

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1978

By: Benson

AS INTRODUCED

An Act relating to children; creating the Oklahoma Children's Code; creating the Juvenile Code; providing for codification; providing an effective date; and declaring an emergency.

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

Chapter 51

Oklahoma Children's Code

ARTICLE I

Short Title and Public Policy

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-1-101 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

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

SECTION 2. AMENDATORY 10 O.S. 1991, Section 1129, as last amended by Section 2, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1129), is amended to read as follows:

Section 1129. It is the intent of the Legislature that Chapter 51 of this title shall be liberally construed, to the end that its purpose may be carried out:

~~1.~~ The paramount consideration in all proceedings concerning a child alleged or found to be deprived ~~or in need of supervision~~ is the best interests of the child. The purpose of the laws relating to children alleged or found to be deprived ~~or in need of supervision~~ is to:

- ~~a. secure~~ 1. Secure for each such child, the care and guidance, ~~preferably in the child's own home,~~ as will best serve the spiritual, emotional, mental and physical welfare of the child~~;~~;
- ~~b. provide~~ 2. Provide judicial procedures which protect the welfare of the child~~;~~;
- ~~c. preserve~~ 3. Preserve and strengthen the child's family ties whenever possible and in the child's best interests~~;~~. Give family reunification or rehabilitation priority as a means for protecting the welfare of children but recognizing that the right to family integrity is limited by the right of children to be protected from abuse and neglect. To this effect, removing the child from the custody of parents ~~only~~ when the child's welfare ~~is in danger or the child's~~ or safety cannot be adequately safeguarded without removal. When removal from the child's own family is necessary and in the child's best interests, the care and custody and discipline of the child shall approximate, as nearly as may be, that which should be given by its parents~~;~~. Recognizing that uncertainty

and instability are possible in extended foster home living and as such present needless delay for permanent plans for children when family rehabilitation and reunification is not possible or in the best interests of the child; and

- d. ~~assure~~ 4. Assure adequate and appropriate care and treatment for the child, with the use of the least restrictive method of treatment consistent with the treatment needs of the child.

~~2. The purpose of the laws relating to children alleged or adjudicated to be delinquent is to promote the public safety and reduce juvenile delinquency. This purpose should be pursued through means that are fair and just, that:~~

- ~~a. recognize the unique characteristics and needs of children,~~
- ~~b. give children access to opportunities for personal and social growth,~~
- ~~c. maintain the integrity of substantive law prohibiting certain behavior and developing individual responsibility for lawful behavior,~~
- ~~d. provide a system for the rehabilitation and reintegration of juvenile delinquents into society,~~
- ~~e. preserve and strengthen family ties whenever possible, including improvement of home environment,~~
- ~~f. remove a juvenile from the custody of his parents when his welfare and safety or the protection of the public would otherwise be endangered,~~
- ~~g. secure for any juvenile removed from the custody of his parents the necessary treatment, care, guidance and discipline to assist him in becoming a responsible and productive member of society, and~~

~~h. provide procedures through which the provisions of the law are executed and enforced and which will assure the parties fair hearings at which their rights as citizens are recognized and protected.~~

## ARTICLE II

### General Provisions

#### Part 1. Definitions

SECTION 3. AMENDATORY 10 O.S. 1991, Section 1101, as last amended by Section 3, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1101, is amended to read as follows:

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

~~—1. "Child" 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 1104.2 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 1104.2 of this title, or any individual who has been certified as an adult pursuant to Section 1112 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 1104.2 of this title, any individual against whom the imposition of judgment and sentence has been deferred after certification as an adult pursuant to Section 1112 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 1104.2 of this title, or any individual who is not convicted after certification as an adult pursuant to Section 1112 of this title, shall continue to be subject to the jurisdiction of the juvenile court;~~

~~2. "Delinquent child" means a child who:~~

- ~~a. has violated any federal or state law or municipal ordinance, except a traffic statute or traffic ordinance, any provision of the Oklahoma Wildlife Conservation Code or any lawful order of the court made pursuant to the provisions of Sections 1101 through 1505 of this title, or~~
- ~~b. has habitually violated traffic laws or traffic ordinances;~~

~~3. "Child in need of supervision" means a child who:~~

- ~~a. has repeatedly disobeyed reasonable and lawful commands or directives of his parent, legal guardian, or other custodian, or~~
- ~~b. is willfully and voluntarily absent from his home without the consent of his parent, legal guardian, or other custodian for a substantial length of time or without intent to return, or~~
- ~~c. is willfully and voluntarily absent from school for fifteen (15) or more days or parts of days within a semester or four (4) or more days or parts of days within a four-week period without a valid excuse as defined by the local school boards, if said child is subject to compulsory school attendance;~~

~~4. a. "Deprived child" means a child:~~

- ~~(1) who is for any reason destitute, homeless, or abandoned, or~~
- ~~(2) who does not have the proper parental care or guardianship or whose home is an unfit place for the child by reason of neglect, cruelty, or depravity on the part of his parents, legal guardian, or other person in whose care the child may be, or~~

~~(3) who is a child in need of special care and treatment because of his physical or mental condition including a child born in a condition of dependence on a controlled dangerous substance, and his parents, legal guardian, or other custodian is unable or willfully fails to provide said special care and treatment, or~~

~~(4) who is a handicapped child deprived of the nutrition necessary to sustain life or of the medical treatment necessary to remedy or relieve a life-threatening medical condition in order to cause or allow the death of said child if such nutrition or medical treatment is generally provided to similarly situated nonhandicapped or handicapped children, provided that no medical treatment is necessary if, in the reasonable medical judgment of the attending physician, such treatment would be futile in saving the life of the child, or~~

~~(5) who is, due to improper parental care and guardianship, absent from school for fifteen (15) or more days or parts of days within a semester or four (4) or more days or parts of days within a four-week period without a valid excuse as defined by the local school boards if said child is subject to compulsory school attendance, or~~

~~(6) whose parent or legal custodian for good cause desires to be relieved of his custody.~~

~~b. (1) nothing in this paragraph shall be construed to mean a child is deprived for the sole reason the parent, guardian or person having custody or control of a child, in good faith, selects and depends upon~~

~~spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.~~

~~(2) nothing contained in this subparagraph shall prevent a court from immediately assuming custody of a child pursuant to Section 1107 of this title and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.~~

~~The phrase dependent and neglected shall be deemed to mean deprived;~~

~~5. "Child in need of mental health treatment" means a child in need of mental health treatment as defined by the Inpatient Mental Health Treatment of Children Act, Section 5-501 et seq. of Title 43A of the Oklahoma Statutes;~~

~~6. "Handicapped child" means any child who has a physical or mental impairment which substantially limits one or more of the major life activities of the child or who is regarded as having such an impairment by a competent medical professional;~~

~~7. "Department" means the Department of Human Services;~~

~~8. "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition pursuant to the provisions of Section 1103 of this title are supported by the evidence and whether a child should be adjudged to be a ward of the court;~~

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

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

~~alternatives are available and appropriate, and if the filing of a petition is necessary;~~

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

~~12. "Secure facility" means a facility which is designed and operated to ensure that all entrances and exits from the facility are subject to the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeter of the facility, or a facility which relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents;~~

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

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

~~15. "Group home" means a residential facility housing no more than twelve children with a program which emphasizes family-style living in a homelike environment. Said group home may also offer a~~

~~program within the community to meet the specialized treatment needs of its residents;~~

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

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

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

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

~~a. have a program which includes community participation and community-based services, or~~

~~b. be a secure facility with a program exclusively designed for a particular category of resident;~~

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

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

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

~~23. "Secure detention" means the temporary care of children 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 Human Services after adjudication;~~

~~24. "Probation" means a legal status created by court order whereby a delinquent child is permitted to remain outside a Department 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. "Office" means the Office of Juvenile Affairs; and~~

~~26. "Board" means the Board of Juvenile Affairs.~~

"Adjudicatory hearing" means a hearing to determine whether the allegations of a petition pursuant to the provisions of Section 1103 of this title are supported by the evidence and whether a child should be adjudged to be a ward of the court;

2. "Child" means any person under eighteen (18) years of age;

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

4. "Children's shelter" means a nonsecure facility licensed by the Department which provides temporary emergency care and supervision for children who, due to alleged deprivation or other good cause, cannot remain in their own homes or other suitable

placements. A children's shelter may be owned or operated by a public or private agency and shall be operated in accord with standards prescribed by or made pursuant to the Oklahoma Child Care Facilities Licensing Act;

5. "Community-based services" or "community-based programs" means services or programs which maintain community participation or supervision in their planning, operation, and evaluation.

Community-based services and programs may include but are not limited to emergency shelter, crisis intervention, group work, case suspension, job placement, recruitment and training of volunteers, consultation, medical, educational, vocational, social, preventive and psychological guidance, training, counseling, early intervention and diversionary substance abuse treatment, sexual abuse treatment, transitional living, independent living, and other related services and programs;

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

7. "Court-appointed special advocate" or "CASA" means a responsible adult, other than an attorney for the parties, who has volunteered to be available for appointment by the court to serve as an officer of the court and represent any child wherein a juvenile petition has been filed, based on the availability of volunteers, until discharged by the court;

8. "Day treatment" means a program which provides intensive services to children who reside in their own home, the home of a relative, group home, or a foster home. Day treatment programs include, but are not limited to, educational services and may be operated as a part of a residential facility;

9. "Department" means the Department of Human Services;

10. a. "Deprived child" means a child:

- (1) who is for any reason destitute, homeless, or abandoned, or
- (2) who does not have the proper parental care or guardianship or whose home is an unfit place for the child by reason of neglect, abuse, cruelty, or depravity on the part of his parents, legal guardian, or other person responsible for the child's health or welfare, or
- (3) who is a child in need of special care and treatment because of his physical or mental condition including a child born in a condition of dependence on a controlled dangerous substance, and his parents, legal guardian, or other custodian is unable or willfully fails to provide said special care and treatment, or
- (4) who is a handicapped child deprived of the nutrition necessary to sustain life or of the medical treatment necessary to remedy or relieve a life-threatening medical condition in order to cause or allow the death of said child if such nutrition or medical treatment is generally provided to similarly situated nonhandicapped or handicapped children, provided that no medical treatment is necessary if, in the reasonable medical judgment of the attending physician, such treatment would be futile in saving the life of the child, or
- (5) who is, due to improper parental care and guardianship, absent from school for fifteen (15) or more days or parts of days within a semester or four (4) or more days or parts of days within

a four-week period without a valid excuse as defined by the local school boards if said child is subject to compulsory school attendance, or (6) whose parent or legal custodian for good cause desires to be relieved of his custody.

b. (1) Nothing in this paragraph shall be construed to mean a child is deprived for the sole reason the parent, guardian, or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

(2) Nothing contained in this subparagraph shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.

The phrase dependent and neglected shall be deemed to mean deprived;

11. "Designated youth services agency" means a public or private, nonprofit agency certified by the Department of Human Services pursuant to Section 75 of this act that provides community-based services to youth within a designated geographic area;

12. "Dispositional hearing" means a hearing to determine the order of disposition which should be made with respect to a child subject to the provisions of this chapter;

13. "Emergency custody" means court-ordered custody of a child prior to adjudication of the child;

14. "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 children alleged or adjudicated

deprived children and may be owned or operated by a public or private agency;

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

16. "Handicapped child" means any child who has a physical or mental impairment which substantially limits one or more of the major life activities of the child or who is regarded as having such an impairment by a competent medical professional;

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

18. "Institution" means a residential facility offering care and treatment for more than twenty residents;

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

20. "Person responsible for a child'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 child's parent cohabitates or any other adult residing in the home of the child, or an owner, operator, or employee of a child care facility as defined by Section 402 of this title;

21. "Preliminary inquiry" or "intake" means a mandatory, preadjudicatory investigation by the Department for the purpose of making a recommendation to the district attorney as to whether a

petition should be filed alleging a child to be a deprived child or whether other nonadjudicatory alternatives are available;

22. "Permanent custody" means court-ordered custody of an adjudicated deprived child whose parental rights have been terminated;

23. "Protective custody" means custody of a child taken pursuant to Section 7 of this act and terminated by an order of the court;

24. "Secure facility" means a facility which is designed and operated to ensure that all entrances and exits from the facility are subject to the exclusive control of the staff of the facility, whether or not the juvenile 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;

25. "Training school" means an institution maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of juvenile delinquents;

26. "Temporary custody" means court-ordered custody of an adjudicated deprived child; and

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

### ARTICLE III

#### Deprived Children

##### Part 1. Jurisdiction

SECTION 4. 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~~ 7 of this ~~title act~~, the district court of the county in which a child:

- a. resides,
- b. is found, or
- c. ~~was abused, neglected or~~ is alleged to be or is  
~~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~~ has 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.~~

3. 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.~~ C. 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. 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. 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. 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 5. AMENDATORY 10 O.S. 1991, Section 1102.1, is amended to read as follows:

Section 1102.1 ~~Where~~ If the evidence in an action for a divorce, for alimony without a divorce, for an annulment, for custody of a child or for the appointment of a guardian of the person of a child, or in subsequent proceedings in such actions, indicates that a child is deprived ~~or in need of supervision~~, the court, ~~after proper notice~~, shall ~~transfer the issues in regard to the child to the juvenile docket of the court for preliminary inquiry and determination~~ notify the appropriate county office or the Department that the child may be a victim of abuse or neglect. The county office shall conduct a preliminary inquiry or intake concerning such report. In addition to any other submission of findings the county office shall send a copy of such findings to said court which may take appropriate action regarding the divorce, alimony, annulment, custody or appointment of a guardian subject to the jurisdiction of the district court.

#### ARTICLE IV

##### Preadjudicatory Process

##### Part 1. Investigation

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-4-101 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Upon notification or receipt of a report that a child may be deprived or whenever the county office determines that there are reasonable grounds to believe that a child may be deprived, the Department shall conduct a preliminary inquiry or intake in

accordance with priority guidelines established by the Department. If the Department finds evidence that a child is deprived, the Department shall forward its findings to the district attorney's office pursuant to Section 4 of this act.

B. Whenever, after initial investigation, the Department determines that an alleged abuse or neglect of a child:

1. Was perpetrated by someone other than a person responsible for the child's health and welfare; and

2. Does not appear to be attributable to failure on the part of a person responsible for the child's health or welfare to provide protection for the child,

the Department shall immediately verbally notify an appropriate local law enforcement agency for the purpose of conducting a possible criminal investigation. The verbal notification to the local law enforcement agency shall be followed by written referral. After making the referral, the Department shall not be responsible for further investigation of the case unless notice is received from the law enforcement agency as provided by subsection C of this section. The Department of Human Services shall promulgate rules for the implementation of the provisions of this subsection. Said rules shall include, but not be limited to, provision for adequate and appropriate inquiry or investigation by the Department prior to notification of a local law enforcement agency.

C. Any law enforcement agency receiving a referral as provided in this section shall provide the Department of Human Services' local child welfare office with a copy of the report of its investigation resulting from a referral from the Department. Whenever, in the course of a criminal investigation related to child abuse or neglect, a law enforcement agency determines that there is cause to believe that the alleged abuse or neglect was perpetrated by a person responsible for the health and welfare of the child or is attributable to failure on the part of a person responsible for

the child's health or welfare to provide protection for the child, the law enforcement agency shall immediately verbally contact the local child welfare office for the purpose of an investigation by that office. The verbal notification to the local child welfare office shall be followed by a written referral.

Part 2. Protective Custody

SECTION 7. AMENDATORY 10 O.S. 1991, Section 1107, as last amended by Section 34, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1107), is amended to read as follows:

Section 1107. A. A child may be taken into protective custody by a peace officer or employee of the court prior to the filing of a petition:

1. ~~By a peace officer, without~~ Without a court order ~~for any criminal offense, or if the child is willfully and voluntarily absent from the home of the child without the consent of the parent, guardian or legal custodian for a substantial length of time or without intent to return,~~ or if the child's surroundings are such as to endanger the welfare of the child;

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, guardian or legal custodian for a substantial length of time or without intent to return, or if the child's surroundings are such as to endanger the welfare of the child;~~

3. ~~Pursuant to~~ By an order of the district court issued on the application of the office of the district attorney. The application presented by the district attorney may be supported by a sworn affidavit which may be based upon information and belief. The application shall state facts sufficient to demonstrate to the court that there is reasonable suspicion to believe the child is ~~in need of protection due to abandonment, abuse or neglect,~~ deprived or is in surroundings that are such as to endanger the welfare of the

~~child or there is probable cause to believe the child has committed a crime or is in violation of the terms of his probation, parole or order of the court; and~~

4. 3. By order of the district court pursuant to subsection F 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, guardian or person having custody or control of the child is unwilling ~~or unavailable~~ to consent to such medical or mental health treatment or other action.

~~B. Whenever a child is taken into custody as a delinquent child or a child in need of supervision, the child shall be detained or be released to the custody of his parent, guardian, attorney or custodian, upon the written promise of such parent, guardian, attorney or custodian to bring the child to the court at the time fixed. If detained, such child shall be taken immediately before a judge of the district court in the county in which the child is sought to be detained, or to the place of detention or shelter designated by the court. If no judge be available locally, the person having the child in custody shall immediately report his detention of the child to the presiding judge of the judicial administrative district, provided that the child shall not be detained in custody beyond the next judicial day or for good cause shown due to problems of arranging for and transporting the child to and from a regional juvenile detention center, beyond the next two (2) judicial days unless the court shall so order after a detention hearing to determine if there exists probable cause to detain the child, as provided in Section 1107.1 of this title. If the latter judge cannot be reached, such detention shall be reported immediately to any judge regularly serving within the judicial administrative district. If detained, a reasonable bond for release shall be set. Pending further disposition of the case, a child whose custody has been assumed by the court may be released to the~~

~~custody of a parent or other person appointed by the court, or be detained pursuant to the provisions of Section 1107.1 of this title in such place as shall be designated by the court, subject to further order.~~

~~C. Whenever a child is taken into custody as a deprived child, he shall be taken to a shelter, hospital, foster home or other appropriate place as designated by the court, or he shall be taken immediately before a judge of the district court for the purpose of obtaining an order for protective custody. When a child has been taken into custody as a deprived child without a court order, the peace officer or employee of the court taking the child into custody shall immediately report the fact of the detention of the child to a judge of the district court in the county in which the child was taken into custody. If no judge is available locally, the detention shall be reported immediately to the presiding judge of the judicial administrative district, or if the presiding judge of the judicial administrative district cannot be reached, then to any judge regularly serving within the judicial administrative district. Within the next two (2) judicial days following the child being taken into custody, and thereafter at such intervals as may be determined by the court, the court shall conduct a hearing to determine whether the child should remain in protective custody or be released to the parent, guardian, legal custodian or another responsible person pending further proceedings pursuant to this chapter. The parent or legal guardian of the child shall be given immediate notice of the custody of the child whenever possible and prior adequate notice of the hearing by the peace officer or the court. At the hearing provided for in this subsection, the court shall advise the parent or legal guardian of the child in writing of:~~

~~1. The procedures which will be followed with regard to determining custody of the child;~~

~~2. The right of the parent or guardian to testify and present evidence at court hearings;~~

~~3. The right to be represented by an attorney at court hearings;~~

~~4. The consequences of failure to attend any hearings which may be held; and~~

~~5. The right and procedure for appealing the findings of a court on custody issues.~~

~~The court may release an alleged deprived child from protective custody upon such conditions as the court finds reasonably necessary for the protection of the child and the court shall determine whether the allegations regarding the child are such that additional time for the filing of a petition pursuant to subsection B of Section 1104.1 of this title is warranted.~~

~~D. When any child is taken into custody pursuant to this title and it reasonably appears to the peace officer, employee of the court or person acting pursuant to court order that the child is in need of medical treatment to preserve his health, any peace officer, any employee of the court or person acting pursuant to court order shall have the authority to authorize medical examination and medical treatment for any child found to be in need of medical treatment as diagnosed by a competent medical authority in the absence of a parent or guardian who is competent to authorize medical treatment. The officer or the employee of the court or person acting pursuant to court order shall authorize said medical treatment only after exercising due diligence to locate the parent, guardian or other person legally competent to authorize said medical treatment. The parent, guardian or custodian of the child shall be responsible for such medical expenses as ordered by the court. No peace officer, any employee of the court or person acting pursuant to court order authorizing such treatment in accordance with the provisions of this section for any child found in need of such~~

~~medical treatment shall have any liability, civil or criminal, for giving such authorization.~~

~~E. A child who has been taken into custody as otherwise provided by this title who appears to be a child in need of mental health treatment may be admitted to a mental health facility on an emergency psychiatric basis or for an inpatient mental health evaluation or inpatient mental health treatment only in accordance with the provisions of the Inpatient Mental Health Treatment of Children Act, Section 5-501 et seq. of Title 43A of the Oklahoma Statutes.~~

~~F. 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, guardian or person 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, guardian or person 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 parent, guardian or person having custody or control 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, guardian or 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, guardian or 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.~~

B. 1. If the child who is taken into protective custody is in need of emergency medical treatment or mental health care 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 emergency 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 emergency treatment or care to protect the child's health or welfare.

2. 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 emergency ex parte order issued by the court shall be served upon such parent, guardian, or person 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.

C. Whenever a child is taken into protective custody, such child shall be:

1. Taken to a children's shelter located within the county where protective custody is assumed or, if there is no children's shelter within the county, to a children's shelter designated by the court;

2. Placed in the custody of the Department for placement in foster care, if the Department agrees to assume custody;

3. Taken directly to or retained in a health care facility for medical treatment, when it reasonably appears to the peace officer or court employee that the child is in need of immediate medical treatment to preserve the child's health, or as otherwise directed by the court;

4. Taken directly to or retained in a mental health facility for mental health care, inpatient mental health evaluation or inpatient mental health treatment, in accordance with the provisions of the Inpatient Mental Health Treatment of Children Act, when it reasonably appears to the peace officer or court employee that the child is in need of emergency mental health care to preserve the child's health, or as otherwise directed by the court; or

5. Released to the custody of the parents of such child or some other responsible party.

D. The court may provide, in an order issued pursuant to this section or by a standing order or rule, for the disposition of

children taken into protective custody. Such order or rule shall be consistent with the provisions of subsection A of this section, but may also:

1. Designate a licensed child care facility other than a children's shelter appropriate for the temporary care of deprived children if such facility is willing to provide care;

2. Authorize the release of a child from protective custody in accord with such criteria as the court specifies or the placement of a child with such responsible persons as the court may designate and who are willing to provide care for the child pending further proceedings; and

3. Require such notice to the court concerning the assumption of protective custody and the disposition of children taken into protective custody as the court may direct.

No child taken into protective custody pursuant to this section shall be confined in any jail, adult lockup, or adult or juvenile detention facility. No child shall be transported or detained in association with delinquent, criminal, vicious, or dissolute persons.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-4-202 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by law, whenever a child in protective custody is in need of medical treatment or mental health treatment, a peace officer, employee of the court, or any other legal custodian of the child shall exercise due diligence to locate a parent, guardian, or other person legally competent to authorize such treatment.

B. The consent of a parent, guardian, or other person legally competent to authorize medical treatment or psychiatric care, mental health evaluations or treatments for a child shall not be required

and the peace officer, employee of the court, or other legal custodian may authorize such treatment:

1. When a child in protective custody requires emergency medical treatment or mental health care or evaluation if such treatment, care, or evaluation, as determined by a competent medical or mental health authority, as the case may be, cannot be delayed; or

2. For any physical examination or routine diagnostic proceeding or evaluation necessary, as determined by competent medical authority, to determine the medical condition of the child for the protection of the child and others with whom the child may come in contact while in custody.

C. If the parent, guardian, or other person legally competent to authorize medical treatment for the child is unwilling or unavailable to consent to such treatment the court, upon application of the district attorney of the county in which the child is located or upon application of parent or guardian, shall conduct a hearing not later than five (5) days after filing of the application.

1. Notice of the hearing and a copy of the application shall be served upon the parent, guardian, or other person legally competent to consent to medical treatment for the child or the district attorney and upon the person or agency having protective custody of the child.

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

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

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 54-4-203 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. 1. The parent or legal guardian of the child shall be given immediate notice of the protective custody of the child whenever possible by the police officer or the court.

2. The parent or legal guardian of the child shall be given prior adequate notice of the date, time, place, and purpose of any hearing by the court.

B. 1. Within the next two (2) judicial days following the child being taken into protective custody, and thereafter at such intervals as may be determined by the court, the court shall conduct a hearing to determine whether the child should remain in protective custody or be released to the parent, guardian, legal custodian, or another responsible person pending further proceedings pursuant to this chapter.

2. At the hearing provided for in this subsection, the court shall advise the parent or legal guardian of the child in writing of:

- a. the procedure which will be followed with regard to determining custody of the child,
- b. the right of the parent or guardian to testify and present evidence at court hearings,
- c. the right to be represented by an attorney at court hearings,
- d. the consequences of failure to attend any hearings which may be held, and
- e. the right and procedure for appealing the finding of a court on custody issues.

3. After a hearing pursuant to this subsection, the court may release an alleged deprived child from protective custody upon such conditions as the court finds reasonably necessary for the protection of the child and the court shall determine whether the allegations regarding the child are such that additional time for

the filing of a petition for a deprived child proceeding is warranted.

C. No preadjudicatory or predisposition detention or protective 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.

D. No protective custody order of the court providing for the removal of a child alleged or adjudicated deprived from his home shall be entered unless the court finds that the continuation of the child in his home is contrary to the best interests of the child. Said order shall include either:

1. A determination as to whether or not reasonable efforts have been made to prevent the need for the removal of the child from his home; or

2. A determination as to whether or not an absence of efforts to prevent the removal of the child from his home is reasonable under the circumstances, if such removal of the child from his home is due to an alleged emergency and is for the purpose of providing for the safety of the child.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-4-203 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

#### Part 3. Adjudication

SECTION 11. AMENDATORY 10 O.S. 1991, Section 1103, as amended by Section 31, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1103), is amended to read as follows:

Section 1103. A. ~~The court may provide by rule who shall make a preliminary inquiry to determine whether the interests of the public or of the child who is within the purview of this chapter require that further court action be taken. Provided, that where intake is to be provided by the Department under contract with the Supreme Court, or under the provision of rules issued by the Supreme Court, the preliminary inquiry as set out herein shall follow the uniform contractual procedures as agreed to by the Supreme Court and the Department. If it is determined by the preliminary inquiry that no further action be taken and if agreed to by the district attorney, said person or the court may make such informal adjustment as is practicable without a petition.~~

B. 1. A petition in a juvenile deprived child proceeding may be filed by the district attorney to determine if further action is necessary. The proceeding shall be entitled "In the matter of \_\_\_\_\_, an alleged ~~(delinquent)~~ ~~(deprived)~~ child ~~or (a child alleged to be in need of supervision)~~".

2. The petition shall be verified and may be upon information and belief. ~~It~~ The petition shall set forth ~~(1):~~

- a. with particularity facts which bring the child within the purview of ~~Chapter 51 of this title;~~ ~~(2)~~ article,
- b. the name, age and residence of the child; ~~(3)~~ ;
- c. the names and residences of his parents; ~~(4)~~ ;
- d. the name and residence of his legal guardian, if there be one; ~~(5)~~ ;
- e. the name and residence of the person or persons having custody or control of the child; ~~(6)~~ ;
- f. the name and residence of the nearest known relative, if no parent or guardian can be found; ~~(7)~~ ; and
- g. the relief requested; ~~and (8) the specific federal law, state law or municipal ordinance under which the child is charged, and an endorsement of witnesses~~

~~intended to be called by the petitioner, where the child is sought to be adjudged a delinquent child under Chapter 51 of this title.~~

3. If a termination of parental rights is desired, it must be stated in the petition and summons, and if an order for the payment of funds for the care and maintenance of the child is desired, it must be stated in the petition and summons.

4. If any of the facts herein required are not known by the petitioner, the petition shall so state, along with the reasons why said facts are not known to petitioner.

~~C.~~ B. A petition alleging a child to be a child in need of treatment shall be filed by a district attorney pursuant to the Inpatient Mental Health Treatment of Children Act.

~~D.~~ C. A copy of the petition shall be attached to and delivered with the summons.

~~E.~~ ~~A district attorney may defer filing a petition alleging a child to be delinquent for a period of ninety (90) days if the child participates in a teen court program or a first-time offender program, as defined in Section 1114 of this title. If the child successfully completes the program, the district attorney shall not file the petition. A case for which a petition is not filed shall not become a part of the child's records for any purpose.~~

SECTION 12. AMENDATORY 10 O.S. 1991, Section 1104.1, as last amended by Section 18, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1994, Section 1104.1), is amended to read as follows:

Section 1104.1 A. ~~Where~~ If a child has been taken into protective custody ~~under any provision~~ pursuant to the provisions of the Juvenile Code this article before a petition for a deprived child proceeding has been filed, a the petition shall be filed and a summons issued within five (5) judicial days from the date of such assumption of custody, ~~or.~~ Except as otherwise provided by this section, if such petition is not filed and a summons issued thereon

as required by this subsection, custody of the child shall be relinquished to ~~his~~ the parent, guardian or other legal custodian, ~~unless otherwise provided for herein~~ of the child.

B. ~~Where~~ 1. If a child has been taken into custody and upon allegations of ~~cruelty on the part of~~ abuse by the parents, guardian or other person having custodial care of the child, the five-day limitation ~~herein~~ provided for in subsection A of this section shall not cause the child to be relinquished to such parent, guardian or other legal custodian.

2. In all such cases, ~~the court shall determine whether the petition was filed within a reasonable time, except that~~ a petition shall be filed within thirty (30) days of the child being taken into custody.

~~C. No order of the court providing for the removal of a child alleged or adjudicated deprived, delinquent or in need of supervision from his home shall be entered unless the court finds that the continuation of the child in his home is contrary to the welfare of the child. Said order shall include either:~~

~~1. A determination as to whether or not reasonable efforts have been made to prevent the need for the removal of the child from his home and, as appropriate, reasonable efforts have been made to provide for the return of the child to his home; or~~

~~2. A determination as to whether or not an absence of efforts to prevent the removal of the child from his home is reasonable under the circumstances, if such removal of the child from his home is due to an alleged emergency and is for the purpose of providing for the safety of the child and, in the case of a delinquent, the protection of the public.~~

SECTION 13. AMENDATORY 10 O.S. 1991, Section 1103.1, is amended to read as follows:

Section 1103.1 A. No pleading subsequent to the petition for a deprived child proceeding is required, and the filing of any motion or pleading shall not delay the holding of the adjudicatory hearing.

