STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1475 By: Voskuhl

AS INTRODUCED

An Act relating to children; amending 10 O.S. 1991, Section 1102, as last amended by Section 30, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1102), which relates to the jurisdiction of municipal courts over children; providing penalties for failure to appear for a court appearance and certain other offenses; authorizing certain assessments against the child's parents, guardians and other persons for certain purposes, and providing procedures related thereto; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 1102, as last amended by Section 30, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1102), is amended to read as follows:

Section 1102. A. 1. Upon the filing of a petition, or upon the assumption of custody pursuant to the provisions of Section 1107 of this title, the district court of the county in which a child:

a. resides,

b. is found, or

c. was abused, neglected or deprived or found to be in need of supervision,

shall have jurisdiction of any child who is or is alleged to be abused, neglected or deprived or in need of supervision and shall have jurisdiction of the parent, guardian, legal custodian, legal guardian or stepparent of said child, regardless of where the parent, guardian, legal custodian, legal guardian or stepparent is found; and shall have jurisdiction of any other adult person living in the home of such child. For any child who is or is alleged to be delinquent, the district court of the county where the cause of action arose shall have jurisdiction of the child and of the parent, guardian, legal custodian, legal guardian or stepparent of said child, regardless where the parent, guardian, legal custodian, legal guardian or stepparent is found; and shall have jurisdiction of any other adult person living in the home of such child.

2. When jurisdiction shall have been obtained over a child who is or is alleged to be in need of supervision or a deprived child, such may be retained until the child becomes eighteen (18) years of age and when jurisdiction shall have been obtained over a child who is or is alleged to be a delinquent, jurisdiction may be retained until the child becomes nineteen (19) years of age upon the court's own motion, motion by the district attorney or motion by the Department, as provided in subsection B of Section 1139 of this title. For the convenience of the parties and in the interest of justice, a proceeding under this chapter may be transferred to the district court in any other county.

B. The district court in which a petition is filed or the district court in which custody has been assumed pursuant to the provisions of Section 1107 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 or is deprived can issue any temporary order or grant any interlocutory relief authorized by this chapter notwithstanding the fact that another district court within the state has jurisdiction of the child or has jurisdiction to determine the custody or support of the child.

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

E. 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, truancy, curfews, possession of nonintoxicating beverages as defined in Section 163.2 of Title 37 of the Oklahoma Statutes, possession of alcoholic beverages as defined in Section 506 of Title 37 of the Oklahoma Statutes, disorderly conduct ~~and~~, public intoxication and failure to appear for a court appearance. 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. 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.

2. Notwithstanding any other provision of this title, a child under 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, and who can be prosecuted in municipal court for such offense pursuant to jurisdiction assumed by the municipal court under paragraph 1 of this subsection, may be temporarily detained by the municipality in a municipal juvenile facility certified by the Oklahoma Commission for Human Services, but only under the following conditions:

a. the municipality shall immediately take all reasonable steps to attempt to locate the child's parent, legal guardian, legal custodian, or attorney and determine if said parent, legal guardian, legal custodian, or attorney 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 his or her parent, legal guardian, legal custodian, or attorney as soon as practicable and upon the written promise of such parent, legal guardian, legal custodian, or attorney to return the child to municipal court to answer the municipal charges on the date and at the time set by the municipal court,

c. the child shall be detained in the municipal juvenile facility for no longer than twenty-four (24) hours; provided, if no parent, legal guardian, legal custodian, or attorney appears at the municipal juvenile facility and assumes 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 1107 of this title,

d. the child shall not be held in any jail, adult lockup, or adult detention facility unless total separation exists between juveniles and adult spatial areas,

e. the child shall be provided with adequate fresh drinking water,

f. the child shall be provided with adequate food not less than three times in a twenty-four-hour period,

g. the child shall be provided with adequate bathroom facilities and bedding, and

h. the child shall be provided with any necessary medical care and treatment.

Prior to the temporary detention of any child under authority of this subsection, the municipal juvenile facility shall be certified by the Oklahoma Commission for Human Services under the applicable certification standards set by said Commission, 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 Human Services. In furtherance of this subsection, the Oklahoma Commission for Human Services 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 h, inclusive, of this paragraph, and the Department of Human Services

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 Oklahoma Commission for Human Services for performance of the detention services authorized by this paragraph. For the purposes of this section, a "municipal juvenile facility" shall mean a secure facility entirely separate from any jail, adult lockup, or other adult facility, or spatially separate if contained inside any jail, adult lockup, or other adult facility which is certified by the Oklahoma Commission for Human Services 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.

3. Pursuant to an interlocal cooperation agreement between a municipality and the district court, as authorized by paragraph 1 of this subsection, a child under eighteen (18) years of age may be charged, prosecuted and, if convicted, fined for violating such 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. <u>In addition, during any calendar year that any child:</u>

<u>a. fails to appear for a court date on more than one occasion,</u>

b. is convicted of two or more of the offenses listed in paragraph 1 of this subsection, which offences 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 such child's license for six (6) months. 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.

4. 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. All municipal arrest records, prosecution records, court records, and court proceedings for cases involving children under 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 Sections 1125 through 1125.4 of this title 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 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 subsection E of this section;

3. To fund the costs of detention authorized pursuant to 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 subsection E of this section.

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

SECTION 2. This act shall become effective November 1, 1995.

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