for juveniles released on parole from juvenile institutions, and aftercare services for juveniles discharged from juvenile institutions or facilities. Persons designated as Juvenile Parole Officers by the Department shall have the power to serve process and to apprehend and detain juveniles and make arrests in accordance with the laws of the state.

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

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

- a. the juvenile shall have the right to notice of the proposed transfer or parole revocation hearing and the alleged violation of administrative or parole rules on which the proposed transfer or parole revocation is based, ~~and~~

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

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

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

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

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

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

SECTION 2. AMENDATORY Section 95, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-6.3), is amended to read as follows:

Section 7302-6.3 A. The Board of Juvenile Affairs shall promulgate written rules, outline policies and procedures governing the operation of those facilities operated by or through contract with the Department of Juvenile Justice wherein juveniles may be housed. Said policies and procedures shall include, but not be limited to, standards of cleanliness, temperature and lighting, availability of medical and dental care, provision of food, furnishings, clothing and toilet articles, supervision, appropriate and permissible use of restriction and confinement, procedures for

enforcing rules of conduct consistent with due process of law and visitation privileges.

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

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

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

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

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

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

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

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

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

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

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

11. Upon leaving the custody of the Department, a child shall be afforded a copy of the literacy progress section of the individualized service plan developed for the child for continued use at the next school placement of the child.

C. Any contract or agreement between the Department of Juvenile Justice and the Department of Mental Health and Substance Abuse Services for the care and treatment of children in the custody of the Department of Juvenile Justice shall provide that the Department of Mental Health and Substance Abuse Services shall comply with the provisions of subsections A and B of this section and the provisions of Section 7302-6.4 of ~~Title 10 of the Oklahoma Statutes~~ this title.

SECTION 3. This act shall become effective November 1, 1996.

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