B. A petition may be amended by order of the court at any time before an order of adjudication has been made, provided that the court shall grant the parties such additional time to prepare as may be required to insure a full and fair hearing. A petition shall be deemed to have been amended to conform to the proof where the proof does not change the substance of the act, omission or circumstance alleged. However, the court ~~may~~ shall not amend the adjudicatory category prayed for in the petition.

SECTION 14. AMENDATORY 10 O.S. 1991, Section 1104, as amended by Section 3, Chapter 342, O.S.L. 1993 (10 O.S. Supp. 1994, Section 1104), is amended to read as follows:

Section 1104. A. After a petition for a deprived child proceeding shall have been filed, unless the parties ~~hereinafter named~~ provided for in this section shall voluntarily appear, a summons shall be issued which shall recite briefly the nature of the proceeding with the phrase "as described more fully in the attached petition" and requiring the person or persons who have the custody or control of the child to appear personally and bring the child before the court at a time and place stated. The summons shall state the relief requested, and shall set forth the right of the child, parents and other interested parties to have an attorney present at the hearing on the petition.

B. The summons shall be served on the person who has actual custody of the child, and if the child has reached the age of twelve (12) years, a copy shall be served on the child. If the person who has actual custody of the child shall be other than a parent or guardian of the child, a copy of the summons shall be served on the parent or guardian, or both, as hereinafter provided. A copy of the summons shall be served on a custodial parent, guardian or next

friend. If no parent or guardian can be found, a summons shall be served on such other person or persons as the court shall designate.

Summons may be issued requiring the appearance of any other person whose presence is necessary.

C. If it subsequently appears that a person who should have been served was not served and has not entered an appearance, the court shall immediately order the issuance of a summons which shall be served on said person.

D. If after a petition has been filed, it appears that the child is in such condition or surroundings that his welfare requires that his custody be immediately assumed by the court, the judge may immediately issue ~~a detention~~ an order or warrant authorizing the taking of said child into emergency custody.

~~E. In a delinquency proceeding, whenever a warrant for the arrest of a child shall issue, it shall state the offense the child is being charged with having committed; in a child in need of supervision proceeding, whenever a warrant for detention of a child shall issue, it shall state the reason for detention. Warrants for the arrest or detention of a child shall comport with all other requirements of issuance of arrest warrants for adult criminal offenders.~~

SECTION 15. AMENDATORY 10 O.S. 1991, Section 1105, as amended by Section 19, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1994, Section 1105), is amended to read as follows:

Section 1105. A. Service of summons shall be made as provided for service in civil actions or service may be made by certified mail to such person's last-known address, requesting a return receipt from the addressee only. ~~Where~~ If the address of the person to be summoned is not known, or if the mailed summons is returned, the court may order that notice of the hearing be published once in a newspaper of general circulation in the county.

B. 1. The court ~~may~~ shall not hold the hearing until at least forty-eight (48) hours after the service of the summons, except with the consent of the parent or guardian; ~~provided, however, that.~~

2. If the parent is not served within the state, the court ~~may~~ shall not hold the hearing until at least five (5) days after the date of mailing the summons, ~~if the parent is not served within the state, except with the consent of the parent, or if.~~

3. If notice is published, the court shall not hold the hearing until at least ten (10) days after the date of publication; ~~provided, further, that if.~~

4. If one or more persons must be served by publication, and if ~~it appears that the court must order the child held in a place of detention in order to meet the requirement of this section with respect to the time for holding a hearing when a party can be served only by publication,~~ the court may ~~advance~~ delay the date of the hearing, with reasonable notice to the other persons who have been served or are properly and legally notified, to any date that the court determines to be reasonable and may proceed with the action; ~~but an.~~

C. An order determining that a child is delinquent or in need ~~of supervision or is~~ deprived shall not become final until thirty (30) days after the date of the publication of the notice. ~~Nothing contained herein shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.~~

SECTION 16. AMENDATORY 10 O.S. 1991, Section 1106, is amended to read as follows:

Section 1106. If any person summoned as ~~herein~~ provided ~~shall,~~ without reasonable cause, in Section 14 of this act shall fail to appear without reasonable cause, he such person may be ~~proceeded~~ against for held in contempt of court. In case the summons cannot

be served, or the parties served fail to obey the same, or in any case when it shall be made to appear to the judge that the service will be ineffectual or that the welfare of the child requires that ~~he shall~~ the child should be brought ~~forthwith~~ into the custody of the court, a warrant may be issued against the parent or guardian, ~~or against the child himself.~~

SECTION 17. AMENDATORY 10 O.S. 1991, Section 1109, as amended by Section 37, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1109), is amended to read as follows:

Section 1109. A. ~~No information gained by a custodial interrogation of a child nor any evidence subsequently obtained as a result of such interrogation shall be admissible into evidence against the child unless the custodial interrogation about any alleged offense by any law enforcement officer or investigative agency, or employee of the court, or employee of the Department is done in the presence of the parents, guardian, attorney, or legal custodian of the child. No such custodial interrogation shall commence until the child and his parents, or guardian, or other legal custodian have been fully advised of the constitutional and legal rights of the child, including the right to be represented by counsel at every stage of the proceedings, and the right to have counsel appointed by the court if the parties are without sufficient financial means; provided, however, that no legal aid or other public or charitable legal service shall make claim for compensation as contemplated herein. It is further provided that where private counsel is appointed in such cases, the court shall set reasonable compensation and order the payment out of the court fund. As used in this section, "custodial interrogation" means questioning of a child while that child is in law enforcement custody or while that child is being deprived of freedom of action in any significant way by a law enforcement officer, employee of the court, or employee of the Department. The term "custodial interrogation" shall not be~~

~~deemed to mean questioning of a child by a public school administrator or teacher, so long as such questioning is not being conducted on behalf of a law enforcement officer, an employee of the court or an employee of the Department. Any information gained from noncustodial questioning of a child by a public school administrator or teacher concerning a wrongful act committed on public school property shall be admissible into evidence against the child.~~

~~B.~~ If the parents, guardian, or other legal custodian of the child requests an attorney and is found to be without sufficient financial means, counsel shall be appointed by the court if a petition has been filed alleging that the child is a deprived child, ~~a child in need of supervision, or a child in need of treatment,~~ or if termination of parental rights is a possible remedy, provided that the court may appoint counsel without such request, if it deems representation by counsel necessary to protect the interest of the parents, guardian or other legal custodian. If the child is not otherwise represented by counsel, whenever a petition is filed pursuant to the provisions of Section ~~1103~~ 11 of this ~~title~~ act, the court shall appoint a separate attorney, who shall not be a district attorney, for the child regardless of any attempted waiver by the parent or other legal custodian of the child of the right of the child to be represented by counsel.

~~C.~~ B. Whenever a petition is filed alleging that a child is a deprived child, ~~a delinquent child or a child in need of supervision,~~ the court may appoint a guardian ad litem for the child at any time subsequent to the filing of the petition and shall appoint a guardian ad litem upon the request of the child or his attorney and whenever a court-appointed special advocate is available to the court to serve as a guardian ad litem regardless of whether or not a guardian ad litem has been requested by the child or his attorney. The availability of a court-appointed special

advocate shall be determined by the executive director of the court appointed special advocate program for the county.

1. The guardian ad litem shall not be a district attorney, an employee of the office of the district attorney, an employee of the court, an employee of a juvenile bureau ~~established pursuant to the provisions of Sections 1201 through 1210 of this title~~, or an employee of any public agency having duties or responsibilities towards the child.

2. Whenever a court-appointed special advocate is available for appointment as a guardian ad litem as provided by this subsection, the court shall give priority to the appointment of a court-appointed special advocate as the guardian ad litem of a deprived child.

~~D. For the purpose of this section and Section 846 of Title 21 of the Oklahoma Statutes, a "court-appointed special advocate" or "CASA" means a responsible adult, other than an attorney for the parties, who has volunteered to be available for appointment by the court to serve as an officer of the court and represent any child wherein a juvenile petition has been filed, based on the availability of volunteers, until discharged by the court. It shall be the duty and responsibility of the court-appointed special advocate to advocate for the best interests of the child and to assist the child in obtaining a permanent, safe, homelike placement.~~

C. 1. The court-appointed special advocate shall be given access to the court file and access to all records and reports relevant to the case and to any records and reports of examination of the child's parent or other custodian, made pursuant to this section or Section 846 of Title 21 of the Oklahoma Statutes.

2. A court-appointed special advocate shall serve without compensation and shall have such other qualifications and duties and responsibilities as may be prescribed by rule by the Supreme Court.

3. Any person participating in a judicial proceeding as a court-appointed special advocate shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any civil liability that otherwise might be incurred or imposed. Any person serving in positions of management of a CASA organization, including members of the Board of Directors acting in good faith, shall be immune from any civil liability or any vicarious liability for the negligence of any CASA organization advocates, managers, or directors.

~~All records concerning child abuse shall be confidential and shall be open to inspection only to persons duly authorized by the state or United States in connection with the performance of their official duties.~~

~~It shall be unlawful and a misdemeanor for the Commission, or any employee working under the Department of Human Services, any other public officer or employee, or any court-appointed special advocate (CASA), to furnish or permit to be taken off of the records any information therein contained for commercial, political or any other unauthorized purpose.~~

~~E. The district attorney shall prepare and prosecute any case or proceeding within the purview of Chapter 51 of this title.~~

SECTION 18. AMENDATORY 10 O.S. 1991, Section 1110, as amended by Section 23, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1994, Section 1110), is amended to read as follows:

Section 1110. In adjudicatory hearings to determine ~~whether if~~ if a child is delinquent, ~~in need of supervision, or deprived, the child informed against, or~~ any person entitled to service of summons, shall have the right to demand a trial by jury, which shall be granted as in other cases, unless waived, or the judge on his own motion may call a jury to try any such case. Such jury shall consist of six (6) persons.

#### Part 4. Adjudicative Hearings

SECTION 19. AMENDATORY 10 O.S. 1991, Section 1111, as last amended by Section 38, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1111), is amended to read as follows:

Section 1111. A. All cases of deprived children shall be heard separately from the trial of cases against adults. The adjudicative hearings shall be conducted according to the rules of evidence, and may be adjourned from time to time.

1. Except as provided by paragraph 2 of this subsection, the hearings shall be private unless specifically ordered by the judge to be conducted in public, but persons having a direct interest in the case shall be admitted. ~~Any victim or relative or legal guardian of a victim of a juvenile criminal act shall be considered to have a direct interest in the case and shall be notified of all court hearings involving that particular juvenile criminal act as provided by Section 215.33 of Title 19 of the Oklahoma Statutes.~~

2. Stenographic notes or other transcript of the hearings shall be kept as in other cases, but they shall not be open to inspection except by order of the court or as otherwise provided by law.

~~2. Hearings related to the second or subsequent delinquency adjudication of a child shall be public proceedings. The adjudications relied upon to determine whether a hearing is a public proceeding pursuant to this paragraph shall not have arisen out of the same transaction or occurrence or series of events closely related in time and location. Upon its own motion or the motion of any of the parties to the hearing and for good cause shown, the court may order specific testimony or evidence to be heard in private; provided, the court shall not exclude any relative or legal guardian of a victim from the hearing during testimony of the victim. For the purposes of this paragraph, "good cause" shall mean a showing that it would be substantially harmful to the mental or physical well-being of the child if such testimony or evidence were presented at a public hearing.~~

~~B. The child may remain silent as a matter of right in delinquency hearings and in need of supervision hearings, and before he is interrogated he shall be so advised. A child who is determined to be competent to testify shall not refuse to be a witness in a hearing to determine whether or not said child is deprived, unless the privilege against self-incrimination is invoked. The testimony of said child may be given as provided by Section ~~1147~~ 20 or ~~1148~~ 21 of this ~~title act~~ or as otherwise authorized by law for the protection of child witnesses.~~

~~C. A decision determining a child to come within the purview of this chapter must be based on sworn testimony and the child must have the opportunity for cross-examination unless the facts are stipulated. Where a child is alleged to be delinquent and the facts are stipulated, the judge must ascertain from the child if he agrees with the stipulation and if he understands the consequences of stipulating the facts.~~

SECTION 20. AMENDATORY 10 O.S. 1991, Section 1147, is amended to read as follows:

Section 1147. A. This section shall apply only to a proceeding affecting the parent-child, guardian-child or family relationship in which a child twelve (12) years of age or younger is alleged to have been abused, and shall apply only to the statement of that child or other child witness.

B. The recording of an oral statement of the child made before the proceedings begin is admissible into evidence if:

1. The court determines that the time, content and circumstances of the statement provide sufficient indicia of reliability;

2. No attorney for any party is present when the statement is made;

3. The recording is both visual and aural and is recorded on film or videotape or by other electronic means;

4. The recording equipment is capable of making an accurate recording, the operator of the equipment is competent and the recording is accurate and has not been altered;

5. The statement is not made in response to questioning calculated to lead the child to make a particular statement or is clearly shown to be the child's statement and not made solely as a result of a leading or suggestive question;

6. Every voice on the recording is identified;

7. The person conducting the interview of the child in the recording is present at the proceeding and is available to testify or be cross-examined by any party; ~~and~~

8. Each party to the proceeding is afforded an opportunity to view the recording before ~~it~~ the recording is offered into evidence~~;~~ and ~~a~~

9. A copy of a written transcript of the recording transcribed by a licensed or certified court reporter is provided to the parties.

SECTION 21. AMENDATORY 10 O.S. 1991, Section 1148, is amended to read as follows:

Section 1148. A. This section shall apply only to a proceeding affecting the parent-child, guardian-child or family relationship in which a child twelve (12) years of age or younger is alleged to have been abused, and shall apply only to the testimony of that child or other child witness.

B. The court may, on the motion of a party to the proceeding, order that the testimony of the child be taken in a room other than the courtroom and be televised by closed-circuit equipment in the courtroom to be viewed by the court, the finder of fact and the parties to the proceeding. Only an attorney for each party, an attorney ad litem for the child or other person whose presence would contribute to the welfare and well-being of the child and persons necessary to operate the equipment ~~may~~ shall be present in the room

with the child during ~~his~~ the testimony of the child. Only the attorneys for the parties may question the child. The persons operating the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during ~~his~~ the testimony of the child, but does not permit the child to see or hear them.

C. The court may, on the motion of a party to the proceeding, order that the testimony of the child be taken outside the courtroom and be recorded for showing in the courtroom before the court, the finder of fact and the parties to the proceeding. Only those persons permitted to be present at the taking of testimony under subsection B of this section may be present during the taking of the child's testimony. Only the attorneys for the parties may question the child, and the persons operating the equipment shall be confined from the child's sight and hearing. The court shall ensure that:

1. The recording is both visual and aural and is recorded on film or videotape or by other electronic means;

2. The recording equipment is capable of making an accurate recording, the operator of the equipment is competent and the recording is accurate and has not been altered;

3. Every voice on the recording is identified; and

4. Each party to the proceeding is afforded an opportunity to view the recording before it is shown in the courtroom, and a copy of a written transcript transcribed by a licensed or certified court reporter is provided to the parties.

D. If the testimony of a child is taken as provided by subsections B or C of this section, the child shall not be compelled to testify in court during the proceeding.

SECTION 22. AMENDATORY 10 O.S. 1991, Section 1113, is amended to read as follows:

Section 1113. If the court finds that the allegations of the petition are not supported by the evidence, the court shall order

the petition dismissed and shall order the child discharged from any ~~detention or restriction previously ordered~~ protective custody. The child's parents, guardian or other legal custodian shall also be discharged from any restriction or other previous temporary order.

SECTION 23. AMENDATORY 10 O.S. 1991, Section 1114, as last amended by Section 40, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1114), is amended to read as follows:

Section 1114. ~~A.~~ If the court finds that the allegations of a petition alleging a child to be deprived are supported by the evidence, and finds that it is in the best interest of the child and the public that the child be made a ward of the court, the court shall sustain the petition, and shall make an order of adjudication finding the child to be deprived and shall adjudge the child as a ward of the court.

~~B. If the court finds that the allegations of a petition alleging a child to be delinquent or in need of supervision are supported by the evidence, the court shall sustain the petition, and shall make an order of adjudication setting forth whether the child is delinquent or in need of supervision and shall adjudge the child as a ward of the court.~~

~~C. A court may defer delinquency adjudication proceedings for ninety (90) days if the child:~~

~~1. Is alleged to have committed or attempted to commit a delinquent offense that if committed by an adult would be a misdemeanor or that if committed by an adult would be grand larceny of property valued at One Hundred Dollars (\$100.00) or less;~~

~~2. Waives the privilege against self-incrimination and testifies, under oath, that the allegations are true;~~

~~3. Has not been previously adjudicated a delinquent; and~~

~~4. Presents to the court an oral or written request to attend a Teen Court program.~~

~~D. The Teen Court program must be approved by the court.~~

~~E. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the Teen Court program has been successfully completed.~~

~~F. The court may require a child who requests a Teen Court program to pay a fee, as determined by the court, not to exceed Twenty Dollars (\$20.00) to cover the costs of administration. The fee shall be deposited in the court clerk's official depository account. Eighty percent (80%) of the costs so paid shall be distributed to the organization sponsoring the Teen Court to be used for Teen Court operating expenses. The remaining twenty percent (20%) of said cost shall be paid by the court clerk to the court fund.~~

~~G. A case dismissed under subsections C through F of this section shall not be part of the child's records for any purpose.~~

~~H. A court may defer delinquency proceedings for ninety (90) days for any child that has not been previously adjudicated delinquent, if the child and, if required by the court, the parent or legal guardian of the child agree to participate in an alternative diversion program for first-time offenders that has been approved by the court. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the alternative diversion program for first-time offenders has been successfully completed. A case dismissed pursuant to this subsection shall not be part of the child's records for any purpose.~~

~~I. A court may defer delinquency proceedings for ninety (90) days for any child that has not been previously adjudicated delinquent, if the child agrees to participate in a military mentor program that has been approved by the court. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the military~~

~~mentor program has been successfully completed. A case dismissed pursuant to this subsection shall not be part of the child's records for any purpose.~~

J. As used in this section:

1. ~~"Alternative diversion programs for first-time offenders" means programs for juveniles who have been identified by law enforcement personnel, the district attorney, or the court as having committed acts which are not serious enough to warrant adjudication through the juvenile court process, but which do indicate a need for intervention to prevent further development toward juvenile delinquency. The program shall be administered, pursuant to contact with the Department of Human Services, by organizations designated as youth services agencies in accordance with Section 609 of this title;~~

2. ~~"Teen Court program" means a program which provides an alternative judicial forum for cases involving juvenile offenders, in which teenage participants, under the supervision of an adult coordinator, serve in various capacities within the courtroom, including jurors, lawyers, bailiffs and judges. The Teen Court hears cases involving juvenile offenders who are referred to the Teen Court by the district attorney or the district court and assesses sentences such as participation in community work projects, counseling or rehabilitation programs; and~~

3. ~~"Military mentor program" means a program administered by the Oklahoma Military Department as provided in Section 1116 of this title.~~

#### Part 5. Dispositional Hearings and Orders

SECTION 24. AMENDATORY 10 O.S. 1991, Section 1115, is amended to read as follows:

Section 1115. ~~(a)~~ A. After making an order of adjudication for a deprived child, the court shall hold a dispositional hearing, at which all evidence helpful in determining the proper disposition

best serving the interest of the deprived child ~~and the public~~, including but not limited to oral and written reports, may be admitted and may be relied upon to the extent of its probative value, even though not competent for the purposes of the adjudicatory hearing.

~~(b)~~ B. Before making an order of disposition, the court shall advise the district attorney, the parents, guardian, custodian or responsible relative, and their counsel, of the factual contents and the conclusion of reports prepared for the use of the court and considered by it, and afford fair opportunity, if requested, to controvert them. An order of disposition shall include a specific finding and order of the court relative to the liability and accountability of the parents for the care and maintenance of the child as authorized by Section ~~1121~~ 43 of this ~~title~~ act, except where custody is placed with both parents.

~~(e)~~ C. On its own motion or that of the district attorney, or of the parent, guardian, custodian, responsible relative or counsel, the court may adjourn the hearing for a reasonable period to receive reports or other evidence and, in such event, shall make an appropriate order for ~~detention~~ emergency custody of the child, or his release from ~~detention~~ emergency custody subject to supervision by the court, during the period of the continuance.

~~(d)~~ D. In scheduling investigations and hearings, the court shall give priority to proceedings in which a child is in ~~detention~~ emergency custody, or has otherwise been removed from his home, before an order of disposition has been made.

SECTION 25. AMENDATORY 10 O.S. 1991, Section 1115.1, as amended by Section 26, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1994, Section 1115.1), is amended to read as follows:

Section 1115.1 A. An individual treatment and service plan shall be filed with the court within the thirty (30) days after any child has been adjudicated to be deprived, ~~delinquent or in need of~~

~~supervision.~~ Said plan shall be filed by the person, department or agency responsible for the supervision of the case or by the legal custodian if the child has been removed from the custody of its lawful parent or parents. The treatment and service plan shall be based upon a comprehensive assessment and evaluation of the child and family which shall include but not be limited to:

1. A history of the child and family, including identification of the problems leading to the deprived child adjudication. ~~In the case of a deprived child, the~~ The statement of the conditions leading to the adjudication shall include a statement of the methods to be used to correct those conditions or to achieve permanent placement of the child;

2. ~~Based upon a comprehensive assessment and evaluation of the child and family which shall include, in the case of a delinquent child, a risk-assessment of the child:~~

- a.—Identification of the specific services to be provided to the child ~~to remediate or alleviate the conditions that led to the adjudication,~~ including but not limited to educational, vocational educational, medical, drug or alcohol abuse treatment, or counseling or other treatment services, and
- b.—~~Identification~~ identification of the services to be provided to the parent, legal guardian, legal custodian, stepparent, other adult person living in the home or other family members, to remediate or alleviate the conditions that led to the adjudication, including services needed to assist the family to provide proper care ~~and supervision~~ of the child or, ~~in the case of a deprived child,~~ to prevent further harm to the child. If the child is placed outside the home, the service plan shall include the services to be provided during and after any such placement;

3. If the child is to be placed outside his home, the service plan shall state:

- a. the reasons for such placement and a statement as to the unavailability or inappropriateness of local placement, or other good cause, for any placement more than forty (40) miles from the home of the child,
- b. the services to be provided to the child while in such placement and the projected date of discharge,
- c. the services necessary to assist the child to reintegrate with his family or other community-based placement and, ~~in the case of a deprived child,~~ a description of acts and conduct that would be expected of the parent or parents, legal guardian, legal custodian, or stepparent or other adult person living in the home ~~before the child should be returned home~~ that would alleviate the conditions that resulted in the removal of the child, and
- d. if the child is age sixteen (16) or older, the services necessary to make the transition from foster care or other community placement to independent living;

4. Performance criteria that will measure the progress of the child and family toward completion of the treatment and service plan;

5. A projected date for the completion of the treatment and service plan; and

6. The name and business address of the attorney representing the child, if any.

B. Whenever a child who is subject to the provisions of this section is committed for inpatient mental health treatment pursuant to the Inpatient Mental Health Treatment of Children Act, the individual treatment and service plan shall be amended as necessary

and appropriate, including but not limited to identification of the treatment and services to be provided to the child and his family upon discharge of the child from inpatient mental health treatment.

C. In addition to the information required pursuant to subsection A of this section, when a child born in a condition of dependence on a controlled dangerous substance has been removed from the home, the Department of Human Services, subject to court approval:

1. May require, as part of the ~~placement~~ treatment plan, that the mother of such child complete a treatment program approved by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority prior to the return of the child to the home;

2. May require, as part of the ~~placement~~ treatment plan, that the father of the child, legal guardian, legal custodian, stepparent or other adult person living in the home who is a drug-dependent person, as such term is defined by Section 3-403 of Title 43A of the Oklahoma Statutes, and whose conduct has contributed to the dependency of such child or mother on the controlled dangerous substance, or to the conditions which caused the child to be adjudicated deprived, complete a treatment program approved by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority prior to the return of the child to the home; and

3. May require testing for substance abuse of the mother, father, legal guardian, legal custodian, stepparent or other adult person living in the home, on a monthly basis for a twelve-month period following completion of the substance abuse program and after return of the child to the home. A positive test of any such person shall be presented to the Department of Human Services and the district attorney.

D. Testing ordered by the court pursuant to subsection C of this section shall be admissible only for the purposes of ~~juvenile and deprived child and~~ custody proceedings.

SECTION 26. AMENDATORY 10 O.S. 1991, Section 1115.2, is amended to read as follows:

Section 1115.2 The court shall ensure that the following information accompanies any deprived child placed outside ~~his~~ the child's home:

1. Demographic information;
2. Type of custody and previous placement;
3. Pertinent family information including, but not limited to, the names of family members who, by court order, ~~may~~ are not allowed to visit the child;
4. Known or available medical history including, but not limited to:
  - a. allergies,
  - b. immunizations,
  - c. childhood diseases,
  - d. physical handicaps,
  - e. psycho-social information, and
  - f. the name of the child's last doctor, if known; and
5. Copies of policies and procedures of the placement agency which pertain to placement operations of the agency, and which may be necessary to properly inform the institution, foster parent or other custodian of the duties, rights and responsibilities of the custodian.

SECTION 27. AMENDATORY 10 O.S. 1991, Section 1116, as last amended by Section 41, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1116), is amended to read as follows:

Section 1116. A. The following kinds of orders of disposition may be made in respect to wards of the court pursuant to a deprived child proceeding:

1. The court may place the child ~~on probation or~~ under supervision in his own home, or in the custody of a suitable person ~~elsewhere~~, upon such conditions as the court shall determine. The court may require the parent or other person to give security by bond, with surety or sureties approved by the court, for compliance with such order.

2. If it is consistent with the welfare of the child, the child shall be placed with his parent or legal guardian, but if it appears to the court that the conduct of such parent, guardian, legal guardian, stepparent or other adult person living in the home has contributed to such ~~delinquency, or need of supervision or~~ deprivation, the court may issue a written order specifying conduct to be followed by such parent, guardian, legal custodian, stepparent or other adult person living in the home with respect to such child. The conduct specified shall be such as would reasonably prevent the child from becoming ~~delinquent, in need of supervision or~~ continuing to be deprived, ~~as defined by Section 1101 of this title~~. Such order shall remain in effect for a period of not more than one (1) year to be specified by the court, and the order may be extended or renewed by the court.

a. If it is consistent with the welfare of the child, in cases where the child has been adjudicated to be deprived ~~or in need of supervision~~ due to repeated absence from school, the court may order counseling and treatment for the child and the parents of the child to be provided by the local school district, the county, the Department or a private individual or entity. Prior to final disposition, the court shall require that it be shown by the appropriate school district that a child found to be truant has been evaluated for learning disabilities, mental retardation, and hearing and visual impairments and

other impediments which could constitute an educational handicap. The results of such tests shall be made available to the court for use by the court in determining the disposition of the case.

- b. ~~In issuing orders to a parent, guardian, legal guardian, stepparent or other adult person living in the home of a child adjudicated to be a delinquent child or in making other disposition of said delinquent child, the court may consider the testimony of said parent, guardian, legal guardian, stepparent or other adult person concerning the behavior of the juvenile and his ability to exercise parental control over the behavior of the juvenile.~~
- e. In any dispositional order involving a child age sixteen (16) or older, the court shall make a determination, where appropriate, of the services needed to assist the child to make the transition ~~from~~ ~~foster care~~ to independent living.

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

~~2.~~ 3. The court may ~~commit~~ place the child ~~to~~ in the custody of a private institution or agency, including any institution established and operated by the county, authorized to care for children or to place them in family homes. In ~~committing~~ placing a child ~~to~~ in a private institution or agency, the court shall select one that is licensed by the Department or any other state department supervising or licensing private institutions and agencies; or, if

such institution or agency is in another state, by the analogous department of that state. Whenever the court shall ~~commit~~ place a child ~~to~~ in any institution or agency, it shall transmit with the order of commitment a summary of its information concerning the child, and such institution or agency shall give to the court such information concerning the child as the court may at any time require.

~~3.~~ 4. The court may order the child to receive counseling or other community-based services as necessary.

~~4. The court may order the child to participate in a military mentor program administered by the Oklahoma Military Department, if such program:~~

- ~~a. is staffed by National Guard personnel who are trained by the Oklahoma Military Department pursuant to training standards established by the Department of Human Services and meets screening requirements established by the Department of Human Services,~~
- ~~b. provides for adequate supervision of the child, and~~
- ~~c. is designed to develop useful skills and abilities of the child and/or integrate the child into community service activities or public works projects.~~

~~The Department of Human Services and the Oklahoma Military Department are hereby authorized to enter into an agreement to provide for the effective development and implementation of this paragraph.~~

5. The court may ~~commit~~ place the child ~~to~~ in the custody of the Department; ~~provided, any order adjudicating the child to be delinquent and committing the child to the Department shall be for an indeterminate period of time; provided, on or after the adoption of placement guidelines by the Juvenile Placement Guidelines Committee and approval of the guidelines by the Legislature, if the child is a serious juvenile offender or a habitual juvenile~~

~~offender, as defined in the Serious and Habitual Juvenile Offender Act, the order shall be for a determinate period of time established by the court within the range authorized by the placement guidelines, not to extend beyond such child's nineteenth birthday.~~

6. If the child has been placed outside the home, and it appears to the court that the parent, guardian, legal custodian, or stepparent, or other adult person living in the home has contributed to the ~~delinquency, need of supervision or treatment, or~~ deprivation of the child, the court may order that the parent, guardian, legal custodian, stepparent, or other adult living in the home be made subject to any treatment or placement plan prescribed by the Department or other person or agency receiving custody of the child.

7. ~~With respect to a child adjudicated a delinquent child, the court may:~~

- ~~a. for acts involving criminally injurious conduct as defined in Section 142.3 of Title 21 of the Oklahoma Statutes, order the child to pay a victim compensation assessment in an amount not to exceed that amount specified in Section 142.18 of Title 21 of the Oklahoma Statutes. The court shall forward a copy of the adjudication order to the Crime Victims Compensation Board for purposes of Section 142.11 of Title 21 of the Oklahoma Statutes. Except as otherwise provided by law, such adjudication order shall be kept confidential by the Board,~~
- ~~b. order the child to engage in a term of community service without compensation. The state or any political subdivision shall not be liable if a loss or claim results from any acts or omission of a child ordered to engage in a term of community service pursuant to the provisions of this paragraph,~~

~~c. if it is consistent with the welfare of the child, require community service or restitution or both community service and restitution for acts of delinquency. The immunities provided by Sections 227 and 228 of Title 57 of the Oklahoma Statutes shall apply to community services directed pursuant to this section. The court may order the parents or custodial parent of any child living with the parents or custodial parent at the time of the criminal or delinquent act of the child to remit the amount of restitution ordered by the court. The court may consider any hardship of such order on the parents or custodial parent of the child. The parents or custodial parent may be represented by an attorney in the matter of the order for remittance of the restitution by the parents or custodial parent. Provided however, if the court orders the parents or custodial parent to remit the amount of restitution as provided for in this paragraph, in addition to any other dispositional orders of the court, the court shall order the child to perform community service for the number of hours commensurate with the number of hours it would require under federal or state minimum wage to earn the amount paid by such child's parents or custodial parent under the order to remit restitution,~~

~~d. order the child to pay the fine which would have been imposed had such child been convicted of such crime as an adult. Any such fine collected pursuant to this paragraph shall be deposited in a special Work Restitution Fund to be established by the court to allow children otherwise unable to pay restitution to~~

~~work in community service projects in the private or public sector to earn money to compensate their victims,~~

~~e. order the cancellation or denial of driving privileges as provided by Sections 6-107.1 and 6-107.2 of Title 47 of the Oklahoma Statutes,~~

~~f. in accordance with the guidelines approved and adopted by the Oklahoma Supreme Court for the implementation of the Serious and Habitual Juvenile Offender Program, make the following orders: sanction detention in the residence of the child or facility designated by the Department of Human Services or the juvenile bureau for such purpose for up to five (5) days; weekend detention in a place other than a juvenile detention facility or shelter; tracking; or house arrest with electronic monitoring. On and after the adoption of guidelines by the Oklahoma Supreme Court for the implementation of the Serious and Habitual Juvenile Offender Program, the provisions of subparagraphs a through e of this paragraph shall be subject to said guidelines,~~

~~g. in accordance with the guidelines approved and adopted by the Oklahoma Supreme Court for the implementation of the Serious and Habitual Juvenile Offender Program, impose sanctions for the violation of pre-adjudicatory or postadjudicatory violations of probation,~~

~~h. on and after the adoption of placement guidelines by the Juvenile Placement Guidelines Committee and approval of such guidelines by the Legislature, the provisions of subparagraphs a through g of this paragraph shall be subject to said guidelines.~~

~~8.~~ The court may dismiss the petition or otherwise terminate its jurisdiction at any time for good cause shown.

~~9.~~ 8. In any dispositional order removing a child from the home of the child, the court shall make a determination that, in accordance with the best interests of the child, reasonable efforts have been made to provide for the return of the child to the child's own home, or that efforts to reunite the family are not feasible, and reasonable efforts are being made to secure an alternate permanent placement for the child.

B. The court shall not terminate the rights of a parent who has not been notified that the parental rights might be terminated. If the court terminates the rights of a parent and ~~commits~~ places the child ~~to~~ with an individual or agency, the court may invest in such individual or agency authority to consent to the adoption of the child. Provided, that where the court ~~commits~~ places the child ~~to~~ with the Department, it shall vest the Department with authority to place the child and, upon notice to the court that an adoption petition has been filed concerning said child, invest the Department with authority to consent to the adoption of the child, and the jurisdiction of the committing court shall terminate.

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

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

~~E. The court shall require any child found to be a juvenile delinquent or child in need of supervision, the parents of any child found to be a juvenile delinquent, a child in need of supervision, or a deprived child, or both the child and the parents, to reimburse the court fund, in whole or in part, for any disbursements made from the court fund in conjunction with the case, including, but not limited to, court-appointed attorney's fees, expert witness fees, sheriff's fees, witness fees, transcripts and postage, if the court determines the child or parents, or both the child and parents, are able to pay such costs. When any parent is financially able but has willfully failed to pay court costs or to reimburse the court fund as ordered by the court or has willfully failed to pay court costs and to reimburse the court fund as ordered by the court, the parent may be held in contempt of court and, upon conviction, shall be punished pursuant to Section 566 of Title 21 of the Oklahoma Statutes. After a judicial determination that the child, the parent of the child, or both such child or parent, are able to pay the costs and to reimburse the court fund or pay the costs and to reimburse the court fund in the case in installments, the court may order the costs and such reimbursement of the court fund to be paid in installments and shall set the amount and due date of each installment. A parent may be found to be financially able to pay court costs or to reimburse the court fund or to pay court costs and to reimburse the court fund in installments even though the court has previously found the parent indigent.~~

~~F. The court may revoke or modify a disposition order and may order redispotion. The child whose disposition is being considered for revocation or modification at said hearing shall have the right to be represented by counsel, to present evidence in his own behalf and to be confronted by witnesses against him. Any revocation, modification or redispotion of the court in whole or in part shall be subject to review on appeal, as in other appeals of~~

~~criminal cases. Bail may be allowed pending appeal. On or after the adoption of placement guidelines by the Juvenile Placement Guidelines Committee and approval of such guidelines by the Legislature, the court may make specific orders concerning the placement of said juvenile if the juvenile is committed to the Department.~~

SECTION 28. AMENDATORY 10 O.S. 1991, Section 1116.1, as last amended by Section 42, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1116.1), is amended to read as follows:

Section 1116.1 A. 1. Every disposition order regarding a child adjudicated to be deprived, ~~delinquent or in need of supervision~~ shall be reviewed by the court at least once every six (6) months until such time as the conditions which caused the child to be adjudicated have been corrected or the parental rights of said parent or parents are terminated and a final adoption decreed.

2. A dispositional order removing a child from the custody of the parents of the child shall be reviewed at a hearing by the court at least once every six (6) months until such time as the child is returned to the custody of his parents. No later than eighteen (18) months after placing a child in foster care and every twelve (12) months thereafter, the court making the original order of adjudication shall conduct a dispositional hearing to consider in the best interests of the child whether:

- a. the child should be returned to his parents or other family member~~;~~;
- b. the child should be continued in foster care for a specified period~~;~~;
- c. the rights of the parents of the child should be terminated and the child placed for adoption or legal guardianship~~;~~; or ~~whether~~

d. the child, because of exceptional circumstances, should remain in foster care on a long-term basis as a permanent plan or with a goal of independent living.

3. The provisions of this section shall also apply to a child who has been removed from the home of the lawful parent or parents of the child after the child has been returned to that home until such time as the court orders the case closed.

B. 1. The agency having supervision of the case or, if the child has been removed from the custody of its parents, the legal custodian of such child shall cause to be prepared for each review hearing required herein a written report concerning each child who is the subject of such review.

2. Said report shall include but not be limited to a summary of the physical, mental, and emotional condition of the child, the conditions existing in the home or institution where the child has been placed, and the child's adjustment thereto, a report on the child's progress in school and, if the child has been placed outside his home, the visitation exercised by the ~~lawful~~ parents of such child or other persons authorized by the court and services being provided to a child sixteen (16) years of age or older to assist in the transition from foster care or other community placement to independent living.

3. If the Department is the legal custodian of the child, the report also shall include any efforts on the part of the parent or parents to correct the conditions which caused the child to be adjudicated deprived. The report shall specifically recommend, giving reasons therefor, whether ~~or not~~:

a. the parental rights of the parent or parents of the child should be terminated and the child placed for adoption, ~~whether or not~~

b. the child should remain in the home or ~~if~~ be placed outside the home of the child's lawful parents, ~~whether or not~~

c. the child should remain outside the home or be returned to the home from which the child was removed.

If it is determined that the child should be placed for adoption, foster parents may be considered eligible to adopt the child.

C. At each such review hearing, the court shall specifically inquire as to the nature and extent of services being provided the child and parent or parents of the child and shall direct additional services be provided if necessary to protect the child from further physical, mental, or emotional harm or to correct the conditions that led to the adjudication.

In any review order, the court shall further make a determination:

1. As to whether ~~or not~~ reasonable efforts have been made to provide for the return of the child to the child's own home. If reasonable efforts have failed or are not feasible, the court shall make a finding that the efforts to reunite the family have failed, or are not feasible, and reasonable efforts are being made to secure an alternate permanent placement for the child; and

2. Where appropriate, when the child is age sixteen (16) or older, that services are being provided that will assist the child in making the transition from foster care to independent living.

D. The attorney representing a child whose case is being reviewed may submit a report to the court for presentation at the review hearing to assist the court in reviewing the placement or status of the child. The legal custodian shall not deny to a child the right of access to counsel and shall facilitate such access.

E. The Department shall notify the court having jurisdiction, the appropriate review board, the appropriate district attorney and the attorney and court-appointed special advocate of the child, if

any, whenever the placement of a child in the custody of the Department is changed and shall inform said court and attorney regarding the location of the child unless placement modification results from an emergency situation, in which case the notification required by this subsection shall be within one (1) business day after the change of placement. As used in this subsection, "emergency situation" means a placement change requested by a person having actual custody of a child, if the request is made at a time when the business offices of the parties to be notified are closed, or a placement for emergency medical treatment.

F. The Department shall not move any deprived child from one foster home or institution to another, if the child has already been moved once since the last court hearing, without first obtaining the approval of the court following a hearing into the reasons and necessity for moving the child. However, the Department may move any child due to an emergency, in which case a hearing shall be conducted, if requested in writing, within ten (10) days following the moving of the child concerning the reasons and necessity for moving the child.

SECTION 29. AMENDATORY 10 O.S. 1991, Section 1116.2, as last amended by Section 1, Chapter 72, O.S.L. 1993 (10 O.S. Supp. 1994, Section 1116.2), is amended to read as follows:

Section 1116.2 A. There is hereby established a postadjudication review board in each judicial district in the state. Members and alternate members of the postadjudication review boards shall be residents of or employed within the judicial district in which the board serves and shall be appointed by the Oklahoma Commission on Children and Youth after consultation with judges in the judicial district having juvenile docket responsibility. The Oklahoma Commission on Children and Youth may establish additional postadjudication review boards as needed for each county within a judicial district.

B. A postadjudication review board for each judicial district shall consist of at least five (5) members. Alternate review board members may be appointed to serve in the absence of a regularly appointed board member. Alternate board members shall be appointed in the same manner as regularly appointed board members. ~~On and after September 1, 1991, currently serving board members shall serve until appointments are made by the Commission on Children and Youth. The Commission on Children and Youth shall complete initial appointments to the review boards no later than June 30, 1992.~~

C. Board members shall be appointed for a term of three (3) years. Members shall serve after the expiration of their terms until their respective successors shall have been appointed. Vacancies shall be filled for the duration of unexpired terms. The review board members shall be appointed according to the following guidelines:

1. One member shall be a person who has training or experience in issues concerning child welfare, or a person who has demonstrated an interest in children through voluntary community service or professional activities;

2. Whenever possible, at least one member of the board shall be an individual who has served as a foster parent, provided that no person on the review board shall participate as a board member in any review hearing in which he is a party; and

3. No more than one person employed by any child welfare agency or juvenile court may be appointed to a board at the same time, provided such person shall not participate in any review hearing in which he is professionally involved.

D. Each postadjudication review board shall annually elect a chairperson and shall notify the Commission on Children and Youth as to the name and address of the chairman. A list of the members of each local board and its officers shall be filed with the Presiding

Judge of the judicial district and each judge within the district having juvenile docket responsibility.

E. Each postadjudication review board shall meet as often as is necessary at a place it designates to carry out the duties of the board established by Section ~~1116.3~~ 30 of this ~~title~~ act. The review board shall meet at least twice annually. Each review board shall be subject to the provisions of the Oklahoma Open Meeting Act, except that the actual case reviews shall be held in executive session and the names of the children in placement shall not be published.

F. As a condition of membership thereto, members and alternates of the postadjudication review boards shall attend the next available orientation program after appointment to the board. Failure to attend an orientation program, at the discretion of the Commission on Children and Youth, may result in the removal of the board member. Members of postadjudication review boards shall attend the annual meeting or training programs or both such meeting and training programs as are authorized and directed by the Commission on Children and Youth.

G. Members of postadjudication review boards shall serve without compensation, but shall be reimbursed for travel and training expenses from monies appropriated by the Legislature for such purposes, as provided by the State Travel Reimbursement Act.

H. The Commission on Children and Youth shall be responsible for developing procedures for the removal of a member from a postadjudication review board. The grounds for the removal of a postadjudication review board member shall include but not be limited to:

1. Failure to attend board meetings as required by the Commission on Children and Youth;

2. Engaging in illegal conduct involving moral turpitude;

3. Engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; or

4. Wrongful disclosure of information as provided by Section 1116.4 of this title.

I. Necessary staff assistance required by the postadjudication review boards may be provided by the bailiff or bailiffs, or other person designated by the court, of the judges with juvenile docket responsibility in the judicial district. Upon the request of the presiding judge, the Chief Justice of the Supreme Court may authorize additional staff to be paid from local court funds to assist the review board.

The Administrative Director of the Courts may include such additional funding requests in the annual budget for the courts as are necessary to provide staff and administrative support for the review boards.

SECTION 30. AMENDATORY 10 O.S. 1991, Section 1116.3, as last amended by Section 2, Chapter 72, O.S.L. 1993 (10 O.S. Supp. 1994, Section 1116.3), is amended to read as follows:

Section 1116.3 A. Review boards shall function in an advisory capacity to the district court and, in accordance with subsection C of this section, the district planning and coordination boards for services to children and youth of the Commission on Children and Youth.

The duties of a review board shall be to:

1. Pursuant to the provisions of subsection G of this section, review the case of every adjudicated child at least once every six (6) months and submit to the court within ten (10) days of any review hearing its findings and recommendations:

a. such review shall include but not be limited to consideration and evaluation of:

(1) the appropriateness of the goals and objectives of the treatment and service plan,

(2) the appropriateness of the services provided to the child, and to the parent, stepparent, or other adult living in the home of the child, or legal guardian, or custodian;

b. reviews of cases and reports to the court shall be scheduled to ensure that the court receives the findings and recommendations of the review board prior to each regularly scheduled six-month review of the case by the court;

2. Review the case of every child held in an out-of-home placement, other than a juvenile detention center, on a preadjudicatory or predisposition custody order for more than the ninety (90) days authorized by ~~Section 1107.1 of this title law~~ for such orders. Said cases shall be reviewed by a review board not more than forty-five (45) days after the expiration of the ninety days. Such review shall include but not be limited to consideration and evaluation of:

- a. the appropriateness of the continued out-of-home placement, and
- b. in the absence of a court-ordered treatment and service plan, the appropriateness of the services provided to the child and any family members or other adult living in the home of the child; and

3. Forward copies of the findings and recommendations of the review board to the court having jurisdiction of the case, the parent, legal guardian, attorney representing the child, custodian of the child, agency supervising the case or legal custodian of the child and to any other interested party as determined by the court. It shall be the duty of the court clerk to ensure that all documents filed pertaining to the case of an adjudicated child are properly noted and affixed in the file of the child prior to the commencement of the review process by the review board and the bailiff or

bailiffs of the judges having juvenile docket responsibility within the district shall transmit the information necessary for the case reviews to the review board for that district.

B. The review board's report of its findings and recommendations shall be admitted into evidence in any dispositional hearing, and may be relied upon to the extent of its probative value, even though not competent for purposes of an adjudicatory hearing.

C. In addition to its reviewing function, a review board, as directed by the Commission on Children and Youth and in coordination with the district planning and coordination boards shall:

1. Promote and encourage all child placement agencies to maximize family stability and continuity for a child by discouraging unnecessary changes in placement and by recruiting persons to provide placement who may be suitable and willing to adopt;

2. Review the efforts of agencies and institutions to find permanent placement for eligible children and report to the court;

3. Encourage a meeting between the various responsible public and private agencies, institutions, and officers of the court in order to facilitate cooperation and coordination of efforts; and

4. Assess community resources, and develop, if not already available, a directory of responsible persons, agencies, and institutions.

D. A review board may solicit the attendance at its meetings of persons known to the board with information concerning the case of any child subject to its review.

E. A review board shall report annually its findings, recommendations, and assessments of the effectiveness of Sections ~~1115.1~~ 25, ~~1115.2~~ 26 and Sections ~~1116.1~~ 28 through ~~1116.6~~ 33 of this ~~title~~ act to the Administrator of the Courts, the Supreme Court, to the court having jurisdiction of the case, to the State Postadjudication Review Advisory Board, and the Commission on

Children and Youth and provide such other reports as deemed proper or that may be requested from time to time by the Commission on Children and Youth, the Governor, the Legislature, or the Supreme Court.

F. It shall be the duty of the court having jurisdiction of the case to acknowledge the receipt of the recommendations of the review board and note to the review board the actions of the court regarding the recommendations submitted by the review board.

~~G. The Commission on Children and Youth, in consultation with the State Postadjudication Review Advisory Board and the Office of the Court Administrator, shall establish a phase-in schedule by adjudicatory category for the reviews of cases required by this section. The schedule shall provide for the review of the cases of all adjudicated children no later than December 31, 1993, and shall be implemented in the following order:~~

~~1. Review of the cases of all children adjudicated to be deprived and children adjudicated to be in need of treatment no later than December 31, 1992; and~~

~~2. Review of the cases of children adjudicated to be delinquent and children adjudicated to be in need of supervision no later than December 31, 1993.~~

SECTION 31. AMENDATORY 10 O.S. 1991, Section 1116.4, as amended by Section 3, Chapter 72, O.S.L. 1993 (10 O.S. Supp. 1994, Section 1116.4), is amended to read as follows:

Section 1116.4 No member of a postadjudication review board or staff member of such board may disclose any information regarding individual cases acquired from case reviews or be compelled to disclose such information except:

1. When such information pertains to criminal acts or violations of any law;

2. When the child was the victim of a crime. The members of the board or staff member of such board may be required by a court

of competent jurisdiction to testify at any proceeding in which the commission of such a crime is the subject of inquiry; or

3. When the person waives the privilege by bringing charges against the board.

Nothing in this act shall be construed to prohibit any board member or staff member of such board from testifying in court hearings concerning matters of adoption, child abuse, child neglect, or matters pertaining to the welfare of children or from seeking collaboration or consultation with professional colleagues and administrative superiors on behalf of the child, parent or parents of the child.

SECTION 32. AMENDATORY 10 O.S. 1991, Section 1116.6, as amended by Section 4, Chapter 72, O.S.L. 1993 (10 O.S. Supp. 1994, Section 1116.6), is amended to read as follows:

Section 1116.6 A. There is hereby created a State Postadjudication Review Advisory Board which shall meet at least twice each calendar year. The Advisory Board shall have the duty of overseeing the implementation of the state foster care review program in coordination with the Commission on Children and Youth.

B. The Advisory Board shall consist of eighteen (18) members appointed by the Governor. At least eight of the members appointed shall be members of the various review boards throughout the state and at least five of the members shall be judges of the district court. The members shall serve at the pleasure of the Governor.

C. The Director of the Commission on Children and Youth shall be the clerk of the Advisory Board.

The Advisory Board shall have the following duties:

1. To assist in the training of the members of the review boards; and

2. To serve, in coordination with the Commission on Children and Youth, as a clearinghouse for reports and information concerning

the foster care review program and the review boards as they relate to foster care; and

3. To make recommendations to the courts, the Commission on Children and Youth, the Governor, the Legislature, and each agency affected by the report regarding proposed statutory revisions, amendments to court rules and procedures, and services provided by public and private agencies as they relate to foster care; and

4. To work with both public and private agencies concerned with foster care and adoption exchanges to inform the public of the need for temporary and permanent homes and other services needed by deprived children.

D. The Commission on Children and Youth, with the assistance of the Administrative Director of the Courts and the State Postadjudication Review Advisory Board, shall be responsible for developing and administering training procedures and rules for the administration of the State Postadjudication Review Advisory Board System.

E. The Commission on Children and Youth shall include activities of the review boards and a report of the findings and recommendations of the review boards in the annual report required by Section 601.9 of this title.

#### Part 6. Modifications and Appeals

SECTION 33. AMENDATORY 10 O.S. 1991, Section 1118, is amended to read as follows:

Section 1118. Any decree or order made ~~under~~ pursuant to the provisions of this ~~title~~ article may be modified by the court at any time; provided, however, that an order terminating parental rights ~~or an order certifying the juvenile as an adult may~~ shall not be modified.

SECTION 34. AMENDATORY 10 O.S. 1991, Section 1123, is amended to read as follows:

Section 1123. A. Any interested party aggrieved by any order or decree may appeal to the Supreme Court in the same manner as other appeals are taken to the Supreme Court of this state; ~~provided, however, that appeals taken from a trial court's decision in a proceeding for an adjudication of juvenile delinquency or in a proceeding certifying a juvenile to stand trial as an adult or denying such certification shall be taken to the Court of Criminal Appeals in the same manner as other appeals are taken to the Court of Criminal Appeals of this state, and provided further that an order either certifying a juvenile to stand trial as an adult or denying such certification shall be a final order, appealable when entered.~~

B. ~~The record on appeal of an order of adjudication or of an order certifying or denying certification of a juvenile to stand trial as an adult shall be completed and the appeal perfected within sixty (60) days after the date of the order.~~

C. The pendency of an appeal thus taken shall not suspend the order of the district court regarding a child, nor shall it ~~discharge~~ remove the child from the custody of that court or of the person, institution or agency to whose care such child has been committed, unless the Supreme Court ~~or the Court of Criminal Appeals~~ shall so order. The pendency of an appeal from an order of adjudication shall not prevent the district court from holding a dispositional hearing unless the appellate court shall so order. ~~The pendency of an appeal from an order certifying a juvenile to stand trial as an adult shall not prevent the commencement of criminal proceedings against the juvenile unless stayed by the judge who issued the order of certification or by the appellate court. If the Supreme Court or the Court of Criminal Appeals does not dismiss the proceedings and discharge the child, it shall affirm or modify the order of the district court and remand the child to the jurisdiction of that court for supervision and care; and thereafter~~

~~the child shall be and remain under the jurisdiction of the district court in the same manner as if such court had made such order without an appeal having been taken.~~

SECTION 35. AMENDATORY 10 O.S. 1991, Section 1123.1, is amended to read as follows:

Section 1123.1 In the published opinions of the appellate courts of this state, ~~in juvenile proceedings including, but not limited to,~~ adoption and paternity proceedings and other proceedings under ~~the juvenile code~~ this Code, the initial of the child's surname shall be used rather than his name.

SECTION 36. AMENDATORY 10 O.S. 1991, Section 1123.2, is amended to read as follows:

Section 1123.2 A. All appeals of cases involving deprived or allegedly deprived children shall be initiated by filing a petition in error in the Supreme Court within thirty (30) days of the order appealed from. The record on appeal shall be completed within sixty (60) days from the date of the order.

B. The briefing schedule is established as follows:

1. Appellant's brief in chief shall be filed twenty (20) days after the trial court clerk notifies all parties that the record is complete and such notice has been filed in the office of the Clerk of the Supreme Court;

2. Appellee's answer brief shall be filed fifteen (15) days after the appellant's brief in chief is filed;

3. Appellant's reply brief may be filed within ten (10) days after the appellee's answer brief is filed; and

4. Adjudication of the appeals described ~~herein~~ in this section shall be expedited by the Supreme Court.

#### Part 7. Specific Requirements

SECTION 37. AMENDATORY 10 O.S. 1991, Section 1119, is amended to read as follows:

Section 1119. In placing a child in the custody of an individual or in the custody of a private agency or institution, the court shall, if at all possible, select a person or an agency or institution governed by persons of the same religious faith as that of the parents of the child, or in case of a difference in the religious faith of the parents, then of the religious faith of the child, or, if the religious faith of the child is not ascertainable, then of the faith of either of the parents. However, it shall be left to the discretion of the judge to place children where their total needs will best be served.

SECTION 38. AMENDATORY 10 O.S. 1991, Section 1124, is amended to read as follows:

Section 1124. In proceedings ~~under Sections 1101 through 1506 of this title~~ pursuant to this Code, the court may allow mileage as in civil actions to witnesses and reimbursement for expert witnesses but such shall not be tendered in advance of the hearing.

SECTION 39. AMENDATORY 10 O.S. 1991, Section 1122, is amended to read as follows:

Section 1122. A willful violation of any provision of an order of the court issued under the provisions of this ~~act~~ article shall constitute indirect contempt of court and shall be punishable as such. Punishment for any such act of contempt shall not exceed a fine of Three Hundred Dollars (\$300.00), or imprisonment in the county jail for not more than thirty (30) days, or both such fine and imprisonment.

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-4-703 of Title 10, unless there is created a duplication in numbering, reads as follows:

The district attorney shall prepare and prosecute any case or proceeding within the purview of this article.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-4-704 of Title 10, unless there is created a duplication in numbering, reads as follows:

Nothing contained in this article shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical or mental health treatment, to protect the child's health or welfare.

SECTION 42. AMENDATORY 10 O.S. 1991, Section 1126, is amended to read as follows:

Section 1126. ~~(a) The judge or judges~~ A. Any judge who are is assigned to hear juvenile cases in counties having a population in excess of one hundred thousand (100,000) may appoint a suitable person or persons to act as referee or referees, to hold office ~~during~~ at the pleasure of the judge. Such referees shall be lawyers and shall be specially qualified for their duties. The judge may direct that any case, or all cases of a class or within a county to be designated by ~~him~~ the judge, shall be heard in the first instance by a referee in the manner provided for the hearing of cases by the court. Upon the conclusion of the hearing in each case, the referee shall transmit to the court all papers relating to the case, together with ~~his~~ the referee's findings of fact and conclusions of law, and recommendations in writing.

~~(b)~~ B. Notice of the referee's findings and recommendations shall be given to the parent, guardian or custodian of the child or to any other person concerned whose case has been heard by the referee. A hearing by the court shall be allowed upon the filing with the court of a request for such hearing, if the request is filed within three (3) days after the service of such notice. In case no hearing by the court is requested, the findings and recommendations of the referee, when confirmed by an order of the court, shall become the decree of the court.

SECTION 43. AMENDATORY 10 O.S. 1991, Section 1121, as amended by Section 43, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1121), is amended to read as follows:

Section 1121. A. In any hearing concerning the status of a child, the court, if the court determines the parent is able to pay, shall ~~have authority to adjudge the parent or parents who have been served with notice of the hearing liable and accountable for the care and maintenance of any child or children, and to order the payment of funds~~ parents of any child found to be a deprived child to:

1. Reimburse the court fund, in whole or in part, for any disbursements made from the court fund in conjunction with the case, including, but not limited to, court-appointed attorney's fees, expert witness fees, sheriff's fees, witness fees, transcripts and postage; and

2. Pay for the care and maintenance of the child, including, but not limited to, all or some part of placement services, medical care and mental health services, as authorized by law.

B. 1. When any parent is financially able but has willfully failed to pay court costs or to reimburse the court fund as ordered by the court or has willfully failed to pay court costs and to reimburse the court fund as ordered by the court, the parent may be held in contempt of court and, upon conviction, shall be punished pursuant to Section 566 of Title 21 of the Oklahoma Statutes.

2. After a judicial determination that the child, the parent of the child, or both such child or parent, are able to pay the costs and to reimburse the court fund or pay the costs and to reimburse the court fund in the case in installments, the court may order the costs and such reimbursement of the court fund to be paid in installments and shall set the amount and due date of each installment.

3. A parent may be found to be financially able to pay court costs or to reimburse the court fund or to pay court costs and to reimburse the court fund in installments even though the court has previously found the parent indigent.

C. The court shall have all powers incident to such orders necessary for their enforcement, including the power and authority to require bond or other security for the payment of such order; and may resort to execution and the power of punishment for contempt for noncompliance with such order.

~~B.~~ D. The court shall have the right to increase, decrease, or otherwise modify its orders for care and maintenance, as the conditions or needs of the child or children may require and the ability of the person or persons held to pay may afford. The court may order support payments to be made direct to the person, organization or institution having the care and custody of the child or children, or directly to the clerk of the court.

~~C.~~ E. All such funds ordered and paid to the clerk shall be accounted for; provided, that when payments are made in advance for any child, and custody of the court is terminated before the end of the period, then the clerk may refund, by proper voucher, the unused or unaccrued portion of such payment; or the refund may be authorized and paid on claim properly verified and approved by the judge.

#### Part 8. Placements

SECTION 44. AMENDATORY 10 O.S. 1991, Section 1117, as last amended by Section 2, Chapter 15, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1117), is amended to read as follows:

Section 1117. A. 1. Whenever the court transfers custody of a child as provided in this ~~title~~ article, the person, institution, agency, or Department receiving custody shall have the right to, and shall be responsible for, the care and control of the child, and shall have the duty and authority to provide food, clothing,

shelter, medical care, education, and discipline for the child. Except for an emergency psychiatric admission pursuant to the Inpatient Mental Health Treatment of Children Act, said person, institution, agency or department may provide or arrange for the provision of an inpatient mental health evaluation or inpatient mental health treatment of such child only pursuant to a court order as provided by the Inpatient Mental Health Treatment of Children Act. Nothing in this subsection shall be interpreted to prohibit or preclude the provision of outpatient mental health services, including an outpatient mental health examination, counseling, educational, rehabilitative or other similar services to said child, as necessary and appropriate, in the absence of a specific court order for such services.

2. The medical care, surgery and extraordinary care shall be charged to the appropriate agency where the child qualifies for the care under law, rule, regulation or administrative order or decision.

3. Nothing in this subsection shall be interpreted to:

- a. relieve a parent of the obligation to provide for the support of the child as otherwise provided by law, or
- b. limit the authority of the court to order a parent to make support payments or to make payments or reimbursements for medical care or treatment, including mental health care or treatment, to the person, institution, agency or Department having custody of the child, or
- c. abrogate the right of the child to any benefits provided through public funds for which the child is otherwise eligible.

4. No person, agency or institution shall be liable in a civil suit for damages for authorizing or not authorizing surgery or

extraordinary care in an emergency, as determined by competent medical authority.

B. The person, institution, agency, or Department having legal custody of a child pursuant to an order of the court shall receive notice of court proceedings regarding the child as provided in Sections ~~1105~~ 15 and ~~1115~~ 24 of this ~~title~~ act and shall be allowed to intervene upon application as a party to all court proceedings pertaining to the care and custody of the child including, but not limited to: adjudication, disposition, review of disposition, termination of parental rights and proceedings pursuant to the Inpatient Mental Health Treatment of Children Act.

SECTION 45. AMENDATORY 10 O.S. 1991, Section 1130, as last amended by Section 1, Chapter 309, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1130), is amended to read as follows:

Section 1130. A. ~~The finding that a child is delinquent, in need of supervision or deprived shall not deprive the parents of the child of their parental rights, but a~~ A court may terminate the rights of a parent to a child in the following situations:

1. Upon a written consent of a parent, including a parent who is a minor, acknowledged as provided in paragraph (4) of Section 60.5 of this title, who desires to terminate his parental rights; provided that the court finds that such termination is in the best interests of the child; or

2. A finding that a parent who is entitled to custody of the child has abandoned it; or

3. A finding that:

- a. the child ~~is~~ has been adjudicated to be deprived, ~~as defined in this title,~~ and
- b. such condition is caused by or contributed to by acts or omissions of the parent, and
- c. termination of parental rights is in the best interests of the child, and

d. the parent has failed to show that the condition which led to the making of said finding has ~~not~~ been corrected although the parent has been given three (3) months to correct the condition; provided, that the parent shall be given notice of any hearing to determine if the condition has been corrected. The court may extend the time in which such parent may show the condition has been corrected, if, in the judgment of the court, such extension of time would be in the best interest of the child. ~~During the period that the parent has to correct the condition the court may return the child to the custody of its parent or guardian, subject to any conditions which it may wish to impose or the court may place the child with an individual or an agency; or~~

4. A finding that a subsequent child has been born to a parent whose parental rights to other children have been terminated by the court; provided, that the applicant shall show that the condition which led to the making of the finding which resulted in the termination of such parent's parental rights to the other children has not been corrected. The court may set the time in which the applicant shall show that the condition has not been corrected, if, in the judgment of the court, it is in the best interests of the child. Until the applicant shows the condition has not been corrected, the child may remain in the custody of the parent, subject to any conditions which the court may impose, or the court may place the child with an individual or an agency. As used in this paragraph, the term "applicant" shall include, but not be limited to, the Department of Human Services or a district attorney; or

5. A finding that a parent who does not have custody of the child has willfully failed to contribute to the support of the child

as provided in a decree of divorce or in some other court order during the preceding year or, in the absence of such order, consistent with the parent's means and earning capacity; provided, that the incarceration of a parent shall not prevent termination of parental rights under this ~~section~~ paragraph; or

6. A conviction in a criminal action pursuant to the provisions of Sections 843, 845, 1021.3, 1111 and 1123 of Title 21 of the Oklahoma Statutes or a finding in a deprived child action either that:

- a. the parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse that is heinous or shocking to the court or that the child or sibling of such child has suffered severe harm or injury as a result of such physical or sexual abuse, or
- b. the parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse subsequent to a previous finding that such parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse; or

7. A conviction in a criminal action that the parent has caused the death of a sibling of the child as a result of the physical or sexual abuse or chronic neglect of such sibling; or

8. A finding that all of the following exist:

- a. the child is deprived, ~~as defined in this title~~, and
- b. custody of the child has been placed outside the home of a natural or adoptive parent, guardian or extended family member, and

- c. the parent whose rights are sought to be terminated has been sentenced to a period of incarceration of not less than ten (10) years, and
- d. the continuation of parental rights would result in harm to the child based on consideration of the following factors, among others: the duration of incarceration and its detrimental effect on the parent/child relationship; any previous incarcerations; any history of criminal behavior, including crimes against children; the age of the child; the evidence of abuse or neglect of the child or siblings of the child by the parent; and the current relationship between the parent and the child and the manner in which the parent has exercised parental rights and duties in the past, and
- e. termination of parental rights is in the best interests of the child.

Provided, that the incarceration of a parent shall not in and of itself be sufficient to deprive a parent of his parental rights; or

9. A finding that all of the following exist:

- a. the child is deprived ~~as defined in this title~~, and
- b. custody of the child has been placed outside the home of a natural or adoptive parent, guardian or extended family member, and
- c. the parent whose rights are sought to be terminated has a mental illness or mental deficiency, as defined by Section 6-201 of Title 43A of the Oklahoma Statutes, which renders the parent incapable of adequately and appropriately exercising parental rights, duties and responsibilities, and
- d. the continuation of parental rights would result in harm or threatened harm to the child, and

- e. the mental illness or mental deficiency of the parent is such that it will not respond to treatment, therapy or medication and, based upon competent medical opinion, the condition will not substantially improve, and
- f. termination of parental rights is in the best interests of the child.

Provided, a finding that a parent has a mental illness or mental deficiency shall not in and of itself deprive the parent of his parental rights.

B. An order directing the termination of parental rights is a final appealable order.

C. A parent or guardian of a child may petition the court to terminate the parental rights of a parent or the parents of a child for any of the grounds listed in paragraphs 1, 2 or 5 of subsection A of this section. A prior finding by a court that a child is delinquent, deprived or in need of supervision shall not be required for the filing of such petition by the parent or guardian.

SECTION 46. AMENDATORY 10 O.S. 1991, Section 1131, is amended to read as follows:

Section 1131. A. 1. A parent shall be given actual notice of any hearing to terminate ~~his~~ such parent's parental rights. The notice shall indicate the relief requested, and the hearing shall not be held until at least ten (10) days after the receipt of such notice, except with the consent of the parent, if known.

2. If the court finds that the whereabouts of the parent cannot be ascertained, it may order that notice be given by publication and a copy mailed to the last-known address of the parent. The notice shall be published once in a newspaper of general circulation in the county in which the action to terminate parental rights is brought, and the hearing shall not be held for at least ten (10) days after the date of publication of the notice. Except as otherwise provided

by subsection B of this section, if a parent has not received actual notice of the hearing at which he is deprived of his parental rights, the order depriving him of those rights shall not become final for a period of six (6) months after the hearing. ~~Nothing in this section shall prevent a court from immediately taking custody of a child and ordering whatever action may be necessary to protect his health or welfare.~~

B. For the purpose of terminating the parental rights, ~~a father or putative father~~ of a child born out of wedlock ~~who has not, prior to commencement of a proceeding to terminate parental rights to such child, exercised parental rights and duties or whose consent is not required pursuant to Section 60.6 of this title shall not be deemed to have parental rights to such child.~~ The father or, such putative father shall be entitled to notice and an opportunity to be heard pursuant to this section and Section 29.1 of this title, except that the court may:

1. Waive notice to a putative father whose identity is unknown to the mother of the child born out of wedlock and the mother of the child signs a sworn statement before the court that the identity of the father ~~or putative father~~ of the child is unknown and the court is satisfied, after inquiry into the matter, that his identity is unknown and with due diligence could not be determined; the willful and deliberate falsification of said sworn statement shall be perjury and shall, upon conviction, be punishable as otherwise provided by law. The waiver of notice by the court pursuant to this paragraph shall not constitute grounds to challenge an adoption of the child; and

2. When the identity of the ~~father or~~ putative father of a child ~~born out of wedlock~~ is known but his whereabouts is unknown and the court, after inquiry, is satisfied that after diligent search his whereabouts remains unknown, order that notice be given by publication as provided in subsection A of this section and a

copy mailed to the last-known address, if known, of such ~~father or~~ putative father. When notice is given by publication the order terminating parental rights shall not become final for a period of fifteen (15) days from the date of the order.

SECTION 47. AMENDATORY 10 O.S. 1991, Section 1132, as amended by Section 10, Chapter 356, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1132), is amended to read as follows:

Section 1132. A. The termination of parental rights terminates the parent-child relationship, including the parent's right to the custody of the child and ~~his~~ the parent's right to visit the child, ~~his~~ the parent's right to control the child's training and education, the necessity for the parent to consent to the adoption of the child ~~and,~~ the parent's right to the earnings of the child, and the parent's right to inherit from or through the child. Provided, that nothing herein shall in any way affect the right of the child to inherit from the parent.

B. 1. Except for adoptions as provided in paragraph 3 of this subsection, termination of parental rights shall not terminate the duty of either parent to support his or her minor child.

2. Any actual notice of termination of parental rights and order terminating parental rights shall indicate that the duty of the parent to support his or her minor child will not be terminated except for adoption as provided by paragraph 3 of this subsection.

3. Child support orders shall be entered by the court that terminates parental rights and shall remain in effect until the court of termination receives notice from the placing agency that a final decree of adoption has been entered and then issues an order terminating child support and dismissing the case.

SECTION 48. AMENDATORY 10 O.S. 1991, Section 1133, is amended to read as follows:

Section 1133. A. After parental rights have been terminated pursuant to Section 47 of this act, a court may award custody of the

child to any qualified person or agency with authority to consent to the adoption of the child, or the court, in its discretion, may reserve the authority to consent to the adoption of the child; ~~but a court cannot consent to or authorize any person or agency to consent to the adoption of a child unless the rights of the parents have been terminated in accordance with the provisions of this act.~~

B. When an interlocutory or final decree of adoption has been rendered, a decree terminating parental rights cannot be challenged on any ground either by a direct or a collateral attack, more than three (3) months after its rendition. The minority of the natural parent shall not operate to prevent this time limit from running.

SECTION 49. AMENDATORY 10 O.S. 1991, Section 1134, is amended to read as follows:

Section 1134. A. Except as otherwise provided for in subsection B of this section, an action to adopt a child ~~may~~ shall not be combined with an action to terminate parental rights and when the rights of a parent have been terminated, neither an interlocutory nor a final decree of adoption may be rendered until the decree terminating parental rights has become final.

B. This section shall not apply to:

1. A proceeding to adopt a child without the consent of a parent when the court has determined that consent is not legally required pursuant to Section 60.6 of this title; or

2. A proceeding to adopt a child born out of wedlock when the mother or father of the child ~~is~~ or both such mother or father are granting consent to the adoption and ~~is a party~~ are parties to the action; ~~or~~

~~3. Proceedings pursuant to the provisions of Section 60.6 of this title.~~

## ARTICLE V

### Records

SECTION 50. AMENDATORY 10 O.S. 1991, Section 1125, is amended to read as follows:

Section 1125. A. The court shall make and keep records of all cases brought before it. The court shall devise and cause to be printed such forms for social and legal records and such other papers as may be required.

B. As used in this title:

1. "Records" shall include but not be limited to written or printed documents, papers, logs, reports, files, case notes, films, photographs, audio or visual tape recordings, and shall include information entered into and maintained in an automated or computerized information system;

2. "Juvenile court record" means legal and social records other than adoption records, including but not limited to agency, law enforcement and district attorney's records, filed with the court that are related to a child who is the subject of a court proceeding pursuant to the provisions of Title 10 of the Oklahoma Statutes;

3. "Agency record" means records prepared, obtained or maintained by a public or private agency with regard to a child who is or has been under its care, custody or supervision or to a family member or other person living in the home of such child and shall include but not be limited to:

a. any study, plan, recommendation, assessment or report made or authorized to be made by such agency for the purpose of determining or describing the history, diagnosis, custody, condition, care or treatment of such child, or

b. any records made in the course of any investigation or inquiry conducted by an agency to determine whether a child is or may be a deprived child, a delinquent child, a child in need of supervision or a child in need of treatment;

4. "District attorney's records" means any records prepared or obtained by an office of a district attorney relating to juvenile cases and any records prepared or obtained for the prosecution of crimes against children that constitute a legal or social record of a child as defined by this section;

5. "Law enforcement records" means any contact, incident or similar reports, arrest records, disposition records, detention records, fingerprints, or photographs related to a child and shall include but not be limited to reports of investigations or inquiries conducted by a law enforcement agency to determine whether a child is or may be subject to the provisions of this title as a deprived child, a delinquent child, a child in need ~~or~~ of supervision or a child in need of treatment. Law enforcement records pertaining to juveniles shall be maintained separately from records pertaining to adults;

6. "Nondirectory education records" means any records maintained by a public or private school, including a vocational-technical school, regarding a child who is or has been a student at the school which are categorized as private or confidential records pursuant to the federal Family Educational Rights and Privacy Act of 1974 and any rules promulgated pursuant to said act;

7. "Legal record" means any petition, docket, motion, finding, order, judgment, pleading, paper or other document, other than social records, filed with the court;

8. "Social record" means social studies and medical, psychological, clinical or other treatment reports or studies, educational records and agency records other than legal records filed with the court; and

9. "Participating agency" means any public or private agency that has entered into a contract or an interagency agreement under the Interlocal Cooperation Act in accordance with the rules and guidelines adopted pursuant to Section ~~14~~ 620.6 of this ~~act~~ title or

the Serious and Habitual Juvenile Offender Act for the purpose of accessing and sharing information necessary for the care, treatment, and supervision of children and youth.

SECTION 51. AMENDATORY 10 O.S. 1991, Section 1125.1, as amended by Section 1, Chapter 306, O.S.L. 1993 (10 O.S. Supp. 1994, Section 1125.1), is amended to read as follows:

Section 1125.1 A. Except as provided by this section and except as otherwise specifically provided by state and federal laws, the following records are confidential and shall not be open to the general public or inspected or their contents disclosed:

1. Juvenile court records;
2. Agency records;
3. District attorney's records;
4. Law enforcement records;
5. Nondirectory education records;
6. Social records.

B. Except as authorized by ~~Sections~~ Section 620.6 of this title and ~~1125 Sections 50~~ through ~~1125.4~~ 54 of this ~~title~~ act and except as otherwise specifically provided by state and federal laws pertaining to the confidentiality of records and information and the inspection, release, disclosure, correction or expungement of such information, including but not limited to state and federal laws pertaining to education records, medical records, drug or alcohol treatment records, law enforcement, or social service records, the records listed in subsection A of this section shall be confidential and shall be inspected, released, disclosed, corrected or expunged only pursuant to an order of the court.

C. An order of the court authorizing the inspection, release, disclosure, correction or expungement of confidential records shall be entered by the court only after a review of the records by the court and a determination by the court, with due regard for the confidentiality of the records and the privacy of persons identified

in the records, that a compelling reason exists and such inspection, release or disclosure is necessary for the protection of a legitimate public or private interest.

1. Any order authorizing the disclosure, release or inspection of said records pursuant to this subsection may be conditioned on such terms and restrictions as the court deems necessary and appropriate.

2. Upon the filing of a petition for an order of the court pursuant to this section, the court shall set a date for a hearing and shall provide for reasonable notice to the agency holding the records and the person who is the subject of the record if said person is eighteen (18) years of age or older or to the parents of a child less than age eighteen (18) who is the subject of the record, to the attorneys, if any, of such person, child or parents and any other interested party as ordered by the court. The hearing may be closed at the court's discretion.

3. The Department of Human Services shall not be required to produce confidential records or information listed in subsection A of this section pursuant to a subpoena duces tecum issued in a divorce or custody action except upon the filing of a petition as required by this subsection.

D. Any agency or person may seek an order from the juvenile court prohibiting the release of information subject to disclosure without an order of the court pursuant to ~~Sections~~ Section 620.6 of this title and ~~1125 Sections 50~~ through ~~1125.4~~ 54 of this ~~title~~ act. The court may, for good cause shown, prohibit the release of such information or authorize release of the information upon such conditions as the court deems necessary and appropriate.

E. In accordance with the provisions of the Serious and Habitual Juvenile Offender Act and Section 620.6 of this title:

1. Information included in the records listed in subsection A of this section may be entered in and maintained in the Juvenile

Justice Information System and other automated information systems related to services to children and youth; and

2. Said information systems may be accessed by participating agencies as defined by subsection B of Section ~~1125~~ 50 of this ~~title~~ act.

F. Nothing in ~~Sections~~ Section 620.6 of this title and ~~1125~~ Sections 50 through ~~1125.4~~ 54 of this ~~title~~ act shall be construed as:

1. Authorizing the inspection of records or the disclosure of information contained in records relating to the provision of benefits or services funded, in whole or in part, with federal funds, except in accord with federal statutes and regulations governing the receipt or use of such funds;

2. Authorizing the disclosure of information required to be kept confidential by Sections 55.1, 57, 60.17 or 60.29 of this title;

3. Abrogating any privilege, including the attorney-client privilege, or affecting any limitation on such privilege found in any other statutes;

4. Limiting or otherwise affecting access of parties to a juvenile proceeding to records filed with or submitted to the court;

5. Limiting or otherwise affecting access of agencies to information subject to disclosure, review, or inspection by contract or as a condition for the receipt of public funds or participation in any program administered by the agency;

6. Prohibiting the Department of Human Services from summarizing the outcome of an investigation to the person who reported a known or suspected instance of child abuse or neglect; and

7. Prohibiting the person or agency conducting a preliminary inquiry relating to an alleged delinquent act as authorized by Section ~~1103~~ 11 of this ~~title~~ act from providing information, as to

the disposition of the matter by the district attorney, to the person or agency which referred the matter, including but not limited to whether a petition was filed or an alternative action taken, and the basis for such and the terms of any agreement entered into by the child for payment of restitution, including but not limited to community services.

SECTION 52. AMENDATORY 10 O.S. 1991, Section 1125.2, as last amended by Section 2, Chapter 306, O.S.L. 1993 (10 O.S. Supp. 1994, Section 1125.2), is amended to read as follows:

Section 1125.2 A. Juvenile court records may be inspected, and their contents shall be disclosed, without a court order to the following upon showing of proper credentials:

1. The court having the child currently before it in any proceeding pursuant to this title, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, and court-appointed special advocates;

2. Members of review boards established pursuant to Sections ~~1115.2 26~~, ~~1116.2~~, ~~1116.6 29~~ and ~~1150.2 32~~ of this ~~title~~ act. In addition to juvenile court records, members of such review boards may inspect, without a court order, information including but not be limited to:

- a. psychological and medical records,
- b. placement history and information, including the names and addresses of foster parents,
- c. family assessments,
- d. treatment or service plans, and
- e. school records;

3. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to this title or the prosecution of crimes against children;

4. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of this ~~title or representing a child pursuant to subsection B of Section 846 of Title 21 of the Oklahoma Statutes~~ act. Said attorney may also access other records listed in subsection A of Section ~~1125.1~~ 51 of this ~~title~~ act for use in the legal representation of the child;

5. Employees of juvenile bureaus ~~established by Section 1201 of this title~~ in the course of their official duties pursuant to this title, and employees of the Department of Human Services in the course of their official duties pursuant to this title and Title 56 of the Oklahoma Statutes;

6. Employees of a law enforcement agency in the course of their official duties pertaining to investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

7. Employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under eighteen (18) years of age. Records or information disclosed pursuant to this paragraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation; provided, records pertaining to any alleged or adjudicated abuse or neglect of the person shall not be inspected or disclosed;

8. The Oklahoma Commission on Children and Youth ~~as provided by Sections 601.2 and 601.6 of this title~~;

9. The Department of Human Services or other public or private agency or individual having court-ordered custody or custody pursuant to Department of Human Services placement of the child who is the subject of the record;

10. The child who is the subject of the record and the parents, legal guardian, legal custodian or foster parent of said child; and

11. A federally recognized Indian tribe in which the child who is the subject of the record is a member or is eligible to become a member of the tribe and is the biological child of a member of an Indian tribe pursuant to the Federal Indian Child Welfare Act, P.L. 95-608, and the Oklahoma Indian Child Welfare Act, Section 40 et seq. of this title; provided such Indian tribe, in the course of its official duties, is:

- a. investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody, or
- b. providing services to or for the benefit of a child including but not limited to protective, emergency, social and medical services, or
- c. the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

The records that are to be provided to Indian tribes under this subsection shall include all case records, reports, and documents as defined in Section ~~1125~~ 50 of this ~~title~~ act.

B. In accordance with the rules adopted for such purpose pursuant to the Serious and Habitual Juvenile Offender Act, and Section 620.6 of this title, the records listed in subsection A of Section ~~1125.1~~ 51 of this ~~title~~ act may be inspected and their contents disclosed without a court order to the following:

1. Participating agencies as defined by Section ~~1125~~ 50 of this ~~title~~ act;

2. The following, provided that the inspection of records and disclosure authorized by this paragraph may be limited to summaries or to information directly necessary for the purpose of such inspection or disclosure:

- a. pursuant to the provisions of this title, a person, agency, hospital or clinic authorized or directed by the court or the Department of Human Services to care for, treat, examine, evaluate or supervise a child or to treat, examine, or evaluate the parent, legal guardian or other adult person living in the home of the child,
- b. a legally recognized school that is not a participating agency in which the child who is the subject of the record is currently enrolled, and
- c. individuals or agencies engaged in legitimate research for educational, scientific or public purposes or for the purpose of an audit authorized by law. No information identifying the subjects of the records shall be made available or disclosed unless it is essential to the research or audit purpose; and

3. The chairman of any standing or special committee of the Legislature where a subpoena, authorized by law, has been issued by the committee requesting the records.

C. Records and their contents disclosed without an order of the court as provided by this section shall remain confidential. The use of such information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for commercial, political or any other unauthorized purpose.

SECTION 53. AMENDATORY Section 3, Chapter 306, O.S.L. 1993 (10 O.S. Supp. 1994, Section 1125.2A), is amended to read as follows:

Section 1125.2A A. Department of Human Services agency records pertaining to a child may be inspected and their contents disclosed without a court order to the following upon showing of proper credentials:

1. The court having the child currently before it in any proceeding pursuant to Title 10 of the Oklahoma Statutes, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, court-appointed special advocates, and members of review boards established pursuant to Section ~~1150.2~~ 52 of this ~~title~~ act;

2. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to Title 10 of the Oklahoma Statutes or the prosecution of crimes against children;

3. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of ~~Title 10 of the Oklahoma Statutes or representing a child pursuant to subsection B of Section 846 of Title 21 of the Oklahoma Statutes~~ this Code. Said attorney may also access other records listed in subsection A of Section ~~1125.1~~ 51 of this ~~title~~ act for use in the legal representation of the child;

4. Employees of juvenile bureaus ~~established by Section 1201 of Title 10 of the Oklahoma Statutes~~ in the course of their official duties ~~pursuant to Title 10 of the Oklahoma Statutes~~;

5. Employees of a law enforcement agency of this or another state and employees of a child protective service of another state or federally recognized Indian tribe in the course of their official

duties pertaining to investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

6. Employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under eighteen (18) years of age. Records or information disclosed pursuant to this subparagraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation; provided, records pertaining to any alleged or adjudicated abuse or neglect of the person shall not be inspected or disclosed;

7. The Oklahoma Commission on Children and Youth ~~as provided by Sections 601.2 and 601.6 of this title;~~

8. Members of multidisciplinary teams designated by the Department of Human Services, investigating a report of known or suspected child abuse or neglect or providing services to a child or family which is the subject of the report;

9. A physician who has before him or her a child whom the physician reasonably suspects may be abused or neglected;

10. Any public or private agency or person authorized by the Department to diagnose, or provide care, treatment, supervision or other services to a child who is the subject of a report or record of delinquency, child abuse or neglect, or other adjudicatory category, provided the Department may limit such disclosure to summaries or to information directly necessary for the purpose of such disclosure;

11. Any federally recognized Indian tribe or state or county child protective services or child welfare agency providing for or supervising the diagnosis, care, treatment, supervision or other services provided such child; and

12. The parents of the child who is the subject of such records; provided that records pertaining to any alleged or adjudicated abuse or neglect of said child shall not be inspected or disclosed pursuant to this paragraph.

B. Nothing in this section shall be construed as prohibiting the Department from disclosing such confidential information as may be necessary to secure appropriate care, treatment, protection or supervision of a child alleged to be abused or neglected.

SECTION 54. AMENDATORY Section 2, Chapter 78, O.S.L. 1993 (10 O.S. Supp. 1994, Section 1125.2B), is amended to read as follows:

Section 1125.2B Department of Human Services agency records pertaining to a child may be inspected and their contents disclosed and released without a court order to a federally recognized Indian tribe in which the child who is the subject of the record is a member or is eligible to become a member of the tribe and is the biological child of a member of an Indian tribe pursuant to the Federal Indian Child Welfare Act, P.L. 95-608, and the Oklahoma Indian Child Welfare Act, Section 40 et seq. of Title 10 of the Oklahoma Statutes; provided such Indian tribe, in the course of its official duties, is:

- a. investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody, or
- b. providing services to or for the benefit of a child including but not limited to protective, emergency, social and medical services, or
- c. the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the

proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

The records that are to be provided to Indian tribes under this section shall include all case records, reports, and documents as defined in Section ~~1125~~ 50 of ~~Title 10 of the Oklahoma Statutes~~ this act.

#### ARTICLE VI

##### Miscellaneous

SECTION 55. AMENDATORY 10 O.S. 1991, Section 1136, as last amended by Section 1, Chapter 320, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1136), is amended to read as follows:

Section 1136. A. It shall be the responsibility of the Department of Human Services to provide care for deprived children who are committed to the care of the Department for custody or guardianship.

B. In addition to other areas of jurisdiction, specified by law, the Department of Human Services shall have the following jurisdictional areas of responsibility:

1. Child protection services, including but not limited to:

- a. child abuse and neglect investigations,
- b. care and treatment of children found by a court to be deprived and placed in the custody of the Department of Human Services,
- c. as directed by the court, supervision of cases of children alleged or found to be deprived, and
- d. the provision, whether directly or by contract or referral, early intervention, of counseling, treatment, residential and other appropriate services to children alleged or found to be deprived and placed under the custody or supervision of the Department of Human Services and the parents or guardians of such children;

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

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

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

5. Administration of the Office of Child Support Enforcement;

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

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

8. Administration of the Children's Special Health Care Needs Program.

C. The Department is authorized to directly provide for the establishment, maintenance and expansion of community-based youth services programs which may include, but not be limited to: Emergency shelter, diagnosis, crisis intervention, counseling, group work, case supervision, job placement, recruitment and training of volunteers, education programs, reintegration services, sexual abuse treatment, consultation, brokerage of services and agency cooperation with emphasis on strengthening the family unit through parental education, family preservation and family counseling.

D. The Department may provide for the care of such children in the home of the child, the home of a relative of the child, in a foster home, group home, transitional living program, independent living program or in any other community-based facility under the

jurisdiction or licensure of the Department established for the care of deprived children, ~~except that a deprived child may not be placed in an institution operated by the Department.~~ A deprived child found by a court to be a child in need of mental health treatment shall be placed as provided by Section 1135.1 of this title.

~~B.~~ E. When the Department places a child in a foster home, the Department shall provide the foster parent with sufficient medical information to enable the foster parent to care for the child appropriately. Such medical information shall include, but not be limited to:

1. Any medical or psychological conditions;
2. Diseases, illnesses, accidents, allergies, and congenital defects; and
3. Immunization history.

~~C.~~ F. 1. When the Department places a child in a foster home, as a condition of such placement, the foster parent may request the Department to provide contagious or infectious screening examinations or tests on the child.

2. The Department shall provide for the examinations or tests on the child within ten (10) working days of the request of such foster parent.

3. If the Department determines that parental consent is required for the examinations or tests, the Department shall, within the ten-day time period, obtain the parental consent necessary or, if parental consent cannot be obtained, the Department shall request an order from the district court authorizing such examinations or tests. Any parental consent or judicial authorization received by the Department, pursuant to the provisions of this section, shall also apply to any future examinations or tests deemed necessary by the Department upon the request of the foster parent.

4. The Department may also designate other persons who may request the performance of such examinations or tests on the child,

including but not limited to Department employees, direct caregivers and physicians.

SECTION 56. AMENDATORY 10 O.S. 1991, Section 1145, is amended to read as follows:

Section 1145. Whenever parental rights of a child have been terminated and the child is committed to the Department of Public Welfare, the Director of Public Welfare shall serve as the legal guardian of the estate of the child, until another guardian is legally appointed, for the purpose of preserving the child's property rights, securing for the child any benefits to which he may be entitled under social security programs, insurance, claims against third parties, and otherwise, and receiving and administering such funds or property for the care and education of the child.

SECTION 57. AMENDATORY 10 O.S. 1991, Section 1135, is amended to read as follows:

Section 1135. A. ~~It is the intent of the Legislature of this state that the placement of each child adjudicated to be a ward of the court and placed in the custody of the Department of Human Services will assure such care and guidance of the child, preferably in his home, as will serve the spiritual, emotional, mental and physical welfare of the child and will preserve and strengthen the family ties of the child whenever possible, with recognition of the fundamental rights of parenthood and with recognition of the responsibility of the state to assist the family in providing necessary education and training and to reduce the rate of juvenile delinquency and to provide a system for the rehabilitation and reintegration of juvenile delinquents and the protection of the welfare of the general public. In pursuit of these goals it is the intention of the Legislature to provide for removing the child from the custody of parents only when the welfare of the child or the safety and protection of the public cannot be adequately safeguarded~~

~~without removal; and when the child has to be removed from his family, to secure for the child custody, care and discipline consistent with the best interests and the treatment needs of the child.~~

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

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

SECTION 58. AMENDATORY 10 O.S. 1991, Section 1135.1, as amended by Section 32, Chapter 298, O.S.L. 1993 (10 O.S. Supp. 1994, Section 1135.1), is amended to read as follows:

Section 1135.1 A. The Department of Human Services may provide for the care of a child who is in the custody of the Department and found by a court to be a child in need of mental health treatment pursuant to the Inpatient Mental Health Treatment of Children Act who is in the custody of the Department:

1. In the home of the child, the home of a relative of the child, a foster home, a group home, a transitional living program, an independent living program or in any other community-based child care facility under the jurisdiction or licensure of the Department appropriate for the care of the child, or as otherwise provided by ~~Sections 1136, 1137 and 1138~~ Section 55 of this ~~title act~~, and shall provide for the outpatient care and treatment of the child; or

2. The Department shall place a child who has been committed by a court for inpatient mental health treatment as provided by the

Inpatient Mental Health Treatment of Children Act in a Department-operated treatment center or other appropriate public or private mental health facility as determined by the Department. The Department may place such child with the Department of Mental Health and Substance Abuse Services upon the consent of the Commissioner of Mental Health and Substance Abuse Services or his designee. The Department shall establish a system for the regular review by a qualified mental health professional, at intervals of not more than thirty (30) days, of the case of each child in need of treatment in the custody of the Department and receiving inpatient care and treatment to determine whether or not continued inpatient treatment is required and appropriate for the child. When such child no longer requires inpatient care and treatment in a mental health treatment facility, the Department shall place the child as provided in paragraph 1 of this subsection.

B. In providing for the outpatient mental health care and the treatment of children in its custody, the Department of Human Services shall utilize to the maximum extent possible and appropriate the services available through:

1. The guidance centers operated by the State Department of Health; and

2. The Department of Mental Health and Substance Abuse Services; and

3. Community-based private nonprofit agencies and organizations.

SECTION 59. AMENDATORY 10 O.S. 1991, Section 1140, is amended to read as follows:

Section 1140. If a child who has been adjudicated as a ~~delinquent, a child in need of supervision, or~~ deprived child, and who has been ~~committed to~~ placed in the custody of the Department of Human Services becomes unmanageable and uncontrollable while in the legal custody of the Department, the Department may return the child

to the court having original jurisdiction for further disposition or may provide information to the district attorney and request the filing of a petition alleging the child to be delinquent, in need of supervision, or in need of mental health treatment, if such petition is warranted by the facts in the case.

SECTION 60. AMENDATORY 10 O.S. 1991, Section 1142, is amended to read as follows:

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

SECTION 61. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 51-6-107 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Department is authorized and directed to establish, subject to the limits of funds available therefor, a diversity of placement alternatives for children committed to the custody of the

Department including, but not limited to, foster family homes, foster family group homes, group homes and mental health treatment centers. All child care services and facilities operated by the Department shall be accredited by the Joint Commission on Accreditation of Hospitals or the Child Welfare League of America, as appropriate for the service or facility.

B. It shall be the duty of the State Fire Marshal and the Commissioner of Public Health, to cause regular, periodic, not less than quarterly, unannounced inspections of said institution, utilizing adequately trained and qualified inspection personnel, to determine and evaluate conditions and programs being maintained and carried on at said institution in their respective areas of agency jurisdiction. Such inspections shall include, but not be limited to, the following: Compliance with minimum fire and life safety standards; compliance with minimum standards governing general sanitation of the institution, with particular emphasis upon food storage, preparation, serving and transportation, respectively. Reports of such inspections will be made in writing, itemizing and identifying any deficiencies and recommending corrective measures, and shall be filed with the Commission for Human Services, the Director of the Department of Human Services, the Governor, the Attorney General, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Office of Juvenile System Oversight. The Department shall file copies of the reports of the inspections and recommendations of the accrediting agencies listed in subsection B of this section with the Office of Juvenile System Oversight.

C. The Department of Human Services is hereby authorized to expend a sum not to exceed One Million Four Hundred Thousand Dollars (\$1,400,000.00) from monies appropriated for that purpose from the Human Services Fund during the fiscal year ending July 1, 1983, and each fiscal year thereafter, for the purpose of providing subsidy

payments to licensed nonprofit child care institutions within the State of Oklahoma to furnish food, clothing, shelter and upkeep for Oklahoma children and to assist the agency in developing a more comprehensive program to meet the needs of each child in the program including, but not limited to, social services, recreational activities and individual and family counseling with the goal of returning the child to his family. Such subsidy shall be made on a per capita basis not to exceed One Thousand Two Hundred Dollars (\$1,200.00) per year and shall be expended in twelve (12) monthly payments beginning July 1 of the fiscal year. Nothing in this section shall preclude an individual from receiving federal matching funds for which he would otherwise be eligible.

SECTION 62. AMENDATORY 10 O.S. 1991, Section 1403, is amended to read as follows:

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

B. The Director of the Department of Human Services shall employ and fix the duties and compensation of a ~~superintendent~~ director or supervisor, and such other personnel as he deems necessary, for each of the children's ~~institutions and~~ facilities operated by the Department; provided that the Department shall promulgate, and in its hiring and employment practices, the Department shall adhere to, written minimum qualifications by position for personnel working with or around children in said ~~institutions~~ facilities. Such minimum qualifications shall be designed to assure that such personnel possess sufficient education, training, experience and background to provide adequate and safe

professional care and services to said children; and that the children will not be exposed to abuse, deprivation, criminal conduct, or other unwholesome conditions attributable to employee incompetence or misconduct.

C. The ~~superintendent~~ director or supervisor or designee of a children's ~~institution~~ facility shall be the guardian of the person of each child in the ~~institution~~ facility for the limited purpose of providing care and protection for any life-threatening situation that may arise.

SECTION 63. AMENDATORY 10 O.S. 1991, Section 1403.1, is amended to read as follows:

Section 1403.1 A. The Commission for Human Services ~~Commission~~ shall promulgate written rules ~~and regulations~~, outline policies and procedures governing the operation of those ~~institutions and other~~ facilities operated by or through contract with the Department of Human Services wherein ~~juveniles~~ children may be housed. Said policies and procedures shall include, but not be limited to, standards of cleanliness, temperature and lighting, availability of medical and dental care, provision of food, furnishings, clothing and toilet articles, supervision, appropriate and permissible use of restriction and confinement, procedures for enforcing rules of conduct consistent with due process of law and visitation privileges.

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

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

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

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

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

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

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

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

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

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

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

C. Any contract or agreement between the Department of Human Services and the Department of Mental Health and Substance Abuse Services for the care and treatment of children in the custody of the Department of Human Services shall provide that the Department of Mental Health and Substance Abuse Services shall comply with the provisions of subsections A and B of this section and the provisions of Section ~~1403.2~~ 64 of this ~~title~~ act.

SECTION 64. AMENDATORY 10 O.S. 1991, Section 1403.2, is amended to read as follows:

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

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

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

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

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

SECTION 65. AMENDATORY 10 O.S. 1991, Section 1403.3, is amended to read as follows:

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

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

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

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

- a. supervise personnel assigned to ~~children's institutions and facilities as student defender/representatives~~ the Office of Advocate General,
- b. monitor and review grievance procedures and hearings,

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

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

SECTION 66. AMENDATORY 10 O.S. 1991, Section 1404, as amended by Section 37, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1994, Section 1404), is amended to read as follows:

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

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

2. Transfer from a ~~children's institution to another facility under the jurisdiction of the Department, a child who has been adjudicated delinquent, if the Department believes it advisable to do so; transfer from a facility for children in need of supervision~~ or facility for deprived children to another such facility, a child who has been adjudicated ~~in need of supervision or~~ deprived, provided that such transfer is consistent with the treatment needs of the child and will further the goal of returning the child to his own home; transfer from a children's ~~institution~~ facility to a state school for the mentally retarded, any child eligible for admission thereto, if the child appears to be in need of the care and treatment provided at such school; transfer from a facility for ~~delinquent, in need of supervision, or~~ deprived children to a ~~Department-operated treatment center~~ an appropriate facility or to

the Department of Mental Health and Substance Abuse Services any child found by the court to be a child in need of mental health treatment pursuant to the Inpatient Mental Health Treatment of Children Act and committed to inpatient mental health treatment as provided by the Inpatient Mental Health Treatment of Children Act; and.

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

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

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

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

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

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

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

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

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

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

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

SECTION 67. AMENDATORY 10 O.S. 1991, Section 1405, is amended to read as follows:

Section 1405. The Attorney General, the district attorney of the appropriate district and any other law enforcement official having jurisdiction, shall have the authority to bring civil actions against any person, officer or department, board, commission or other entity, to enforce the provisions of ~~Chapters 26 and 51 of this title~~ Code or to enforce any of the laws of this state protecting or applying in any way to children removed from the custody of the lawful parent or parents of the child by a disposition order of the court.

SECTION 68. AMENDATORY 10 O.S. 1991, Section 604, is amended to read as follows:

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

1. Authorized to provide for community-based services by contract and if the Department decides to do so, the Department shall enter into agreements with designated youth services agencies for the establishment, maintenance and expansion of community-based youth services programs which may include, but not be limited to: Emergency shelter, diagnosis, crisis intervention, counseling, group work, case supervision, job placement, recruitment and training of volunteers, education programs, reintegration services, sexual abuse treatment, consultation, brokerage of services and agency coordination with emphasis on strengthening the family unit through parental education, family preservation and family counseling; and

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

B. The Department, in its role as coordinator for children's services, shall:

1. Establish guidelines for community-based children's services and programs, including but not limited to:

- a. counseling programs,
- b. recreational programs,
- c. job skills workshops,

- d. community public improvement projects,
- e. mediation programs,
- f. programs to improve relationships between families and law enforcement personnel,
- g. diagnostic evaluation services,
- h. substance abuse prevention programs, and
- i. independent living skills and self-sufficiency planning programs; and

2. Provide that personnel shall be available in each county of the state to assist local communities in developing and implementing community-based programs. The Department shall provide this service in each county either directly or by contract.

C. 1. The Department may contract with designated youth services agencies for community-based youth service programs. To be eligible to enter into such a contract with the Department a provider must be certified as a designated youth services agency. Such certification shall be granted in accordance with standards criteria promulgated by the Commission for Human Services. The Commission shall consider any recommendations concerning standards and criteria by the Oklahoma Association of Youth Services and any similar organizations that are presented to the Commission prior to promulgation.

2. Until new standards and criteria are promulgated after the effective date of this chapter, the Department shall certify designated youth services agencies in accordance with the "Standards and Criteria for Community Youth Services and Emergency Youth Shelter Programs" previously promulgated by the Oklahoma Human Services Commission. The criteria for certification to provide community-based youth services programs for the Department shall be established by the Commission and shall include but shall not be limited to requirements that the provider of services:

- a. maintain capability to deliver all or part of the compensable services required by law for community-based youth services programs,
- b. have adequate and qualified staff,
- c. maintain financial viability,
- d. provide a documented need for the community-based services to be offered, and

such other criteria as the Commission determines appropriate.

3. Each provider that was designated as a designated youth services agency by the Department of Human Services prior to July 1, 1995, is hereby designated as a designated youth services agency to provide community-based youth services programs for the Department.

4. The Department shall provide appropriate community-based funds directly to designated youth services agencies with which the Department has contracts as the Department deems appropriate.

5. The Department, after the opportunity for an administrative hearing, may terminate the certification of an organization that:

- a. is seriously deficient in the administration of its program,
- b. fails to deliver services pursuant to the terms of the contract, or
- c. loses financial viability.

6. The Department, after the opportunity for an administrative hearing, shall terminate the certification of an organization that no longer meets the definition of a designated youth services agency or that no longer provides community-based services.

7. Any applicant organization denied designation pursuant to this section may request an administrative hearing from the Department.

SECTION 69. AMENDATORY 10 O.S. 1991, Section 603.1, as amended by Section 4, Chapter 280, O.S.L. 1994 (10 O.S. Supp. 1994, Section 603.1) is amended to read as follows:

Section 603.1 A. On or before October 1, 1996, the Department of Human Services shall implement an agency-wide management information system for all programs and services of the Department related to children, youth and families. ~~Development and implementation of said system shall be initiated immediately upon the effective date of this resolution.~~

B. The management information system shall:

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

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

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

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

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

C. The management information system implemented by the Department of Human Services shall be integrated with the management information system implemented by the Department of Juvenile Justice.

SECTION 70. AMENDATORY 10 O.S. 1991, Section 603.2, is amended to read as follows:

Section 603.2 A. The Department of Human Services shall establish a planning process for the Department that provides for collaborative ongoing planning for the development of divisional and agency goals and priorities for services to children and youth. Said planning process of the Department shall be developed with the

assistance of the Policy Analysis Division or equivalent division within the Department and the division directors and shall provide for identification and assessment of needs, establishment of goals and priorities, and program implementation and monitoring, in a manner that actively involves all divisions and units within divisions.

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

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

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

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

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

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

SECTION 71. AMENDATORY 10 O.S. 1991, Section 603.3, is amended to read as follows:

Section 603.3 The Department of Human Services shall carefully define the children and youth programs of the Department as to their purpose, the population served and performance expectations. Planning for new programs and services and major modifications to existing ones shall include evaluation of their effect on other programs and services and communication and coordination with other public and private children and youth service providers in order to assure successful and cost-effective implementation of the program. An evaluation component that includes monitoring and evaluation of client outcomes shall be incorporated into all of the Department's programs and services to children and youth, whether provided directly by the agency or through a contract.

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

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

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

proposal, then out-of-state providers should be encouraged to respond.

SECTION 72. AMENDATORY 10 O.S. 1991, Section 1403.4, is amended to read as follows:

Section 1403.4 The Department 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 and the Supreme Court of the State of Oklahoma, analyzing and evaluating the effectiveness of the programs and services being carried out by the Department. 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. Statutory changes necessary;
4. Relevant information concerning the number of children comprising the population of any Department-operated facility during the period covered by the report; and
- 4- 5. Such other information as will enable a user of the report to ascertain the effectiveness of the facility.

SECTION 73. AMENDATORY 10 O.S. 1991, Section 604, is amended to read as follows:

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

SECTION 74. AMENDATORY 10 O.S. 1991, Section 607, is amended to read as follows:

Section 607. A. The Department of Human Services ~~is authorized to~~ shall establish and maintain or enter into agreements to establish or maintain community-based youth service programs ~~and shelters out of local, state and federal monies.~~ The programs may include, but not be limited to: emergency shelter, diagnosis, crisis intervention, counseling, group work, case supervision, job placement, recruitment and training of volunteers, consultation, brokerage of services and agency coordination.

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

1. The Department shall, to the extent reasonable and practicable, provide community services and community residential care to children in the custody of the Department through financial agreements, as authorized in ~~Sections 603 and 604~~ Section 73 of this ~~title~~ act.

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

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

- a. include in the Medicaid State Plan a service plan or plans for the reimbursement of all available home and

community-based optional services for mental health and drug and alcohol treatment services for children and youth,

- b. apply for all available home and community-based Medicaid waivers which will assist in the development of community-based services for mental health and drug and alcohol treatment for children and youth, and
- c. establish procedures to assure that Title XIX reimbursements are the payments of last resort, after payments by the parents or other third party payors, for the medical care, including mental health services, provided to children in the custody of the Department of Human Services or that the Department of Human Services is otherwise reimbursed, in accordance with a court order and the financial ability of the parent, for such services provided to the child.

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

C. ~~After July 1, 1984, any state agency letting grants or contracts~~ 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~~ document assurance from the agency or organization establishing such facility that appropriate arrangements have been made for providing the educational services to which ~~residents of~~ children in the facility are entitled pursuant to state and federal law.

D. The Department of Human Services is hereby authorized to, and shall, enter into cooperative agreements with the Department of Juvenile Justice for the use by both Departments of existing

community-based programs, management information and client tracking systems, and other shared resources as deemed necessary or appropriate by both Departments.

SECTION 75. AMENDATORY 10 O.S. 1991, Section 609, as amended by Section 3, Chapter 299, O.S.L. 1992 (10 O.S. Supp. 1994, Section 609), is amended to read as follows:

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

1. Capability to deliver all or part of the compensable services ~~enumerated in Section 603 of this title~~ required by law for community-based youth services programs;

2. Adequate and qualified staff;

3. Financial viability; and

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

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

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

2. Such other criteria as the Commission determines appropriate.

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

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

1. Is seriously deficient in the administration of its program;
2. Loses financial viability; or
3. Fails to successfully complete the peer review process by the Oklahoma Association of Youth Services.

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

## Chapter 53

### Oklahoma Juvenile Code

#### ARTICLE I

##### Short Title and Public Policy

SECTION 76. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-1-101 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Chapter 53 of Title 10 of the Oklahoma Statutes shall be known and may be cited as the "Juvenile Code".

B. All statutes hereinafter enacted and codified in Chapter 53 of Title 10 of the Oklahoma Statutes shall be considered and deemed part of the Juvenile Code.

SECTION 77. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-1-102 of Title 10, unless there is created a duplication in numbering, reads as follows:

It is the intent of the Legislature that Chapter 53 of this title shall be liberally construed, to the end that its purpose may be carried out.

The purpose of the laws relating to children alleged or adjudicated to be delinquent is to promote the public safety and

reduce juvenile delinquency. This purpose should be pursued through means that are fair and just, that:

1. Recognize the unique characteristics and needs of children;
2. Give children access to opportunities for personal and social growth;
3. Maintain the integrity of substantive law prohibiting certain behavior and developing individual responsibility for lawful behavior;
4. Provide a system for the rehabilitation and reintegration of juvenile delinquents into society;
5. Preserve and strengthen family ties whenever possible, including improvement of home environment;
6. Remove a juvenile from the custody of his parents when his welfare and safety or the protection of the public would otherwise be endangered;
7. Secure for any juvenile removed from the custody of his parents the necessary treatment, care, guidance and discipline to assist him in becoming a responsible and productive member of society; and
8. Provide procedures through which the provisions of the law are executed and enforced and which will assure the parties fair hearings at which their rights as citizens are recognized and protected.

## ARTICLE II

### Definitions

SECTION 78. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-2-101 of Title 10, unless there is created a duplication in numbering, reads as follows:

When used in this chapter, unless the context otherwise requires:

- 1. "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 1104.2 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 1104.2 of this title, or any individual who has been certified as an adult pursuant to Section 1112 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 1104.2 of this title, any individual against whom the imposition of judgment and sentence has been deferred after certification as an adult pursuant to Section 1112 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 1104.2 of this title, or any individual who is not convicted after certification as an adult pursuant to Section 1112 of this title, shall continue to be subject to the jurisdiction of the juvenile court;

2. "Delinquent child" means a child who:

a.—has violated any federal or state law or municipal ordinance, except a traffic statute or traffic ordinance, any provision of the Oklahoma Wildlife Conservation Code or any lawful order of the court made pursuant to the provisions of Sections 1101 through 1505 of this title, or

b.—has habitually violated traffic laws or traffic ordinances;

3. "Child in need of supervision" means a child who:

a.—has repeatedly disobeyed reasonable and lawful commands or directives of his parent, legal guardian, or other custodian, or

b.—is willfully and voluntarily absent from his home without the consent of his parent, legal guardian, or

other custodian for a substantial length of time or without intent to return, or

c.—is willfully and voluntarily absent from school for fifteen (15) or more days or parts of days within a semester or four (4) or more days or parts of days within a four-week period without a valid excuse as defined by the local school boards, if said child is subject to compulsory school attendance;

4. "Child in need of mental health treatment" means a child in need of mental health treatment as defined by the Inpatient Mental Health Treatment of Children Act, Section 5-501 et seq. of Title 43A of the Oklahoma Statutes;

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

6. "Office" means the Office of Juvenile Affairs;

7. "Department" means the Department of Juvenile Justice;

8. "Executive Director" means the Executive Director of the Office of Juvenile Affairs;

9. "Deputy Director" means the Deputy Director of the Department of Juvenile Justice;

10. "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition pursuant to the provisions of Section 1103 of this title are supported by the evidence and whether a child should be adjudged to be a ward of the court;

11. "Dispositional hearing" means a hearing to determine the order of disposition which should be made with respect to a child subject to the provisions of this chapter;

12. "Preliminary inquiry" or "intake" means a mandatory, preadjudicatory interview of the child and, if available, his parents, legal guardian, or other custodian, which is performed by a duly authorized individual to determine whether a child comes within the purview of this chapter, whether other nonadjudicatory

alternatives are available and appropriate, and if the filing of a petition is necessary;

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

14. "Secure facility" means a facility which is designed and operated to ensure that all entrances and exits from the facility are subject to the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeter of the facility, or a facility which relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents;

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

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

17. "Group home" means a residential facility housing no more than twelve children with a program which emphasizes family-style living in a homelike environment. Said group home may also offer a

program within the community to meet the specialized treatment needs of its residents;

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

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

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

21. "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;

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

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

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

25. "Secure detention" means the temporary care of children 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;

26. "Probation" means a legal status created by court order whereby a delinquent child is permitted to remain outside a Department 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;

27. "Court-appointed special advocate" or "CASA" means a responsible adult, other than an attorney for the parties, who has volunteered to be available for appointment by the court to serve as an officer of the court and represent any child wherein a juvenile petition has been filed, based on the availability of volunteers, until discharged by the court;

28. "Designated youth services agency" means a public or private, nonprofit agency certified by the Department of Juvenile Justice that provides community-based services to youth within a designated geographic area;

29. "Emergency custody" means court-ordered custody of a child prior to adjudication of the child;

30. "Person responsible for a child'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 child'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; and

31. "Taken into custody" means the status of a child immediately when temporary physical control over the child is attained by a person authorized by law to take a child into custody, pending the child's release, placement, or other disposition as authorized by law.

### ARTICLE III

#### Juvenile Justice

##### Part 1. Board of Juvenile Affairs

SECTION 79. AMENDATORY Section 6, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.3), is amended to read as follows:

Section 1507.3 A. There is hereby created, on 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 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;
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 Justice of the Department of Human Services until July 1, 1995. Beginning July 1, 1995, travel expenses shall be paid from funds available to the Office of Juvenile Affairs.

3. The initial meeting of the Board shall be called by the transition coordinators by February 15, 1995.

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; and

6. Provide a public forum for receiving comments and disseminating information to the public and the regulated community regarding goals, objectives, priorities, and policies of the 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.

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 ~~this act~~ the 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.

Part 2. Office of Juvenile Affairs

SECTION 80. AMENDATORY Section 7, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.4), is amended to read as follows:

Section 1507.4 A. On or before July 1, 1995, 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. If an Executive Director is not appointed or does not assume office by July 1, 1995, the Division Administrator of the Office of Juvenile Justice serving as transition coordinator shall serve as Executive Director until an Executive Director is appointed and assumes office.

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. Effective July 1, 1995, 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 ~~his~~ 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 to assist the Executive Director in the performance of ~~his~~ official duties and functions;

3. Establish internal policies and procedures for the proper and efficient administration of the 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.

D. In the event of the Executive Director's temporary absence, the Executive Director may delegate the exercise of such powers and duties to a designee during the Executive Director's absence. In the event of a vacancy in the position of Executive Director, the Board of Juvenile Affairs 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 81. AMENDATORY Section 8, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.5), is amended to read as follows:

Section 1507.5 A. Effective July 1, 1994, there is hereby created the Office of Juvenile Affairs. Within the Office of Juvenile Affairs there is hereby created:

1. The Department of Juvenile Justice which shall be responsible for programs and services for children alleged or adjudicated to be delinquent or in need of supervision. The Executive Director of the Office of Juvenile Affairs shall appoint a Deputy Director of the Department of Juvenile Justice to serve as the administrative head of the Department; and

2. Such other Departments specifically established by law.

B. Until July 1, 1995, the transition team for the Office of Juvenile Affairs shall:

1. Assist the transition coordinators in the performance of duties pursuant to the provisions of Section 4 1507.1 of this ~~act~~ title relating to transitional authority;

2. Assist the Board of Juvenile Affairs, as necessary, in the promulgation of rules necessary to implement the programs and functions within the jurisdiction of the Office of Juvenile Affairs; and

3. Initiate a search for appropriate and adequate office space needed for purposes of implementing its jurisdictional duties provided by this act to be leased at such time as provided by the Legislature. Until such time as specified by the Legislature, space shall be provided to the Office of Juvenile Affairs to the extent necessary to implement its jurisdictional duties provided by this act in the state building in which the Department of Human Services is located, Sequoyah Building, Oklahoma Capitol Complex, Oklahoma City, Oklahoma.

C. Effective July 1, 1995, the Office of Juvenile Affairs shall be a Merit System agency and all employees of the Office of Juvenile Affairs shall be classified employees who are subject to the Oklahoma Personnel Act and the Merit System of Personnel

Administration, except as otherwise provided in ~~Sections 840.8 and 840.10~~ Section 840-5.5 of Title 74 of the Oklahoma Statutes.

D. Effective July 1, 1995, within its jurisdictional areas of responsibility, the Office of Juvenile Affairs, acting through the Executive Director, or persons authorized by law, rule or designated by the Executive Director to perform such acts, shall have the power and duty to:

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

2. Enter into agreements for, accept, administer and use, disburse and administer grants of money, personnel and property from the federal government or any department or agency thereof, or from any state or state agency, or from any other source, to promote and carry on in this state any program within its jurisdictional area of responsibility;

3. Require the establishment and maintenance of records and reports;

4. Establish a system of training for personnel in order to assure uniform statewide application of law and rules;

5. Enforce the provisions of ~~this act~~ the Juvenile Code and rules promulgated thereunder and orders issued pursuant thereto;

6. Charge and receive fees pursuant to fee schedules promulgated by the Board of Juvenile Affairs;

7. Conduct studies, research and planning of programs and functions, pursuant to the authority granted by ~~this act~~ the Juvenile Code;

8. Enter into interagency agreements;

9. Provide administrative and support services to the Board of Juvenile Affairs as necessary to assist the Board in the performance of their duties;

10. Establish and maintain such facilities and institutions as are necessary or convenient for the operation of programs for children under the jurisdiction of the Office of Juvenile Affairs;

11. Lease, from time to time, any real property which the Executive Director shall determine advisable to more fully carry into effect the operation of the Office of Juvenile Affairs in accordance with applicable state statutes. All such leases for real property shall be subject to the provisions of Section 63 of Title 74 of the Oklahoma Statutes;

12. Purchase or lease any equipment, supplies or materials pursuant to the Oklahoma Central Purchasing Act;

13. Contract for professional services;

14. Acquire, construct, extend, and operate any and all facilities of all kinds which in the judgment of the Executive Director and the approval of the Legislature shall be necessary or convenient to carry out the duties of the Office of Juvenile Affairs, as authorized by law; and

15. Exercise all incidental powers which are necessary and proper to implement and administer the purposes of ~~this act~~ the Juvenile Code.

### Part 3. Department of Juvenile Justice

SECTION 82. AMENDATORY Section 9, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.6), is amended to read as follows:

Section 1507.6 A. Effective July 1, 1995, in addition to other responsibilities specified by law, the Department of Juvenile Justice shall:

1. Be the state planning and coordinating agency for statewide juvenile justice and delinquency prevention services;

2. Provide court intake, probation and parole for delinquent children; and

3. Collect and disseminate information and engage in juvenile justice or delinquency prevention activities relating to the provisions of ~~this act~~ the Juvenile Code.

B. Effective July 1, 1995, within the Department of Juvenile Justice there shall be created:

1. The Division of Advocate Defender;

2. The Division of the Parole Board which shall consist of the Parole Review and Hearing Board transferred to the Department of Juvenile Justice pursuant to subsection E of this section; and

3. Such other divisions prescribed by the Executive Director of the Office of Juvenile Affairs or by law.

C. 1. Effective July 1, 1995, the following programs are established within the Department of Juvenile Justice:

a. programs for community intervention and diversion projects to prevent juvenile delinquency,

b. state programs for children who are potentially delinquent and/or who are adjudicated delinquent,

c. programs for community disciplinary projects,

d. programs of juvenile crime restitution,

e. the Serious and Habitual Juvenile Offender Program,

f. regimented juvenile training programs, and

g. such other programs prescribed by the Executive

Director of the Office of Juvenile Justice or by law.

2. Beginning July 1, 1995, the Office of Juvenile Affairs, in cooperation with the courts, shall develop programs which can be used directly by the Department of Juvenile Justice or can be used in communities with the assistance of the Department of Juvenile Justice to divert juveniles at risk of becoming delinquent from the formal court process. Such programs shall be implemented by the Department of Juvenile Justice beginning July 1, 1995. Such programs shall include, but not be limited to:

1. Alternative diversion programs for first-time offenders;

2. Teen court programs, subject to the requirements and procedures provided in Section ~~1114~~ 101 of ~~Title 10 of the Oklahoma Statutes~~ this act; and

3. Teen substance abuse schools.

D. 1. Beginning July 1, 1995, the Department of Juvenile Justice, in its role as coordinator for delinquency prevention services, shall:

- a. establish guidelines for juvenile delinquency prevention and diversion programs for use in local communities, including but not limited to:
  - (1) counseling programs,
  - (2) recreational programs,
  - (3) job skills workshops,
  - (4) community public improvement projects,
  - (5) mediation programs,
  - (6) programs to improve relationships between juveniles and law enforcement personnel,
  - (7) diagnostic evaluation services,
  - (8) substance abuse prevention programs, and
  - (9) independent living skills and self-sufficiency planning programs, and
- b. provide that personnel shall be available in each county of the state to assist local communities in developing and implementing community programs to prevent delinquency and to divert children who have committed delinquent acts from committing further delinquent or criminal acts. The Department of Juvenile Justice shall provide this service in each county either directly or by contract.

2. As used in this section:

- a. "alternative diversion programs for first-time offenders" means programs for juveniles who have been

identified by law enforcement personnel, the district attorney, or the court as having committed acts which are not serious enough to warrant adjudication through the juvenile court process, but which do indicate a need for intervention to prevent further development toward juvenile delinquency,

- b. "teen court programs" means programs which provide an alternative judicial forum for cases involving juvenile offenders, in which teenage participants, under the supervision of an adult coordinator, serve in various capacities within the courtroom, including jurors, lawyers, bailiffs and judges. The teen court hears cases involving juvenile offenders who are referred to the teen court by the district attorney or the district court and assesses sentences such as participation in community work projects, counseling or rehabilitation programs, and
- c. "teen substance abuse schools" means any program approved by the court that provides educational, motivational and behavior modification instruction for juveniles who have chemical dependency problems.

E. 1. On July 1, 1995, the following programs or divisions shall be transferred, along with funding allocations, from the Department of Human Services to the Department of Juvenile Justice within the Office of Juvenile Affairs:

- a. the Residential Services Unit of the Office of Juvenile Justice,
- b. the Quality Assurance Monitoring Unit of the Office of Juvenile Justice,
- c. the Contract Management/Youth Services Unit of the Office of Juvenile Justice,

- d. the Psychological Unit of the Office of Juvenile Justice,
- e. the Juvenile Services Unit,
- f. all field and supervisory staff for court-related juvenile services,
- g. all institutional staff for institutions transferred from the Department of Human Services to the Office of Juvenile Affairs,
- h. all staff assigned to the community residential programs of the Office of Juvenile Justice,
- i. the Management Services Unit of the Office of Juvenile Justice,
- j. the Programs Unit of the Office of Juvenile Justice,
- k. all staff of the business office of the Office of Juvenile Justice,
- l. the Planning and Information Unit of the Office of Juvenile Justice,
- m. all staff of the Office of Juvenile Justice assigned to serve as the liaison to the Federal Court Monitor of the Office of Juvenile Justice, and
- n. the Parole Review and Hearing Board within the Office of the General Counsel of the Department of Human Services.

2. The classified and unclassified employees who are transferred from the Department of Human Services to the Office of Juvenile Affairs on July 1, 1995, shall be subject to the following provisions:

- a. classified employees transferred to the Office of Juvenile Affairs shall remain subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. The transfer of such employees shall be made

pursuant to Section 530:10-11-74 of the Oklahoma Administrative Code,

- b. unclassified employees transferred to the Office of Juvenile Affairs shall remain in the unclassified service and shall serve at the pleasure of the Executive Director. Except for positions that remain in the unclassified service pursuant to law, the positions occupied by unclassified employees so transferred shall become part of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act, whenever they become vacant. Nothing in this section shall prohibit the unclassified employees from making application and competing for these or any other positions in the classified service the same as any other applicant for open competitive appointment,
- c. all employees who are transferred to the Office of Juvenile Affairs shall retain leave, sick and annual time earned and any retirement and longevity benefits which have accrued during their tenure with the agency from which transferred. The salaries of employees who are transferred shall not be reduced as a direct and immediate result of the transfer. The transfer of personnel among the state agencies shall be coordinated with the Office of Personnel Management.

F. Effective July 1, 1995, custody, care and supervision of children adjudicated to be delinquent or in need of supervision and any monies and funds received on behalf of such children are hereby transferred from the Department of Human Services to the Office of Juvenile Affairs. Records in the custody of the Department of Human Services on the transfer date relating to delinquent children and

children in need of supervision shall be transferred to the Department of Juvenile Justice.

G. Effective July 1, 1995, all powers, duties, records, property, assets, monies and funds of the Office of Juvenile Justice shall be transferred to the Office of Juvenile Affairs. Effective July 1, 1995, liabilities of the Office of Juvenile Justice shall be transferred to the Office of Juvenile Affairs as provided for in the appropriation process of the Legislature. Any additional administrative support or costs incurred by the Office of Juvenile Affairs as a result of the transfer required by this section shall be borne by the Office of Juvenile Affairs.

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

I. The Director of State Finance is hereby directed to coordinate the transfer of assets, funds, allotments, purchase orders, liabilities, outstanding financial obligations or encumbrances provided for in this section. The Department of Central Services is hereby directed to coordinate the transfer of property and records provided for in this section.

#### Part 4. Funds

SECTION 83. AMENDATORY 56 O.S. 1991, Section 200.6, as amended by Section 61, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 200.6), is amended to read as follows:

Section 200.6 A. There is hereby created in the State Treasury a revolving fund for the Department of ~~Human Services~~ 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

~~Human Services~~ 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 ~~Human Services~~ 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 1108 of ~~Title 10 of the Oklahoma Statutes~~ 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, ~~1994~~ 1995, the rate of reimbursement of approved operating cost shall be eighty-five percent (85%) for the Department of ~~Human Services~~ Juvenile Justice and fifteen percent (15%) for the county.

2. The Department of ~~Human Services~~ Juvenile Justice shall approve only those applications for funds to renovate an existing juvenile detention facility or any other existing facility or to construct a new juvenile detention facility which contain proposed plans that are in compliance with state-approved juvenile detention standards.

3. The Department of ~~Human Services~~ 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 1108 of ~~Title 10 of the Oklahoma Statutes~~ this title.

4. The Department of ~~Human Services~~ 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 1108 of ~~Title 10 of the Oklahoma Statutes~~ this title.

5. No application for funds available pursuant to the provisions of this section may be filed when the construction of new facilities or the renovation of existing facilities was begun prior to July 20, 1982.

Part 5. Facilities and Training Programs

SECTION 84. AMENDATORY 10 O.S. 1991, Section 1401, as last amended by Section 48, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1401), is amended to read as follows:

Section 1401. A. The ~~Office~~ Department of Juvenile Justice shall have the supervision, management, operation and control of the children's institution located at Tecumseh, formerly known and designated as Girls' Town and now known as Central Oklahoma Juvenile Center, and the youth camp located at Lake Tenkiller, and all property, equipment and supplies related thereto. All contracts, leases, or other agreements entered into by the Department of Human

Services on behalf of the Center shall be administered by the ~~Office~~  
Department of Juvenile Justice.

B. The Central Oklahoma Juvenile Center shall maintain the following facilities for delinquent children:

1. A medium security training school with a bed-space capacity for a maximum of thirty-two (32) children;

2. A nonsecure transitional cottage with a bed-space capacity for a maximum of six (6) children;

3. A regimented juvenile training program with a bed-space capacity for a maximum of thirty-two (32) children; and

4. Facilities and bed-space capacity for programs that are consistent with providing statewide juvenile justice and delinquency prevention services.

C. It shall be the duty of the State Fire Marshal and the Commissioner of Public Health, to cause regular, periodic, not less than quarterly, unannounced inspections of said institution, utilizing adequately trained and qualified inspection personnel, to determine and evaluate conditions and programs being maintained and carried on at said institution in their respective areas of agency jurisdiction. Such inspections shall include, but not be limited to, the following: Compliance with minimum fire and life safety standards; compliance with minimum standards governing general sanitation of the institution, with particular emphasis upon food storage, preparation, serving and transportation, respectively. Reports of such inspections will be made in writing, itemizing and identifying any deficiencies and recommending corrective measures, and shall be filed with the ~~Commission for Human Services~~ Board of Juvenile Affairs, the Executive Director of the ~~Department of Human Services~~ Office of Juvenile Affairs, the ~~Administrator~~ Deputy Director of the Department of Juvenile Justice, the Governor, the Attorney General, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Office of Juvenile

System Oversight. The Department of Juvenile Justice shall file copies of the reports of the inspections and recommendations of the accrediting agencies listed in subsection B of this section with the Office of Juvenile System Oversight.

D. The Department of Juvenile Justice is authorized and directed to establish, subject to the limits of funds available therefor, a diversity of placement alternatives for children committed to the custody of the Department including, but not limited to, foster family homes, foster family group homes, and group homes. All child care services and facilities operated by the Department shall be accredited by the American Correctional Association, the Joint Commission on Accreditation of Hospitals or the Child Welfare League of America, as appropriate for the service or facility.

~~E. The Department of Human Services is hereby authorized to expend a sum not to exceed One Million Four Hundred Thousand Dollars (\$1,400,000.00) from monies appropriated for that purpose from the Human Services Fund during the fiscal year ending July 1, 1983, and each fiscal year thereafter, for the purpose of providing subsidy payments to licensed nonprofit child care institutions within the State of Oklahoma to furnish food, clothing, shelter and upkeep for Oklahoma children and to assist the agency in developing a more comprehensive program to meet the needs of each child in the program including, but not limited to, social services, recreational activities and individual and family counseling with the goal of returning the child to his family. Such subsidy shall be made on a per capita basis not to exceed One Thousand Two Hundred Dollars (\$1,200.00) per year and shall be expended in twelve (12) monthly payments beginning July 1 of the fiscal year. Nothing in this section shall preclude an individual from receiving federal matching funds for which he would otherwise be eligible.~~

SECTION 85. AMENDATORY 10 O.S. 1991, Section 1407, as amended by Section 19, Chapter 299, O.S.L. 1992 (10 O.S. Supp. 1994, Section 1407), is amended to read as follows:

Section 1407. The official name and designation of the center for children situated at Sand Springs, Oklahoma, shall be Lloyd E. Rader Children's Center. The supervision, management, operation and control of the Center and all property, records, equipment and supplies related thereto shall be the responsibility of the ~~Office~~ Department of Juvenile Justice.

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

SECTION 86. AMENDATORY Section 11, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.8), is amended to read as follows:

Section 1507.8 A. During the 1995 fiscal year, the Department of Human Services through the Office of Juvenile Justice shall oversee the expansion of the number of preadjudicatory secure detention beds available in this state. This duty shall be assumed by the Office of Juvenile Affairs effective July 1, 1995. During the 1995 and 1996 fiscal years the number of such beds shall be increased by one hundred nine beds or by the number necessary to result in a total of two hundred sixty-five such beds by July 1, 1996. It is the intent of the Legislature to establish such beds on a geographic basis throughout the state in order to provide more accessibility to services for all regions of the state. Therefore, such beds shall be established as follows: In Oklahoma County thirty-seven beds, in Tulsa County twenty-six beds, in Cleveland County twelve beds, in Lincoln County ten beds, in Comanche County six beds, in Custer County six beds, in Texas County six beds and in Talihina in LeFlore County six beds. The six beds in Comanche County shall be regional detention beds and out-of-county placements

shall be given priority for these beds. The beds established by this subsection shall be operated in accordance with Section 1108 of ~~Title 10 of the Oklahoma Statutes~~ this title.

B. During the 1995 fiscal year, the Department of Human Services through the Office of Juvenile Justice shall convert thirty-two of the beds at the Central Oklahoma Juvenile Center for use as regimented juvenile training program beds pursuant to Section ~~1401 84 of Title 10 of the Oklahoma Statutes~~ this act. The duty for operation of the regimented juvenile training program at the center shall be assumed by the Office of Juvenile Affairs through the Department of Juvenile Justice effective July 1, 1995, when the facility is transferred to the Office of Juvenile Affairs.

C. During the 1995 fiscal year, the Department of Human Services through the Office of Juvenile Justice shall establish a regional juvenile facility in the southwestern part of the state. The facility shall include six transitional beds and sixty-four medium secure beds for such programs as the Department of Human Services determines will most appropriately and effectively provide required services; provided, no more than thirty-two beds shall be used for any one type of program. It is the intent of the Legislature that the Department of Human Services locate an existing facility that can be remodeled and used for this purpose. The responsibility for operation of such beds shall be assumed by the Office of Juvenile Affairs through the Department of Juvenile Justice beginning July 1, 1995.

SECTION 87. AMENDATORY Section 12, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.9), is amended to read as follows:

Section 1507.9 A. It is the intent of the Legislature that the program established pursuant to this section benefit the state by providing a two-phase regimented juvenile training program under which certain adjudicated juveniles are subject to a controlled and

regimented environment that affirms dignity of self and respect for others; promotes the value of education, work, and self-discipline; and develops useful skills and abilities that can be applied when the juvenile is reintegrated into the community.

B. 1. The ~~Department of Human Services~~ Office of Juvenile Affairs through the ~~Office~~ Department of Juvenile Justice shall establish, maintain, and operate a regimented juvenile training program. Juveniles eligible for participation in the program shall be assessed and deemed appropriate for the program by the Department of ~~Human Services~~ Juvenile Justice. The juveniles eligible for the program shall include only juveniles adjudicated delinquent and placed in the custody of the ~~Department of Human Services~~ Office of Juvenile Affairs.

2. A juvenile may be eliminated from the program upon a determination by the ~~Office~~ Department of Juvenile Justice that a physical or mental condition will prevent full participation in the program by such offender.

C. The regimented juvenile training program shall consist of two phases, which shall be administered as follows:

1. Phase I: An intensive physical training and discipline phase in a secure facility, consisting of not more than thirty-two beds, or a nonsecure facility, for a period of not more than ninety (90) days and administered by the ~~Office~~ Department of Juvenile Justice. The ~~Office~~ Department may operate Phase I at ~~Department~~ facilities operated by the Office of Juvenile Affairs or contract for such services;

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

- a. if appropriate juvenile diversion services are available, the Department of ~~Human Services~~ Juvenile Justice may contract for such services, and

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

3. A juvenile in the regimented juvenile training program shall be required to participate in the reintegration phase for a period to be determined by the ~~Office~~ Department of Juvenile Justice;

4. In addition to the requirements set forth in this subsection, juveniles shall be required to participate in a job training and educational component, as deemed appropriate by the ~~Office~~ Department of Juvenile Justice. The educational component shall include classroom work comprised of basic academic and/or vocational instruction.

D. If a juvenile fails to progress through or complete the initial phase of the regimented juvenile training program, the ~~Office~~ Department of Juvenile Justice may reassign the juvenile to another appropriate facility. In addition, if a juvenile fails to progress through or complete the second phase of the program, the ~~Office~~ Department may return the juvenile to Phase I of the program for completion of all or part of the earlier phase; except that a juvenile shall not be returned for participation in the initial phase more than once.

E. The ~~Department of Human Services~~ Office of Juvenile Affairs shall establish standards, which shall be enforced by the ~~Office~~ Department of Juvenile Justice, for the regimented juvenile training program and each of the phases thereof described in this section. Supportive services deemed necessary by the ~~Office~~ Department shall be made available under the phases of the regimented juvenile training program, as deemed appropriate by the ~~Department~~ Office of Juvenile Affairs.

#### ARTICLE IV

#### Delinquent Children and

Children in Need of Supervision

Part 1. Jurisdiction

SECTION 88. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-4-101 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. 1. Upon the filing of a petition, or upon the assumption of custody, 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 has 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, as provided in subsection B of Section 1139 of this title.

3. 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 90 of this act 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 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 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. 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 Office of Juvenile Affairs, 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 Office of Juvenile Affairs 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 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 h, 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 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 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.

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. 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. 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 Article VI 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 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 89. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-4-102 of Title 10, unless there is created a duplication in numbering, reads as follows:

If the evidence in an action for a divorce, for alimony without a divorce, for an annulment, for custody of a child or for the appointment of a guardian of the person of a child, or in subsequent proceedings in such actions, indicates that a child in need of supervision, the court, after proper notice, shall transfer the issues in regard to the child to the juvenile docket of the court for preliminary inquiry and determination.

#### ARTICLE V

##### Preadjudicatory and Postadjudicatory Process

###### Part 1. Custody

SECTION 90. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-101 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. A child may be taken into custody prior to the filing of a petition:

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

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, guardian or legal custodian for a substantial length of time or without intent to return, or if the

child's surroundings are such as to endanger the welfare of the child;

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 may be supported by a sworn affidavit which may be based upon information and belief. The application shall state facts sufficient to demonstrate to the court that there is probable cause to believe the child has committed a crime or is in violation of the terms of his probation, parole or order of the court; 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, guardian or person having custody or control of the child is unwilling or unavailable to consent to such medical or mental health treatment or other action.

B. Whenever a child is taken into custody as a delinquent child or a child in need of supervision, the child shall be detained or be released to the custody of his parent, guardian, attorney or custodian, upon the written promise of such parent, guardian, attorney or custodian to bring the child to the court at the time fixed. If detained, such child shall be taken immediately before a judge of the district court in the county in which the child is sought to be detained, or to the place of detention or shelter designated by the court. If no judge be available locally, the person having the child in custody shall immediately report his detention of the child to the presiding judge of the judicial administrative district, provided that the child shall not be detained in custody beyond the next judicial day or for good cause shown due to problems of arranging for and transporting the child to and from a regional juvenile detention center, beyond the next two (2) judicial days unless the court shall so order after a detention

hearing to determine if there exists probable cause to detain the child, as provided in Section 1107.1 of this title. If the latter judge cannot be reached, such detention shall be reported immediately to any judge regularly serving within the judicial administrative district. If detained, a reasonable bond for release shall be set. Pending further disposition of the case, a child whose custody has been assumed by the court may be released to the custody of a parent or other person appointed by the court, or be detained pursuant to the provisions of Section 1107.1 of this title 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 his health, any peace officer, any employee of the court or person acting pursuant to court order shall have the authority to authorize medical examination and medical treatment for any child found to be in need of medical treatment as diagnosed by a competent medical authority in the absence of a parent or guardian who is competent to authorize medical treatment. The officer or the employee of the court or person acting pursuant to court order shall authorize said medical treatment only after exercising due diligence to locate the parent, guardian or other person legally competent to authorize said medical treatment. The parent, guardian or custodian of the child shall be responsible for such medical expenses as ordered by the court. No peace officer, any employee of the court or person acting pursuant to court order authorizing such treatment in accordance with the provisions of this section for any child found in need of such medical treatment shall have any liability, civil or criminal, for giving such authorization.

D. A child who has been taken into custody as otherwise provided by this title who appears to be a child in need of mental health treatment may be admitted to a mental health facility on an emergency psychiatric basis or for an inpatient mental health evaluation or inpatient mental health treatment only in accordance with the provisions of the Inpatient Mental Health Treatment of Children Act, Section 5-501 et seq. of Title 43A of the Oklahoma Statutes.

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, guardian or person 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, guardian or person 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 parent, guardian or person having custody or control 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, guardian or 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, guardian or 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.

#### Part 2. Adjudication and Certification

SECTION 91. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-201 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The court may provide by rule who shall make a preliminary inquiry to determine whether the interests of the public or of the child who is within the purview of this chapter require that further court action be taken. Provided, that where intake is to be provided by the Department under contract with the Supreme Court, or under the provision of rules issued by the Supreme Court, the preliminary inquiry as set out herein shall follow the uniform

contractual procedures as agreed to by the Supreme Court and the Department. If it is determined by the preliminary inquiry that no further action be taken and if agreed to by the district attorney, said person or the court may make such informal adjustment as is practicable without a petition.

B. 1. A petition in a juvenile proceeding may be filed by the district attorney to determine if further action is necessary. The proceeding shall be entitled "In the matter of \_\_\_\_\_, an alleged (delinquent) child or (a child alleged to be in need of supervision)".

2. The petition shall be verified and may be upon information and belief. The petition shall set forth:

- a. with particularity facts which bring the child within the purview of this chapter,
- b. the name, age and residence of the child,
- c. the names and residences of his parents,
- d. the name and residence of the legal guardian of the child, if there be one,
- e. the name and residence of the person or persons having custody or control of the child,
- f. the name and residence of the nearest known relative, if no parent or guardian can be found,
- g. the relief requested, and
- h. the specific federal law, state law or municipal ordinance under which the child is charged, and an endorsement of witnesses intended to be called by the petitioner, where the child is sought to be adjudged a delinquent child under Chapter 53 of this title.

3. If a termination of parental rights is desired, it must be stated in the petition and summons, and if an order for the payment of funds for the care and maintenance of the child is desired, it must be stated in the petition and summons.

4. If any of the facts herein required are not known by the petitioner, the petition shall so state, along with the reasons why said facts are not known to petitioner.

C. A petition alleging a child to be a child in need of treatment shall be filed by a district attorney pursuant to the Inpatient Mental Health Treatment of Children Act.

D. A copy of the petition shall be attached to and delivered with the summons.

E. A district attorney may defer filing a petition alleging a child to be delinquent for a period of ninety (90) days if the child participates in a teen court program or a first-time offender program, as defined in Section 101 of this act. If the child successfully completes the program, the district attorney shall not file the petition. A case for which a petition is not filed shall not become a part of the child's records for any purpose.

SECTION 92. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-202 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. If a child has been taken into custody pursuant to the provisions of the Juvenile Justice Code before a petition has been filed, a petition shall be filed and a summons issued within five (5) judicial days from the date of such assumption of custody, or custody of the child shall be relinquished to the parent, guardian or other legal custodian of the child, unless otherwise provided for in this chapter.

B. No order of the court providing for the removal of a child alleged or adjudicated delinquent or in need of supervision from his home shall be entered unless the court finds that the continuation of the child in his home is contrary to the welfare of the child. Said order shall include either:

1. A determination as to whether or not reasonable efforts have been made to prevent the need for the removal of the child from his

home and, as appropriate, reasonable efforts have been made to provide for the return of the child to his home; or

2. A determination as to whether or not an absence of efforts to prevent the removal of the child from his home is reasonable under the circumstances, if such removal of the child from his home is due to an alleged emergency and is for the purpose of providing for the safety of the child and, in the case of a delinquent, the protection of the public.

SECTION 93. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-203 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. No pleading subsequent to the petition is required, and the filing of any motion or pleading shall not delay the holding of the adjudicatory hearing.

B. A petition may be amended by order of the court at any time before an order of adjudication has been made, provided that the court shall grant the parties such additional time to prepare as may be required to insure a full and fair hearing. A petition shall be deemed to have been amended to conform to the proof where the proof does not change the substance of the act, omission or circumstance alleged. However, the court shall not amend the adjudicatory category prayed for in the petition.

SECTION 94. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-204 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. After a petition shall have been filed, unless the parties provided for in this section shall voluntarily appear, a summons shall be issued which shall recite briefly the nature of the proceeding with the phrase "as described more fully in the attached petition" and requiring the person or persons who have the custody or control of the child to appear personally and bring the child before the court at a time and place stated. The summons shall

state the relief requested, and shall set forth the right of the child, parents and other interested parties to have an attorney present at the hearing on the petition.

B. The summons shall be served on the person who has actual custody of the child, and if the child has reached the age of twelve (12) years, a copy shall be served on the child. If the person who has actual custody of the child shall be other than a parent or guardian of the child, a copy of the summons shall be served on the parent or guardian, or both, as hereinafter provided. A copy of the summons shall be served on a custodial parent, guardian or next friend. If no parent or guardian can be found, a summons shall be served on such other person or persons as the court shall designate.

Summons may be issued requiring the appearance of any other person whose presence is necessary.

C. If it subsequently appears that a person who should have been served was not served and has not entered an appearance, the court shall immediately order the issuance of a summons which shall be served on said person.

D. If after a petition has been filed, it appears that the child is in such condition or surroundings that his welfare requires that his custody be immediately assumed by the court, the judge may immediately issue a detention order or warrant authorizing the taking of said child into emergency custody.

E. In a delinquency proceeding, whenever a warrant for the arrest of a child shall issue, it shall state the offense the child is being charged with having committed; in a child in need of supervision proceeding, whenever a warrant for detention of a child shall issue, it shall state the reason for detention. Warrants for the arrest or detention of a child shall comport with all other requirements of issuance of arrest warrants for adult criminal offenders.

SECTION 95. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-205 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Service of summons shall be made as provided for service in civil actions or service may be made by certified mail to such person's last-known address, requesting a return receipt from the addressee only. If the address of the person to be summoned is not known, or if the mailed summons is returned, the court may order that notice of the hearing be published once in a newspaper of general circulation in the county.

B. 1. The court shall not hold the hearing until at least forty-eight (48) hours after the service of the summons, except with the consent of the parent or guardian.

2. If the parent is not served within the state, the court shall not hold the hearing until at least five (5) days after the date of mailing the summons, except with the consent of the parent.

3. If notice is published, the court shall not hold the hearing until at least ten (10) days after the date of publication.

4. If one or more persons must be served by publication, and if it appears that the court must order the child held in a place of detention in order to meet the requirement of this section with respect to the time for holding a hearing when a party can be served only by publication, the court may advance the date of the hearing, with reasonable notice to the other persons who have been served or are properly and legally notified, to any date that the court determines to be reasonable and may proceed with the action.

C. An order determining that a child is delinquent or in need of supervision shall not become final until thirty (30) days after the date of the publication of the notice. Nothing contained herein shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.

SECTION 96. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-206 of Title 10, unless there is created a duplication in numbering, reads as follows:

If any person summoned shall, without reasonable cause, fail to appear, such person may be held in contempt of court. In case the summons cannot be served, or the parties served fail to obey the same, or in any case when it shall be made to appear to the judge that the service will be ineffectual or that the welfare of the child requires that the child should be brought into the custody of the court, a warrant may be issued against the parent or guardian, or against the child.

SECTION 97. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-207 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. No information gained by a custodial interrogation of a child nor any evidence subsequently obtained as a result of such interrogation shall be admissible into evidence against the child unless the custodial interrogation about any alleged offense by any law enforcement officer or investigative agency, or employee of the court, or employee of the Department is done in the presence of the parents, guardian, attorney, or legal custodian of the child. No such custodial interrogation shall commence until the child and his parents, or guardian, or other legal custodian have been fully advised of the constitutional and legal rights of the child, including the right to be represented by counsel at every stage of the proceedings, and the right to have counsel appointed by the court if the parties are without sufficient financial means; provided, however, that no legal aid or other public or charitable legal service shall make claim for compensation as contemplated herein. It is further provided that where private counsel is appointed in such cases, the court shall set reasonable compensation and order the payment out of the court fund. As used in this

section, "custodial interrogation" means questioning of a child while that child is in law enforcement custody or while that child is being deprived of freedom of action in any significant way by a law enforcement officer, employee of the court, or employee of the Department. The term "custodial interrogation" shall not be deemed to mean questioning of a child by a public school administrator or teacher, so long as such questioning is not being conducted on behalf of a law enforcement officer, an employee of the court or an employee of the Department. Any information gained from noncustodial questioning of a child by a public school administrator or teacher concerning a wrongful act committed on public school property shall be admissible into evidence against the child.

B. If the parents, guardian, or other legal custodian of the child requests an attorney and is found to be without sufficient financial means, counsel shall be appointed by the court if a petition has been filed alleging that the child is a child in need of supervision, or if termination of parental rights is a possible remedy, provided that the court may appoint counsel without such request, if it deems representation by counsel necessary to protect the interest of the parents, guardian or other legal custodian. If the child is not otherwise represented by counsel, whenever a petition is filed pursuant to the provisions of Section 1103 of this title, the court shall appoint a separate attorney, who shall not be a district attorney, for the child regardless of any attempted waiver by the parent or other legal custodian of the child of the right of the child to be represented by counsel.

C. Whenever a petition is filed alleging that a child is a delinquent child or a child in need of supervision, the court may appoint a guardian ad litem for the child at any time subsequent to the filing of the petition and shall appoint a guardian ad litem upon the request of the child or his attorney and whenever a court-appointed special advocate is available to the court to serve as a

guardian ad litem regardless of whether or not a guardian ad litem has been requested by the child or his attorney. The availability of a court-appointed special advocate shall be determined by the executive director of the court appointed special advocate program for the county.

1. The guardian ad litem shall not be a district attorney, an employee of the office of the district attorney, an employee of the court, an employee of a juvenile bureau or an employee of any public agency having duties or responsibilities towards the child.

2. Whenever a court-appointed special advocate is available for appointment as a guardian ad litem as provided by this subsection, the court shall give priority to the appointment of a court-appointed special advocate as the guardian ad litem of a deprived child.

D. 1. The court-appointed special advocate shall be given access to the court file and access to all records and reports relevant to the case and to any records and reports of examination of the child's parent or other custodian, made pursuant to this section or Section 846 of Title 21 of the Oklahoma Statutes.

2. A court-appointed special advocate shall serve without compensation and shall have such other qualifications and duties and responsibilities as may be prescribed by rule by the Supreme Court.

3. Any person participating in a judicial proceeding as a court-appointed special advocate shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any civil liability that otherwise might be incurred or imposed. Any person serving in positions of management of a CASA organization, including members of the Board of Directors acting in good faith, shall be immune from any civil liability or any vicarious liability for the negligence of any CASA organization advocates, managers, or directors.

E. It shall be unlawful and a misdemeanor for the Office of Juvenile Affairs, or any employee working under the Department of Juvenile Justice, any other public officer or employee, or any court-appointed special advocate (CASA), to furnish or permit to be taken off of the records any information therein contained for commercial, political or any other unauthorized purpose.

F. The district attorney shall prepare and prosecute any case or proceeding within the purview of Chapter 53 of this title.

SECTION 98. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-208 of Title 10, unless there is created a duplication in numbering, reads as follows:

In adjudicatory hearings to determine if a child is delinquent or in need of supervision, the child informed against, or any person entitled to service of summons, shall have the right to demand a trial by jury, which shall be granted as in other cases, unless waived, or the judge on his own motion may call a jury to try any such case. Such jury shall consist of six (6) persons.

### Part 3. Adjudicative and Certification Hearings

SECTION 99. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-301 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. All cases of children shall be heard separately from the trial of cases against adults. The adjudicative hearings shall be conducted according to the rules of evidence, and may be adjourned from time to time.

1. Except as provided by paragraph 2 of this subsection, the hearings shall be private unless specifically ordered by the judge to be conducted in public, but persons having a direct interest in the case shall be admitted. Any victim or relative or legal guardian of a victim of a juvenile criminal act shall be considered to have a direct interest in the case and shall be notified of all court hearings involving that particular juvenile criminal act as

provided by Section 215.33 of Title 19 of the Oklahoma Statutes. Stenographic notes or other transcript of the hearings shall be kept as in other cases, but they shall not be open to inspection except by order of the court or as otherwise provided by law.

2. Hearings related to the second or subsequent delinquency adjudication of a child shall be public proceedings. The adjudications relied upon to determine whether a hearing is a public proceeding pursuant to this paragraph shall not have arisen out of the same transaction or occurrence or series of events closely related in time and location. Upon its own motion or the motion of any of the parties to the hearing and for good cause shown, the court may order specific testimony or evidence to be heard in private; provided, the court shall not exclude any relative or legal guardian of a victim from the hearing during testimony of the victim. For the purposes of this paragraph, "good cause" shall mean a showing that it would be substantially harmful to the mental or physical well-being of the child if such testimony or evidence were presented at a public hearing.

B. The child may remain silent as a matter of right in delinquency hearings and in need of supervision hearings, and before he is interrogated he shall be so advised.

C. A decision determining a child to come within the purview of this chapter must be based on sworn testimony and the child must have the opportunity for cross-examination unless the facts are stipulated. Where a child is alleged to be delinquent and the facts are stipulated, the judge must ascertain from the child if he agrees with the stipulation and if he understands the consequences of stipulating the facts.

SECTION 100. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-302 of Title 10, unless there is created a duplication in numbering, reads as follows:

If the court finds that the allegations of the petition are not supported by the evidence, the court shall order the petition dismissed and shall order the child discharged from any detention or restriction previously ordered. The child's parents, guardian or other legal custodian shall also be discharged from any restriction or other previous temporary order.

SECTION 101. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-303 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. If the court finds that the allegations of a petition alleging a child to be delinquent or in need of supervision are supported by the evidence, the court shall sustain the petition, and shall make an order of adjudication setting forth whether the child is delinquent or in need of supervision and shall adjudge the child as a ward of the court.

B. A court may defer delinquency adjudication proceedings for ninety (90) days if the child:

1. Is alleged to have committed or attempted to commit a delinquent offense that if committed by an adult would be a misdemeanor or that if committed by an adult would be grand larceny of property valued at One Hundred Dollars (\$100.00) or less;

2. Waives the privilege against self-incrimination and testifies, under oath, that the allegations are true;

3. Has not been previously adjudicated a delinquent; and

4. Presents to the court an oral or written request to attend a Teen Court program.

C. The Teen Court program must be approved by the court.

D. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the Teen Court program has been successfully completed.

E. The court may require a child who requests a Teen Court program to pay a fee, as determined by the court, not to exceed Twenty Dollars (\$20.00) to cover the costs of administration. The fee shall be deposited in the court clerk's official depository account. Eighty percent (80%) of the costs so paid shall be distributed to the organization sponsoring the Teen Court to be used for Teen Court operating expenses. The remaining twenty percent (20%) of said cost shall be paid by the court clerk to the court fund.

F. A case dismissed under subsections B through E of this section shall not be part of the child's records for any purpose.

G. A court may defer delinquency proceedings for ninety (90) days for any child that has not been previously adjudicated delinquent, if the child and, if required by the court, the parent or legal guardian of the child agree to participate in an alternative diversion program for first-time offenders that has been approved by the court. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the alternative diversion program for first-time offenders has been successfully completed. A case dismissed pursuant to this subsection shall not be part of the child's records for any purpose.

H. A court may defer delinquency proceedings for ninety (90) days for any child that has not been previously adjudicated delinquent, if the child agrees to participate in a military mentor program that has been approved by the court. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the military mentor program has been successfully completed. A case dismissed pursuant to this subsection shall not be part of the child's records for any purpose.

I. As used in this section:

1. "Alternative diversion programs for first-time offenders" means programs for juveniles who have been identified by law enforcement personnel, the district attorney, or the court as having committed acts which are not serious enough to warrant adjudication through the juvenile court process, but which do indicate a need for intervention to prevent further development toward juvenile delinquency. The program shall be administered, pursuant to contact with the Department of Juvenile Justice, by organizations designated as youth services agencies in accordance with Section 609 of this title;

2. "Teen Court program" means a program which provides an alternative judicial forum for cases involving juvenile offenders, in which teenage participants, under the supervision of an adult coordinator, serve in various capacities within the courtroom, including jurors, lawyers, bailiffs and judges. The Teen Court hears cases involving juvenile offenders who are referred to the Teen Court by the district attorney or the district court and assesses sentences such as participation in community work projects, counseling or rehabilitation programs; and

3. "Military mentor program" means a program administered by the Oklahoma Military Department as provided in Section 104 of this act.

#### Part 4. Dispositional Hearings and Orders

SECTION 102. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-401 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. After making an order of adjudication, the court shall hold a dispositional hearing, at which all evidence helpful in determining the proper disposition best serving the interest of the child and the public, including but not limited to oral and written reports, may be admitted and may be relied upon to the extent of its

probative value, even though not competent for the purposes of the adjudicatory hearing.

B. Before making an order of disposition, the court shall advise the district attorney, the parents, guardian, custodian or responsible relative, and their counsel, of the factual contents and the conclusion of reports prepared for the use of the court and considered by it, and afford fair opportunity, if requested, to controvert them. An order of disposition shall include a specific finding and order of the court relative to the liability and accountability of the parents for the care and maintenance of the child as authorized by Section 1121 of this title, except where custody is placed with both parents.

C. On its own motion or that of the district attorney, or of the parent, guardian, custodian, responsible relative or counsel, the court may adjourn the hearing for a reasonable period to receive reports or other evidence and, in such event, shall make an appropriate order for detention of the child, or release of the child from detention subject to supervision by the court, during the period of the continuance.

D. In scheduling investigations and hearings, the court shall give priority to proceedings in which a child is in detention, or has otherwise been removed from his home, before an order of disposition has been made.

SECTION 103. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-402 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. An individual treatment and service plan shall be filed with the court within the thirty (30) days after any child has been adjudicated to be delinquent or in need of supervision. Said plan shall be filed by the person, department or agency responsible for the supervision of the case or by the legal custodian if the child

has been removed from the custody of its lawful parent or parents.

The treatment and service plan shall include but not be limited to:

1. A history of the child and family, including identification of the problems leading to the adjudication;

2. Based upon a comprehensive assessment and evaluation of the child and family which shall include, in the case of a delinquent child, a risk-assessment of the child:

a.—identification of the specific services to be provided to the child to remediate or alleviate the conditions that led to the adjudication, including but not limited to educational, vocational educational, medical, drug or alcohol abuse treatment, or counseling or other treatment services, and

b.—identification of the services to be provided to the parent, legal guardian, legal custodian, stepparent, other adult person living in the home or other family members, to remediate or alleviate the conditions that led to the adjudication, including services needed to assist the family to provide proper care and supervision of the child. If the child is placed outside the home, the service plan shall include the services to be provided during and after any such placement;

3. If the child is to be placed outside the home, the service plan shall state:

a. the reasons for such placement and a statement as to the unavailability or inappropriateness of local placement, or other good cause, for any placement more than forty (40) miles from the home of the child,

b. the services to be provided to the child while in such placement and the projected date of discharge,

- c. the services necessary to assist the child to reintegrate with the child's family or other community-based placement, and
- d. if the child is age sixteen (16) or older, the services necessary to make the transition from community placement to independent living;

4. Performance criteria that will measure the progress of the child and family toward completion of the treatment and service plan;

5. A projected date for the completion of the treatment and service plan; and

6. The name and business address of the attorney representing the child, if any.

B. Whenever a child who is subject to the provisions of this section is committed for inpatient mental health treatment pursuant to the Inpatient Mental Health Treatment of Children Act, the individual treatment and service plan shall be amended as necessary and appropriate, including but not limited to identification of the treatment and services to be provided to the child and his family upon discharge of the child from inpatient mental health treatment.

SECTION 104. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-403 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The following kinds of orders of disposition may be made in respect to wards of the court:

1. The court may place the child on probation or under supervision in the home of the child, or in the custody of a suitable person, upon such conditions as the court shall determine. The court may require the parent or other person to give security by bond, with surety or sureties approved by the court, for compliance with such order.

2. If it is consistent with the welfare of the child, the child shall be placed with his parent or legal guardian, but if it appears to the court that the conduct of such parent, guardian, legal guardian, stepparent or other adult person living in the home has contributed to the child becoming delinquent or in need of supervision, the court may issue a written order specifying conduct to be followed by such parent, guardian, legal custodian, stepparent or other adult person living in the home with respect to such child. The conduct specified shall be such as would reasonably prevent the child from continuing to be delinquent or in need of supervision. Such order shall remain in effect for a period of not more than one (1) year to be specified by the court, and the order may be extended or renewed by the court.

a. If it is consistent with the welfare of the child, in cases where the child has been adjudicated to be in need of supervision due to repeated absence from school, the court may order counseling and treatment for the child and the parents of the child to be provided by the local school district, the county, the Department or a private individual or entity. Prior to final disposition, the court shall require that it be shown by the appropriate school district that a child found to be truant has been evaluated for learning disabilities, mental retardation, and hearing and visual impairments and other impediments which could constitute an educational handicap. The results of such tests shall be made available to the court for use by the court in determining the disposition of the case.

b. In issuing orders to a parent, guardian, legal guardian, stepparent or other adult person living in the home of a child adjudicated to be a delinquent

child or in making other disposition of said delinquent child, the court may consider the testimony of said parent, guardian, legal guardian, stepparent or other adult person concerning the behavior of the juvenile and the ability of such person to exercise parental control over the behavior of the juvenile.

- c. In any dispositional order involving a child age sixteen (16) or older, the court shall make a determination, where appropriate, of the services needed to assist the child to make the transition to independent living.

No child who has been adjudicated in need of supervision upon the basis of truancy or noncompliance with the mandatory school attendance law alone may be placed in a public or private institutional facility or be removed from the custody of the lawful parent, guardian or custodian of the child.

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

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

5. The court may order the child to participate in a military mentor program administered by the Oklahoma Military Department, if such program:

- a.—is staffed by National Guard personnel who are trained by the Oklahoma Military Department pursuant to training standards established by the Department of Juvenile Justice and meets screening requirements established by the Department of Juvenile Justice,
- b.—provides for adequate supervision of the child, and
- c.—is designed to develop useful skills and abilities of the child and/or integrate the child into community service activities or public works projects.

The Department of Juvenile Justice and the Oklahoma Military Department are hereby authorized to enter into an agreement to provide for the effective development and implementation of this paragraph.

6. The court may commit the child to the custody of the Department; provided, any order adjudicating the child to be delinquent and committing the child to the Department shall be for an indeterminate period of time; provided, on or after the adoption of placement guidelines by the Juvenile Placement Guidelines Committee and approval of the guidelines by the Legislature, if the child is a serious juvenile offender or a habitual juvenile offender, as defined in the Serious and Habitual Juvenile Offender Act, the order shall be for a determinate period of time established by the court within the range authorized by the placement guidelines, not to extend beyond such child's nineteenth birthday.

7. If the child has been placed outside the home, and it appears to the court that the parent, guardian, legal custodian, or stepparent, or other adult person living in the home has contributed to the child becoming delinquent or in need of supervision, the court may order that the parent, guardian, legal custodian,

stepparent, or other adult living in the home be made subject to any treatment or placement plan prescribed by the Department or other person or agency receiving custody of the child.

8. With respect to a child adjudicated a delinquent child, the court may:

- a.—for acts involving criminally injurious conduct as defined in Section 142.3 of Title 21 of the Oklahoma Statutes, order the child to pay a victim compensation assessment in an amount not to exceed that amount specified in Section 142.18 of Title 21 of the Oklahoma Statutes. The court shall forward a copy of the adjudication order to the Crime Victims Compensation Board for purposes of Section 142.11 of Title 21 of the Oklahoma Statutes. Except as otherwise provided by law, such adjudication order shall be kept confidential by the Board,
- b.—order the child to engage in a term of community service without compensation. The state or any political subdivision shall not be liable if a loss or claim results from any acts or omission of a child ordered to engage in a term of community service pursuant to the provisions of this paragraph,
- c.—if it is consistent with the welfare of the child, require community service or restitution or both community service and restitution for acts of delinquency. The immunities provided by Sections 227 and 228 of Title 57 of the Oklahoma Statutes shall apply to community services directed pursuant to this section. The court may order the parents or custodial parent of any child living with the parents or custodial parent at the time of the criminal or delinquent act of the child to remit the amount of

restitution ordered by the court. The court may consider any hardship of such order on the parents or custodial parent of the child. The parents or custodial parent may be represented by an attorney in the matter of the order for remittance of the restitution by the parents or custodial parent.

Provided however, if the court orders the parents or custodial parent to remit the amount of restitution as provided for in this paragraph, in addition to any other dispositional orders of the court, the court shall order the child to perform community service for the number of hours commensurate with the number of hours it would require under federal or state minimum wage to earn the amount paid by such child's parents or custodial parent under the order to remit restitution,

d.—order the child to pay the fine which would have been imposed had such child been convicted of such crime as an adult. Any such fine collected pursuant to this paragraph shall be deposited in a special Work Restitution Fund to be established by the court to allow children otherwise unable to pay restitution to work in community service projects in the private or public sector to earn money to compensate their victims,

e.—order the cancellation or denial of driving privileges as provided by Sections 6-107.1 and 6-107.2 of Title 47 of the Oklahoma Statutes,

f.—in accordance with the guidelines approved and adopted by the Oklahoma Supreme Court for the implementation of the Serious and Habitual Juvenile Offender Program, make the following orders: sanction detention in the

residence of the child or facility designated by the Department of Juvenile Justice or the juvenile bureau for such purpose for up to five (5) days; weekend detention in a place other than a juvenile detention facility or shelter; tracking; or house arrest with electronic monitoring. On and after the adoption of guidelines by the Oklahoma Supreme Court for the implementation of the Serious and Habitual Juvenile Offender Program, the provisions of subparagraphs a through e of this paragraph shall be subject to said guidelines,

g.—in accordance with the guidelines approved and adopted by the Oklahoma Supreme Court for the implementation of the Serious and Habitual Juvenile Offender Program, impose sanctions for the violation of pre-adjudicatory or postadjudicatory violations of probation,

h.—on and after the adoption of placement guidelines by the Juvenile Placement Guidelines Committee and approval of such guidelines by the Legislature, the provisions of subparagraphs a through g of this paragraph shall be subject to said guidelines.

9. The court may dismiss the petition or otherwise terminate its jurisdiction at any time for good cause shown.

10. In any dispositional order removing a child from the home of the child, the court shall make a determination that, in accordance with the best interests of the child, reasonable efforts have been made to provide for the return of the child to the child's own home, or that efforts to reunite the family are not feasible, and reasonable efforts are being made to secure an alternate permanent placement for the child.

B. The court shall not terminate the rights of a parent who has not been notified that the parental rights might be terminated. If

the court terminates the rights of a parent and commits the child to an individual or agency, the court may invest in such individual or agency authority to consent to the adoption of the child. Provided, that where the court commits the child to the Department, it shall vest the Department with authority to place the child and, upon notice to the court that an adoption petition has been filed concerning said child, invest the Department with authority to consent to the adoption of the child, and the jurisdiction of the committing court shall terminate.

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

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

E. The court shall require any child found to be a juvenile delinquent or child in need of supervision, the parents of any child found to be a juvenile delinquent or child in need of supervision, or both the child and the parents, to reimburse the court fund, in whole or in part, for any disbursements made from the court fund in conjunction with the case, including, but not limited to, court-appointed attorney's fees, expert witness fees, sheriff's fees, witness fees, transcripts and postage, if the court determines the child or parents, or both the child and parents, are able to pay such costs. If any parent is financially able but has willfully failed to pay court costs or to reimburse the court fund as ordered by the court or has willfully failed to pay court costs and to

reimburse the court fund as ordered by the court, the parent may be held in contempt of court and, upon conviction, shall be punished pursuant to Section 566 of Title 21 of the Oklahoma Statutes. After a judicial determination that the child, the parent of the child, or both such child or parent, are able to pay the costs and to reimburse the court fund or pay the costs and to reimburse the court fund in the case in installments, the court may order the costs and such reimbursement of the court fund to be paid in installments and shall set the amount and due date of each installment. A parent may be found to be financially able to pay court costs or to reimburse the court fund or to pay court costs and to reimburse the court fund in installments even though the court has previously found the parent indigent.

F. The court may revoke or modify a disposition order and may order redistribution. The child whose disposition is being considered for revocation or modification at said hearing shall have the right to be represented by counsel, to present evidence in the child's behalf and to be confronted by witnesses against the child. Any revocation, modification or redistribution of the court in whole or in part shall be subject to review on appeal, as in other appeals of criminal cases. Bail may be allowed pending appeal. On or after the adoption of placement guidelines by the Juvenile Placement Guidelines Committee and approval of such guidelines by the Legislature, the court may make specific orders concerning the placement of said juvenile if the juvenile is committed to the Department.

SECTION 105. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-404 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. 1. Every disposition order regarding a child adjudicated to be delinquent or in need of supervision shall be reviewed by the court at least once every six (6) months until such time as the

conditions which caused the child to be adjudicated have been corrected or the parental rights of said parent or parents are terminated and a final adoption decreed.

2. A dispositional order removing a child from the custody of the parents of the child shall be reviewed at a hearing by the court at least once every six (6) months until such time as the child is returned to the custody of his parents. No later than eighteen (18) months after placing a child in foster care and every twelve (12) months thereafter, the court making the original order of adjudication shall conduct a dispositional hearing to consider in the best interests of the child whether:

- a. the child should be returned to the parents of the child or other family member,
- b. the child should be continued in foster care for a specified period,
- c. the rights of the parents of the child should be terminated and the child placed for adoption or legal guardianship, or
- d. the child, because of exceptional circumstances, should remain in foster care on a long-term basis as a permanent plan or with a goal of independent living.

3. The provisions of this section also shall apply to a child who has been removed from the home of the lawful parent or parents of the child after the child has been returned to that home until such time as the court orders the case closed.

B. 1. The agency having supervision of the case or, if the child has been removed from the custody of its parents, the legal custodian of such child shall cause to be prepared for each review hearing required herein a written report concerning each child who is the subject of such review.

2. Said report shall include but not be limited to a summary of the physical, mental, and emotional condition of the child, the

conditions existing in the home or institution where the child has been placed, and the child's adjustment thereto, a report on the child's progress in school and, if the child has been placed outside the home of the child, the visitation exercised by the parents of such child or other persons authorized by the court, and services being provided to a child sixteen (16) years of age or older to assist in the transition from foster care or other community placement to independent living.

3. If the Department is the legal custodian of the child, the report also shall include any efforts on the part of the parent or parents to correct the conditions which caused the child to be adjudicated. The report shall specifically recommend, giving reasons therefor, whether or not the parental rights of the parent or parents of the child should be terminated and the child placed for adoption, whether or not the child should remain in the home or if placed outside the home of the child's lawful parents, whether or not the child should remain outside the home or be returned to the home from which the child was removed. If it is determined that the child should be placed for adoption, foster parents may be considered eligible to adopt the child.

C. At each such review hearing, the court shall specifically inquire as to the nature and extent of services being provided the child and parent or parents of the child and shall direct additional services be provided if necessary to protect the child from further physical, mental, or emotional harm or to correct the conditions that led to the adjudication.

In any review order, the court shall further make a determination:

1. As to whether reasonable efforts have been made to provide for the return of the child to the child's own home. If reasonable efforts have failed or are not feasible, the court shall make a finding that the efforts to reunite the family have failed, or are

not feasible, and reasonable efforts are being made to secure an alternate permanent placement for the child; and

2. Where appropriate, when the child is age sixteen (16) or older, that services are being provided that will assist the child in making the transition from foster care to independent living.

D. The attorney representing a child whose case is being reviewed may submit a report to the court for presentation at the review hearing to assist the court in reviewing the placement or status of the child. The legal custodian shall not deny to a child the right of access to counsel and shall facilitate such access.

E. The Department shall notify the court having jurisdiction, the appropriate review board, the appropriate district attorney and the attorney and court-appointed special advocate of the child, if any, whenever the placement of a child in the custody of the Department is changed and shall inform said court and attorney regarding the location of the child unless placement modification results from an emergency situation, in which case the notification required by this subsection shall be within one (1) business day after the change of placement. As used in this subsection, "emergency situation" means a placement change requested by a person having actual custody of a child, if the request is made at a time when the business offices of the parties to be notified are closed, or a placement for emergency medical treatment.

#### Part 5. Modifications and Appeals

SECTION 106. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-501 of Title 10, unless there is created a duplication in numbering, reads as follows:

Any decree or order made pursuant to the provisions of this article may be modified by the court at any time; provided, however, that an order terminating parental rights or an order certifying the juvenile as an adult shall not be modified.

SECTION 107. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-502 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Any interested party aggrieved by any order or decree may appeal to the Supreme Court in the same manner as other appeals are taken to the Supreme Court of this state; provided, however, that appeals taken from a trial court's decision in a proceeding for an adjudication of juvenile delinquency or in a proceeding certifying a juvenile to stand trial as an adult or denying such certification shall be taken to the Court of Criminal Appeals in the same manner as other appeals are taken to the Court of Criminal Appeals of this state, and provided further that an order either certifying a juvenile to stand trial as an adult or denying such certification shall be a final order, appealable when entered.

B. The record on appeal of an order of adjudication or of an order certifying or denying certification of a juvenile to stand trial as an adult shall be completed and the appeal perfected within sixty (60) days after the date of the order.

C. The pendency of an appeal thus taken shall not suspend the order of the district court regarding a child, nor shall it discharge the child from the custody of that court or of the person, institution or agency to whose care such child has been committed, unless the Supreme Court or the Court of Criminal Appeals shall so order. The pendency of an appeal from an order of adjudication shall not prevent the district court from holding a dispositional hearing unless the appellate court shall so order. The pendency of an appeal from an order certifying a juvenile to stand trial as an adult shall not prevent the commencement of criminal proceedings against the juvenile unless stayed by the judge who issued the order of certification or by the appellate court. If the Supreme Court or the Court of Criminal Appeals does not dismiss the proceedings and discharge the child, it shall affirm or modify the order of the

district court and remand the child to the jurisdiction of that court for supervision and care; and thereafter the child shall be and remain under the jurisdiction of the district court in the same manner as if such court had made such order without an appeal having been taken.

SECTION 108. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-503 of Title 10, unless there is created a duplication in numbering, reads as follows:

In the published opinions of the appellate courts of this state and in juvenile proceedings under the Juvenile Code, the initial of the child's surname shall be used rather than his name.

#### Part 6. Specific Requirements

SECTION 109. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-601 of Title 10, unless there is created a duplication in numbering, reads as follows:

In placing a child in the custody of an individual or in the custody of a private agency or institution, the court shall, if at all possible, select a person or an agency or institution governed by persons of the same religious faith as that of the parents of the child, or in case of a difference in the religious faith of the parents, then of the religious faith of the child, or, if the religious faith of the child is not ascertainable, then of the faith of either of the parents. However, it shall be left to the discretion of the judge to place children where their total needs will best be served.

SECTION 110. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-602 of Title 10, unless there is created a duplication in numbering, reads as follows:

In proceedings pursuant to this Code, the court may allow mileage as in civil actions to witnesses and reimbursement for expert witnesses but such shall not be tendered in advance of the hearing.

SECTION 111. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-603 of Title 10, unless there is created a duplication in numbering, reads as follows:

A willful violation of any provision of an order of the court issued under the provisions of the Juvenile Code shall constitute indirect contempt of court and shall be punishable as such.

Punishment for any such act of contempt shall not exceed a fine of Three Hundred Dollars (\$300.00), or imprisonment in the county jail for not more than thirty (30) days, or both such fine and imprisonment.

SECTION 112. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-604 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Any judge who is assigned to hear juvenile cases in counties having a population in excess of one hundred thousand (100,000) may appoint a suitable person or persons to act as referee or referees, to hold office at the pleasure of the judge. Such referees shall be lawyers and shall be specially qualified for their duties. The judge may direct that any case, or all cases of a class or within a county to be designated by the judge, shall be heard in the first instance by a referee in the manner provided for the hearing of cases by the court. Upon the conclusion of the hearing in each case, the referee shall transmit to the court all papers relating to the case, together with the referee's findings of fact and conclusions of law, and recommendations in writing.

B. Notice of the referee's findings and recommendations shall be given to the parent, guardian or custodian of the child or to any other person concerned whose case has been heard by the referee. A hearing by the court shall be allowed upon the filing with the court of a request for such hearing, if the request is filed within three (3) days after the service of such notice. In case no hearing by the court is requested, the findings and recommendations of the

referee, when confirmed by an order of the court, shall become the decree of the court.

SECTION 113. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-605 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. In any hearing concerning the status of a child, the court, if the court determines the parent is able to pay, shall have authority to adjudge the parent, who has been served with notice of the hearing, liable and accountable for the care and maintenance of any child or children, and to:

1. Reimburse the court fund, in whole or in part, for any disbursements made from the court fund in conjunction with the case, including, but not limited to, court-appointed attorney's fees, expert witness fees, sheriff's fees, witness fees, transcripts and postage; and

2. Pay for the care and maintenance of the child, including, but not limited to, all or some part of placement services, medical care and mental health services, as authorized by law.

B. 1. If any parent is financially able but has willfully failed to pay court costs or to reimburse the court fund as ordered by the court or has willfully failed to pay court costs and to reimburse the court fund as ordered by the court, the parent may be held in contempt of court and, upon conviction, shall be punished pursuant to Section 566 of Title 21 of the Oklahoma Statutes.

2. After a judicial determination that the child, the parent of the child, or both such child or parent, are able to pay the costs and to reimburse the court fund or pay the costs and to reimburse the court fund in the case in installments, the court may order the costs and such reimbursement of the court fund to be paid in installments and shall set the amount and due date of each installment.

3. A parent may be found to be financially able to pay court costs or to reimburse the court fund or to pay court costs and to reimburse the court fund in installments even though the court has previously found the parent indigent.

C. The court shall have all powers incident to such orders necessary for their enforcement, including the power and authority to require bond or other security for the payment of such order; and may resort to execution and the power of punishment for contempt for noncompliance with such order.

D. The court shall have the right to increase, decrease, or otherwise modify its orders for care and maintenance, as the conditions or needs of the child or children may require and the ability of the person or persons held to pay may afford. The court may order support payments to be made direct to the person, organization or institution having the care and custody of the child or children, or directly to the clerk of the court.

E. All such funds ordered and paid to the clerk shall be accounted for; provided, that when payments are made in advance for any child, and custody of the court is terminated before the end of the period, then the clerk may refund, by proper voucher, the unused or unaccrued portion of such payment; or the refund may be authorized and paid on claim properly verified and approved by the judge.

#### Part 7. Placements

SECTION 114. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-701 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. 1. Whenever the court transfers custody of a child as provided in this article, the person, institution, agency, or department receiving custody shall have the right to, and shall be responsible for, the care and control of the child, and shall have the duty and authority to provide food, clothing, shelter, medical

care, education, and discipline for the child. Except for an emergency psychiatric admission pursuant to the Inpatient Mental Health Treatment of Children Act, said person, institution, agency or department may provide or arrange for the provision of an inpatient mental health evaluation or inpatient mental health treatment of such child only pursuant to a court order as provided by the Inpatient Mental Health Treatment of Children Act. Nothing in this subsection shall be interpreted to prohibit or preclude the provision of outpatient mental health services, including an outpatient mental health examination, counseling, educational, rehabilitative or other similar services to said child, as necessary and appropriate, in the absence of a specific court order for such services.

2. The medical care, surgery and extraordinary care shall be charged to the appropriate agency where the child qualifies for the care under law, rule, regulation or administrative order or decision.

3. Nothing in this subsection shall be interpreted to:

- a. relieve a parent of the obligation to provide for the support of the child as otherwise provided by law, or
- b. limit the authority of the court to order a parent to make support payments or to make payments or reimbursements for medical care or treatment, including mental health care or treatment, to the person, institution, agency or Department having custody of the child, or
- c. abrogate the right of the child to any benefits provided through public funds for which the child is otherwise eligible.

4. No person, agency or institution shall be liable in a civil suit for damages for authorizing or not authorizing surgery or

extraordinary care in an emergency, as determined by competent medical authority.

B. The person, institution, agency, or department having legal custody of a child pursuant to an order of the court shall receive notice of court proceedings regarding the child as provided in Sections 95 and 102 of this act and shall be allowed to intervene upon application as a party to all court proceedings pertaining to the care and custody of the child including, but not limited to: adjudication, disposition, review of disposition, termination of parental rights and proceedings pursuant to the Inpatient Mental Health Treatment of Children Act.

SECTION 115. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-5-702 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The finding that a child is delinquent or in need of supervision shall not deprive the parents of the child of their parental rights, but a court may terminate the rights of a parent to a child for any reason authorized in the Children's Code. The provision of Chapter 51 of this title shall govern termination of parental rights.

#### Part 8. Youthful Offender Act

SECTION 116. AMENDATORY Section 18, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.15), is amended to read as follows:

Section 1507.15 Sections ~~18~~ 1507.15 through ~~29~~ 1507.26 of this ~~act~~ title shall be known and may be cited as the "Youthful Offender Act".

SECTION 117. AMENDATORY Section 19, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.16), is amended to read as follows:

Section 1507.16 A. For the purposes of the Youthful Offender Act:

1. "Youthful offender" means a person:

- a. thirteen (13), fourteen (14), fifteen (15), sixteen (16) or seventeen (17) years of age who is charged with murder in the first degree and certified as a youthful offender as provided by Section ~~22~~ 1507.19 of this ~~act~~ title,
- b. fifteen (15), sixteen (16), and seventeen (17) years of age and charged with a crime listed in subsection A of Section ~~23~~ 1507.20 of this ~~act~~ title, and
- c. fourteen (14), fifteen (15), sixteen (16), or seventeen (17) years of age and certified as a youthful offender as provided by Section ~~24~~ 1507.21 of this ~~act~~ title.

2. "Sentenced as a youthful offender" means the imposition of a court order making disposition of a youthful offender as provided by Section ~~26~~ 1507.23 of this ~~act~~ title.

B. It is the purpose of the Youthful Offender Act to better ensure the public safety by holding youths accountable for the commission of serious crimes, while affording courts methods of rehabilitation for those youths the courts determine, at their discretion, may be amenable to such methods. It is the further purpose of the Youthful Offender Act to allow those youthful offenders whom the courts find to be amenable to rehabilitation by the methods prescribed in ~~this act~~ the Youthful Offender Act to be placed in the custody or under the supervision of the Office of Juvenile Affairs for the purpose of accessing the rehabilitative programs provided by that Office and thereby, upon good conduct and successful completion of such programs, avoid conviction for a crime.

It is further the intention of the Legislature to extend the provisions of the Youthful Offender Act to provide for the continuation of a youthful offender in the custody of or under the

supervision of the Office of Juvenile Affairs until age twenty-three (23) as resources become available for such purpose.

SECTION 118. AMENDATORY Section 20, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.17), is amended to read as follows:

Section 1507.17 A. Except as otherwise provided by the Youthful Offender Act, a child who is charged with having violated any state statute or municipal ordinance other than those enumerated in Sections ~~22~~ 1507.19 and ~~23~~ 1507.20 of this ~~act~~ title shall not be tried in a criminal action or a youthful offender proceeding but in a juvenile proceeding.

B. If, during the pendency of a criminal or quasi-criminal charge against any person, it shall be ascertained that the person was a child at the time of committing the alleged offense, the district court or municipal court shall transfer the case, together with all the papers, documents and testimony connected therewith, to the juvenile division of the district court. The division making such transfer shall order the child to be taken forthwith to the place of detention designated by the juvenile division, to that division itself, or release such child to the custody of some suitable person to be brought before the juvenile division.

C. Nothing in this section shall be construed to prevent the exercise of concurrent jurisdiction by another division of the district court or by municipal courts in cases involving children wherein the child is charged with the violation of a state or municipal traffic law or ordinance.

SECTION 119. AMENDATORY Section 21, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.18), is amended to read as follows:

Section 1507.18 A. When a person is certified to stand trial as an adult or a youthful offender as provided by the Youthful Offender Act, the accused person shall have all the statutory and

constitutional rights and protections of an adult accused of a crime. All proceedings shall be as for a criminal action and the provisions of Title 22 of the Oklahoma Statutes shall apply, except as provided for in the Youthful Offender Act.

B. Proceedings against a youthful offender shall be heard by a judge of the district court having juvenile docket responsibility, provided, the trial of a youthful offender may be heard by the judge of the district court having juvenile docket responsibility or by any other division of the court which would have trial jurisdiction of an adult charged with the same offense.

C. Upon arrest and detention of a person subject to the provisions of Section ~~22~~ 1507.19 or ~~23~~ 1507.20 of this ~~act~~ title, or upon certification of a child as a youthful offender, the person has the same right to be released on bail as would an adult in the same circumstances and, if detained, shall be detained in a juvenile detention facility.

D. Upon a verdict of guilty or entry of a plea of guilty or nolo contendere by a youthful offender who has been certified for the imposition of an adult sentence as provided by Section ~~25~~ 1507.22 of this ~~act~~ title the person may be detained as an adult and, if incarcerated, may be incarcerated with the adult population.

E. A child or youthful offender shall be tried as an adult in all subsequent criminal prosecutions, and shall not be subject to the jurisdiction of the juvenile court or youthful offender processes in any further proceedings if:

1. The child or youthful offender has been certified to stand trial as an adult pursuant to any certification procedure provided by law; or

2. The youthful offender has been certified for the imposition of an adult sentence as provided by Section ~~25~~ 1507.22 of this ~~act~~ title and is subsequently convicted of the alleged offense or

against whom the imposition of judgment and sentencing has been deferred.

F. Except as provided by Section ~~23~~ 1507.20 of this ~~act~~ title, a person who has been prosecuted and sentenced as a youthful offender shall be prosecuted as a youthful offender in all subsequent criminal proceedings until the youthful offender has attained eighteen (18) years of age.

All proceedings for the commission of a crime committed after a youthful offender has reached eighteen (18) years of age shall be adult proceedings.

G. When a person who has been sentenced as a youthful offender is placed in the custody or under the supervision of the Office of Juvenile Affairs, if the youthful offender has not been previously discharged by the court, within the thirty (30) days immediately preceding the date on which the youthful offender becomes twenty (20) years of age, the court shall hold a review hearing and shall make further orders regarding the youthful offender as provided by Section ~~27~~ 1507.24 of this ~~act~~ title.

SECTION 120. AMENDATORY Section 22, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.19), is amended to read as follows:

Section 1507.19 A. Any person thirteen (13), fourteen (14), fifteen (15), sixteen (16) or seventeen (17) years of age who is charged with murder in the first degree shall be held accountable for his acts as if he were an adult; provided, the person may be certified as a youthful offender as provided by this section.

B. 1. Upon the filing of an adult criminal 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 youthful

offender to the juvenile division of the district court for the purpose of prosecution as a youthful offender.

2. 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.

3. 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 thorough 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.

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

C. 1. The accused person shall file a motion for certification 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.

2. 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 youthful offender.

D. 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:

1. Whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;

2. Whether the offense was against persons, and, if personal injury resulted, the degree of personal injury;

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;

4. The sophistication and maturity of the accused person and his capability of distinguishing right from wrong as determined by consideration of his psychological evaluation, home, environmental situation, emotional attitude and pattern of living;

5. The prospects for adequate protection of the public if the accused person is processed through the youthful offender system;

6. The likelihood of reasonable rehabilitation of the accused person if he is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court; and

7. Whether the offense occurred while the accused person was escaping or on escape status from an institution for youthful offenders or delinquent children.

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.

E. Upon completion of the criminal preliminary hearing, if the accused person is certified as a youthful offender to the juvenile division of the district court for the purpose of prosecution as a youthful offender, ~~then~~ all court records relative to the accused person and ~~this~~ the charge for which the accused person is certified as a youthful offender shall be expunged and any mention of the accused person shall be removed from public record.

F. An order certifying a person as a youthful offender or denying the request for certification as a youthful offender shall be a final order, appealable when entered.

G. If the accused person is prosecuted as an adult and is subsequently convicted of the alleged offense or against whom the imposition of judgment and sentencing has been deferred, the person may be incarcerated with the adult population and shall be prosecuted as an adult in all subsequent criminal proceedings.

SECTION 121. AMENDATORY Section 23, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.20), is amended to read as follows:

Section 1507.20 A. Any person fifteen (15), sixteen (16) or seventeen (17) years of age who is charged with:

1. Murder in the second degree;
2. Kidnapping;
3. Manslaughter in the first degree;
4. Robbery with a dangerous weapon or attempt thereof;
5. Robbery with a firearm or attempt thereof;
6. Rape in the first degree or attempt thereof;
7. Rape by instrumentation or attempt thereof;
8. Sodomy;
9. Lewd molestation;
10. Arson in the first degree or attempt thereof;

11. Burglary in the first degree;  
12. Shooting with intent to kill;  
13. Aggravated assault and battery of a police officer;  
14. Discharging a firearm, crossbow or other weapon from a vehicle pursuant to subsection B of Section 652 of Title 21 of the Oklahoma Statutes;

15. Intimidating a witness;  
16. Trafficking in illegal drugs;  
17. Assault and battery with a deadly weapon;  
18. Maiming; and  
19. The commission of a felony after three or more prior adjudications as a delinquent,  
shall be held accountable for his acts as a youthful offender.

B. After a preliminary investigation conducted by the Office of Juvenile Affairs or a juvenile bureau, whichever is applicable for the county, the district attorney may file a petition alleging the person to be a delinquent or may file a youthful offender information against the accused person.

C. 1. Upon the filing of youthful offender information against such alleged youthful offender, 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, and to have an attorney present.

2. The warrant shall be personally served together with a certified copy of the information on the alleged youthful offender and on a custodial parent, guardian or next friend of the accused person.

3. When personal service of a custodial parent, guardian or next friend of the alleged youthful offender 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.

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

D. 1. The accused person may file a motion for certification to the juvenile system before the start of the criminal preliminary hearing:

- a. 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,
- b. 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.

2. If no motion to certify the accused person to the juvenile system has been filed, at the conclusion of the criminal preliminary hearing the court may on its own motion hold a hearing on the matter of the certification of the accused youthful offender to the juvenile system.

3. The court shall rule on the certification motion before ruling on whether to bind the accused over for trial. When ruling on the certification motion, the court shall give consideration to the following guidelines:

- a. the seriousness of the alleged offense to the community, and whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner,
- b. whether the offense was against persons or property, greater weight being given to offenses against persons, and if personal injury resulted, the degree of personal injury,
- c. the sophistication and maturity of the juvenile and his capability of distinguishing right from wrong as determined by consideration of his psychological evaluation, home, environmental situation, emotional attitude and pattern of living,
- d. the record and previous history of the accused person, including previous contacts with community agencies, law enforcement agencies, schools, juvenile courts and other jurisdictions, prior periods of probation or prior commitments to juvenile institutions,
- e. the prospects for adequate protection of the public,
- f. the likelihood of reasonable rehabilitation of the juvenile if he is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court, and
- g. whether the offense occurred while the youthful offender was escaping or in an escape status from an institution for delinquent children.

4. In its decision on the certification of the accused person the court 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.

5. An order certifying a person or denying such certification to the juvenile system shall be a final order, appealable when entered.

E. Upon conviction, sentence may be imposed as a sentence for a youthful offender as provided by Section ~~26~~ 1507.23 of this ~~act~~ title. If the youthful offender sentence is imposed as an adult sentence, the juvenile may be incarcerated with the adult population.

SECTION 122. AMENDATORY Section 24, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.21), is amended to read as follows:

Section 1507.21 A. If a child age fourteen (14) is charged with an offense listed in Section ~~23~~ 1507.20 of this ~~act~~ title, or a child age sixteen (16) or seventeen (17) years of age is charged with a felony weapons offense, possession of an illegal drug with intent to distribute, distribution of an illegal drug or rape in the second degree, the court on its own motion or at the request of the district attorney shall conduct a preliminary hearing to determine whether or not there is prosecutive merit to the complaint. If the court finds that prosecutive merit exists, it shall continue the hearing for a sufficient period of time to conduct an investigation and further hearing to determine if the child should be held accountable for his acts as if he were a youthful offender if he should be found to have committed the alleged act or omission.

Consideration shall be given to:

1. The seriousness of the alleged offense to the community, and whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;

2. Whether the offense was against persons or property, greater weight being given to offenses against persons, and if personal injury resulted, the degree of personal injury;

3. The sophistication and maturity of the juvenile and his capability of distinguishing right from wrong as determined by consideration of his psychological evaluation, home, environmental situation, emotional attitude and pattern of living;

4. The record and previous history of the accused person, including previous contacts with community agencies, law enforcement agencies, schools, juvenile courts and other jurisdictions, prior periods of probation or prior commitments to juvenile institutions;

5. The prospects for adequate protection of the public;

6. The likelihood of reasonable rehabilitation of the juvenile if he is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court; and

7. Whether the offense occurred while the juvenile was escaping or in an escape status from an institution for delinquent children.

After such investigation and hearing, the court may in its discretion proceed with the juvenile proceeding, or it shall state its reasons in writing and shall certify that such child shall be held accountable for his acts as a youthful offender and shall be held for proper criminal proceedings for the specific offense charged. The trial of a youthful offender may be heard by the judge of the district court having juvenile docket responsibility or by any other division of the court which would have trial jurisdiction of an adult charged with the same offense. The juvenile proceeding shall not be dismissed until the youthful offender proceeding has commenced and if no youthful offender proceeding commences within thirty (30) days of the date of such certification, unless stayed pending appeal, the court shall proceed with the juvenile proceeding and the certification shall lapse.

If not included in the original summons, notice of a hearing to consider whether a child should be certified for trial as a youthful offender shall be given to all persons who are required to be served with a summons at the commencement of a juvenile proceeding, but publication in a newspaper when the address of a person is unknown is not required. The purpose of the hearing shall be clearly stated in the notice.

B. Prior to the entry of any order of adjudication, any child in custody shall have the same right to be released upon bail as would an adult under the same circumstances. Subsequent to the entry of an order that a child stand trial as a youthful offender, said child shall have all the statutory and constitutional rights and protections of an adult accused of a crime but shall, while awaiting trial and for the duration of the trial, be detained in a juvenile detention facility. Upon conviction, the person may be sentenced as a youthful offender. If a child is certified to stand trial as a youthful offender, the court shall make every effort to avoid duplication of the preliminary hearing and the prosecutorial hearing in the juvenile certification process. The parties may jointly stipulate to the court that the record for the prosecutorial merit hearing in the juvenile proceeding be used for all or part of the preliminary hearing.

C. An order either certifying a person as a child pursuant to subsection A of this section or denying such certification shall be a final order, appealable when entered.

SECTION 123. AMENDATORY Section 25, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.22), is amended to read as follows:

Section 1507.22 A. Whenever the district attorney believes that there is no reasonable expectation that the accused person would reasonably complete a plan of rehabilitation and the public would not be adequately protected if the person were to be sentenced

as a youthful offender, and should receive an adult sentence, the district attorney shall file a motion for consideration of the imposition of the sentence as for an adult if the person is convicted:

1. Not less than ten (10) days prior to the trial; or
2. At the time of a guilty plea or plea of nolo contendere.

B. Upon the filing of such motion and prior to the trial or before the entry of the plea of guilty or nolo contendere the court shall hold a hearing to determine the matter.

C. 1. The court shall order an investigation to be conducted unless waived by the ~~youthful offender~~ accused person with approval of the court. Any such investigation required shall be conducted by the Department of Juvenile Justice.

2. At the hearing the court shall consider:

- a. whether the offense was committed in an aggressive, violent, premeditated or willful manner,
- b. whether the offense was against persons or property, greater weight being given for offenses against persons and, if personal injury resulted, the degree of injury,
- c. the sophistication and maturity of the juvenile and his capability of distinguishing right from wrong as determined by consideration of his psychological evaluation, home, environmental situation, emotional attitude and pattern of living,
- d. the record of the person including previous involvements with law enforcement agencies or courts, or prior periods of probation or prior commitments to institutions for delinquent behavior, and the previous history of the person with community agencies and schools,
- e. the prospects for adequate protection of the public,

- f. the likelihood of reasonable rehabilitation of the youthful offender if he is found to have committed the alleged offense, by the use of procedures and facilities currently available to the court if the accused person is processed through the youthful offender system, and
- g. whether the offense occurred while the person was escaping from a secure facility for youthful offenders or delinquent children.

D. After the hearing and consideration of the report of the investigation, the court shall certify the person as eligible for the imposition of an adult sentence only if it finds by clear and convincing evidence that there is no reasonable expectation that the accused person would reasonably complete a plan of rehabilitation and the public would not be adequately protected if the person were to be sentenced as a youthful offender.

E. If the person has been certified as eligible to be sentenced as an adult, the court shall, upon a verdict of guilty or the entry of a plea of guilty or nolo contendere, impose sentence as provided by law for an adult for punishment of the offense committed, subject to the power and authority of the court to suspend or delay sentence, defer judgment, or otherwise structure, limit, or modify sentence as provided in Title 22 of the Oklahoma Statutes or the Youthful Offender Act. When sentence is imposed pursuant to this paragraph, the person shall be treated as an adult for purposes of supervision, incarceration and in all subsequent criminal proceedings.

SECTION 124. AMENDATORY Section 26, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.23), is amended to read as follows:

Section 1507.23 A. Upon a verdict of guilty or a plea of guilty or nolo contendere of a youthful offender and prior to the imposition of a youthful offender sentence by the court:

1. A youthful offender presentence investigation shall be conducted unless waived by the youthful offender with approval of the court. Any presentence investigation required shall be conducted by the Department of Juvenile Justice; and

2. The court shall conduct a hearing and shall consider:

- a. whether the offense was committed in an aggressive, violent, premeditated or willful manner,
- b. whether the offense was against persons or property, greater weight being given to offenses against persons when personal injury resulted and the degree of injury,
- c. the sophistication and maturity of the juvenile and his capability of distinguishing right from wrong as determined by consideration of his psychological evaluation, home, environmental situation, emotional attitude and pattern of living,
- d. the record of the person including previous involvements with law enforcement agencies or courts, or prior periods of probation or prior commitments to institutions for delinquent behavior, and the previous history of the person with community agencies and schools,
- e. the prospects for adequate protection of the public,
- f. the likelihood of reasonable rehabilitation of the youthful offender by the use of procedures and facilities currently available to the court if the accused person is processed through the youthful offender system, and

g. whether the offense occurred while the person was escaping from a secure facility for youthful offenders or delinquent children.

B. After the hearing and consideration of the report of the presentence investigation, the court may defer, delay or sentence the person as a youthful offender and without entering a judgment of guilty, defer further proceedings for a period not to exceed ten (10) years and enter a dispositional order regarding the youthful offender. The court may make the following dispositional orders regarding a youthful offender:

1. Place the youthful offender under the supervision of the Office of Juvenile Affairs; and

2. Place the youthful offender in the custody of the Office of Juvenile Affairs.

In addition to or in lieu of the placement of the youthful offender in the custody of or under the supervision of the Office of Juvenile Affairs, the court may issue orders with regard to the youthful offender as provided by law for the disposition of a child adjudicated delinquent.

C. Placement of a youthful offender in the custody or under the supervision of the Office of Juvenile Affairs as provided in this section shall be for a determinate period of time not to exceed ten (10) years provided, ~~said~~ the determinate period of custody or supervision shall not exceed the amount of time of a sentence of an adult convicted of the same offense.

SECTION 125. AMENDATORY Section 27, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.24), is amended to read as follows:

Section 1507.24 A. Whenever a youthful offender is placed in the custody of or under the supervision of the Office of Juvenile Affairs, the Office shall within thirty (30) days prepare and file with the court a written rehabilitation plan for the youthful

offender. The rehabilitation plan shall include but not be limited to:

1. When the youthful offender is placed in the custody of the Office of Juvenile Affairs, the placement of the youthful offender;

2. Clearly stated, measurable objectives which the youthful offender is expected to achieve; and

3. The services that will be provided to the youthful offender by the Department of Juvenile Justice to assist the youthful offender to achieve the objectives.

B. Whenever a youthful offender is placed in the custody or under the supervision of the Office of Juvenile Affairs as provided by the Youthful Offender Act, the court shall conduct a semiannual review based upon written reports of the youth's conduct, progress and condition. Written reports concerning the conduct, progress and condition of a youthful offender shall be submitted to the court prior to scheduled reviews by the Department of Juvenile Justice. Such reports shall include a written report of the youthful offender with respect to the rehabilitation plan. Copies of those reports shall be provided by the agency to the youthful offender, his counsel, parent or guardian if the youthful offender is less than eighteen (18) years of age, and the district attorney. The court shall consider any timely written response to the agency report before concluding its review.

C. The court may schedule a semiannual review for hearing in open court, after notice, at its discretion and may schedule such other hearings, after notice, as the court deems necessary. The court shall hold a review hearing for good cause shown, upon the motion of the district attorney, the Department of Juvenile Justice, or the youthful offender for the purpose of making a determination as to:

a. the discharge of the youthful offender, or

b. a change in the custody status of the youthful offender. For the purpose of this section, "change in the custody status" means a revocation of an order of probation or supervision, revocation of parole, or a transfer of custody or supervision to the Department of Corrections.

D. If the youthful offender has not been previously discharged, the court shall hold a review hearing within the thirty (30) days immediately preceding the date the youthful offender becomes twenty (20) years of age.

E. A review hearing shall be conducted in open court after notice to the youth, his counsel, parent or guardian if the youthful offender is less than eighteen (18) years of age, the Department of Juvenile Justice, and the appropriate district attorney.

F. At the conclusion of any review hearing in open court and after consideration of all reports and other evidence properly submitted to the court, the court may:

1. Order the youthful offender discharged without a court judgment of guilt, and order the verdict or plea of guilty or plea of nolo contendere expunged from the record as provided in paragraphs 1 through 5 of subsection C of Section 991c of Title 22 of the Oklahoma Statutes and dismiss the charge with prejudice to any further action if the court finds that the youthful offender has reasonably completed the rehabilitation plan and objectives and that such dismissal will not jeopardize public safety;

2. Revoke an order of probation and place the youthful offender in the custody of the Office of Juvenile Affairs;

3. Revoke a community supervision placement by the Department of Juvenile Justice; or

4. Enter a judgment of guilt and proceed as provided in Section 991a of Title 22 of the Oklahoma Statutes, including transfer of the youthful offender to the custody or supervision of the Department of

Corrections for the remainder of the youthful offender sentence, if the court finds that the youthful offender has:

- a. injured or endangered the life or health of another person by his violent behavior,
- b. escaped or attempted to escape from an institution or other secure facility,
- c. committed a crime while in the custody or under the supervision of the Department of Juvenile Justice as shown by ~~a~~:
  - (1) a judgment entered following a verdict of guilty or a plea of guilty or nolo contendere, or
  - (2) ~~by~~ proof upon the motion of the district attorney and after a hearing sufficient to establish a preponderance of evidence that the youth committed a crime while in the custody or under the supervision of the Office of Juvenile Affairs, or
- d. failed substantially to comply with a written plan of rehabilitation or failed substantially to achieve reasonable treatment objectives and is within thirty (30) days of his twentieth birthday.

G. For the purpose of calculating time served to be applied toward any sentence imposed upon a youthful offender, in the event a youthful offender has been placed in the custody of the Office of Juvenile Affairs, he shall receive credit for the time spent in the custody of the Office of Juvenile Affairs. Upon commitment to the Department of Corrections, a youthful offender shall also receive other credits as provided by law, ~~if any, as any~~ for an adult inmate.

SECTION 126. AMENDATORY Section 28, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.25), is amended to read as follows:

Section 1507.25 A. Whenever a youthful offender is committed to the custody of the Office of Juvenile Affairs, the Department of Juvenile Justice may:

1. Place the youthful offender in a state training school or other institution or facility maintained by the state for delinquents or youthful offenders;

2. Place the youthful offender in a group home or community residential facility; or

3. Place the youthful offender under community supervision prior to or after a period of placement in one or more of the facilities referred to in paragraphs 1 and 2 of this subsection. The Department of Juvenile Justice may place a youthful offender in his own home, or an independent living or other similar living arrangement within the community of the residence of the youthful offender only upon the approval of the court; provided the court shall not prohibit the reintegration of the youthful offender into the community except upon finding that the youthful offender has not reasonably completed the rehabilitation plan objectives established as preconditions for reintegration into the community and that the public would not be adequately protected if the youthful offender is reintegrated into the community.

B. The Department of Juvenile Justice shall be responsible for the care and control of a youthful offender placed in the custody of the Office of Juvenile Affairs, and shall have the duty and the authority to provide food, clothing, shelter, ordinary medical care, education, discipline and in an emergency to authorize surgery or other extraordinary care. Said medical care, surgery and extraordinary care shall be charged to the appropriate agency where the youthful offender qualifies for said care under law, rule, regulation or administrative order or decision. Nothing in this section shall abrogate the right of a youthful offender to any benefits provided through public funds nor the parent's statutory

duty or responsibility to provide said necessities; further, no person, agency or institution shall be liable in a civil suit for damages for authorizing or not authorizing surgery or extraordinary care in an emergency, as determined by competent medical authority.

C. A youthful offender in the custody of the Office of Juvenile Affairs shall:

1. Be entitled to all the rights afforded juvenile delinquents pertaining to the conditions and restrictions in facilities where delinquents may be placed, including any due process afforded delinquents in regard to movement from a nonsecure to a secure placement;

2. Have access to the same or comparable programs and services available to a delinquent in the custody of or under the supervision of the Office of Juvenile Affairs; and

3. As appropriate to the age and circumstances of the youthful offender, be provided education, employment, and employment skills and vocational and technical or higher education services, apprenticeship programs and similar opportunities.

SECTION 127. AMENDATORY Section 29, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1507.26), is amended to read as follows:

Section 1507.26 A. Upon the motion of a person who has been convicted and sentenced as a youthful offender, with the recommendation of the sentencing court, the Governor may grant a full and complete pardon and restore citizenship to any person who has been convicted and sentenced as a youthful offender and who has completed the sentence or been discharged from parole.

B. Upon the motion of a person convicted as a youthful offender, and three (3) years after the expiration of the sentence of the youthful offender, the court may set aside the conviction if:

1. The court has previously found that the person has reasonably complied with the rehabilitation plan and objectives;

2. The person was discharged from supervision by the Office of Juvenile Affairs, or was granted early discharge from such supervision by the court; or

3. The person has completed the sentence imposed as a result of his first conviction as a youthful offender and has no subsequent convictions.

If a conviction is set aside pursuant to this subsection, the ~~person~~ youthful offender shall thereafter be released from all penalties and disabilities resulting from the offense for which he was convicted, including but not limited to, any disqualification for any employment or occupational license, or both, created by any other provision of law. The court may in addition order any law enforcement agency to produce all files and records pertaining to said arrest and conviction of the youthful offender and shall order the clerk of the court to destroy or obliterate the entire file and record of the case, including docket sheets, index entries, court records, summons, warrants or records in the office of the clerk or which have been produced by a law enforcement agency in which the name of the youthful offender is mentioned. The court may order probation officers and counselors to destroy all records, reports, and social and clinical studies relating to said youthful offender that are in their possession except when said documents are necessary to maintain state or federal funding.

## ARTICLE VI

### Records

SECTION 128. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-6-101 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The court shall make and keep records of all cases brought before the court pursuant to this chapter. The court shall devise and cause to be printed such forms for social and legal records and such other papers as may be required.

B. As used in this title:

1. "Records" shall include but not be limited to written or printed documents, papers, logs, reports, files, case notes, films, photographs, audio or visual tape recordings, and shall include information entered into and maintained in an automated or computerized information system;

2. "Juvenile court record" means legal and social records other than adoption records, including but not limited to agency, law enforcement and district attorney's records, filed with the court that are related to a child who is the subject of a court proceeding pursuant to this chapter;

3. "Agency record" means records prepared, obtained or maintained by a public or private agency with regard to a child who is or has been under its care, custody or supervision or to a family member or other person living in the home of such child and shall include but not be limited to:

a. any study, plan, recommendation, assessment or report made or authorized to be made by such agency for the purpose of determining or describing the history, diagnosis, custody, condition, care or treatment of such child, or

b. any records made in the course of any investigation or inquiry conducted by an agency to determine whether a child is a delinquent child or a child in need of supervision;

4. "District attorney's records" means any records prepared or obtained by an office of a district attorney relating to juvenile cases and any records prepared or obtained for the prosecution of crimes against children that constitute a legal or social record of a child;

5. "Law enforcement records" means any contact, incident or similar reports, arrest records, disposition records, detention

records, fingerprints, or photographs related to a child and shall include but not be limited to reports of investigations or inquiries conducted by a law enforcement agency to determine whether a child is or may be subject to the provisions of this chapter as a delinquent child or a child in need of supervision. Law enforcement records pertaining to juveniles shall be maintained separately from records pertaining to adults;

6. "Nondirectory education records" means any records maintained by a public or private school, including a vocational-technical school, regarding a child who is or has been a student at the school which are categorized as private or confidential records pursuant to the federal Family Educational Rights and Privacy Act of 1974 and any rules promulgated pursuant to said act;

7. "Legal record" means any petition, docket, motion, finding, order, judgment, pleading, paper or other document, other than social records, filed with the court;

8. "Social record" means social studies and medical, psychological, clinical or other treatment reports or studies, educational records and agency records other than legal records filed with the court; and

9. "Participating agency" means any public or private agency that has entered into a contract or an interagency agreement under the Interlocal Cooperation Act in accordance with the rules and guidelines adopted pursuant to Section 620.6 of this title or the Serious and Habitual Juvenile Offender Act for the purpose of accessing and sharing information necessary for the care, treatment, and supervision of children and youth.

SECTION 129. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-6-102 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Except as provided by this section and except as otherwise specifically provided by state and federal laws, the following

records are confidential and shall not be open to the general public or inspected or their contents disclosed:

1. Juvenile court records;
2. Agency records;
3. District attorney's records;
4. Law enforcement records;
5. Nondirectory education records;
6. Social records.

B. Except as authorized by Sections 620.6 and 1125 through 1125.4 of this title and except as otherwise specifically provided by state and federal laws pertaining to the confidentiality of records and information and the inspection, release, disclosure, correction or expungement of such information, including but not limited to state and federal laws pertaining to education records, medical records, drug or alcohol treatment records, law enforcement, or social service records, the records listed in subsection A of this section shall be confidential and shall be inspected, released, disclosed, corrected or expunged only pursuant to an order of the court.

C. An order of the court authorizing the inspection, release, disclosure, correction or expungement of confidential records shall be entered by the court only after a review of the records by the court and a determination by the court, with due regard for the confidentiality of the records and the privacy of persons identified in the records, that a compelling reason exists and such inspection, release or disclosure is necessary for the protection of a legitimate public or private interest.

1. Any order authorizing the disclosure, release or inspection of said records pursuant to this subsection may be conditioned on such terms and restrictions as the court deems necessary and appropriate.

2. Upon the filing of a petition for an order of the court pursuant to this section, the court shall set a date for a hearing and shall provide for reasonable notice to the agency holding the records and the person who is the subject of the record if said person is eighteen (18) years of age or older or to the parents of a child less than age eighteen (18) who is the subject of the record, to the attorneys, if any, of such person, child or parents and any other interested party as ordered by the court. The hearing may be closed at the court's discretion.

D. Any agency or person may seek an order from the juvenile court prohibiting the release of information subject to disclosure without an order of the court pursuant to Sections 620.6 and 1125 through 1125.4 of this title. The court may, for good cause shown, prohibit the release of such information or authorize release of the information upon such conditions as the court deems necessary and appropriate.

E. In accordance with the provisions of the Serious and Habitual Juvenile Offender Act and Section 620.6 of this title:

1. Information included in the records listed in subsection A of this section may be entered in and maintained in the Juvenile Justice Information System and other automated information systems related to services to children and youth; and

2. Said information systems may be accessed by participating agencies as defined by subsection B of Section 128 of this act.

F. Nothing in Section 620.6 of this title shall be construed as:

1. Abrogating any privilege, including the attorney-client privilege, or affecting any limitation on such privilege found in any other statutes;

2. Limiting or otherwise affecting access of parties to a juvenile proceeding to records filed with or submitted to the court;

3. Limiting or otherwise affecting access of agencies to information subject to disclosure, review, or inspection by contract or as a condition for the receipt of public funds or participation in any program administered by the agency; and

4. Prohibiting the person or agency conducting a preliminary inquiry relating to an alleged delinquent act from providing information, as to the disposition of the matter by the district attorney, to the person or agency which referred the matter, including but not limited to whether a petition was filed or an alternative action taken, and the basis for such and the terms of any agreement entered into by the child for payment of restitution, including but not limited to community services.

SECTION 130. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-6-103 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Juvenile court records may be inspected, and their contents shall be disclosed, without a court order to the following upon showing of proper credentials:

1. The court having the child currently before it in any proceeding pursuant to this chapter, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, and court-appointed special advocates;

2. Members of review boards established pursuant to the Children's Code. In addition to juvenile court records, members of such review boards may inspect, without a court order, information including but not be limited to:

- a. psychological and medical records,
- b. placement history and information, including the names and addresses of foster parents,
- c. family assessments,

- d. treatment or service plans, and
- e. school records;

3. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to this chapter;

4. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of this chapter. Said attorney may also access other records listed in subsection A of Section 1125.1 of this title for use in the legal representation of the child;

5. Employees of juvenile bureaus in the course of their official duties pursuant to this title, and employees of the Department of Juvenile Justice in the course of their official duties pursuant to this title;

6. Employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under eighteen (18) years of age. Records or information disclosed pursuant to this paragraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation; provided, records pertaining to any alleged or adjudicated abuse or neglect of the person shall not be inspected or disclosed;

7. The Oklahoma Commission on Children and Youth as provided by Sections 601.2 and 601.6 of this title;

8. The Department of Juvenile Justice or other public or private agency or individual having court-ordered custody or custody pursuant to Department of Juvenile Justice placement of the child who is the subject of the record;

9. The child who is the subject of the record and the parents, legal guardian, legal custodian or foster parent of said child; and

10. A federally recognized Indian tribe in which the child who is the subject of the record is a member or is eligible to become a member of the tribe and is the biological child of a member of an Indian tribe pursuant to the Federal Indian Child Welfare Act, P.L. 95-608, and the Oklahoma Indian Child Welfare Act, Section 40 et seq. of this title; provided such Indian tribe, in the course of its official duties, is:

- a. investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody, or
- b. providing services to or for the benefit of a child including but not limited to protective, emergency, social and medical services, or
- c. the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

The records that are to be provided to Indian tribes under this subsection shall include all case records, reports, and documents as defined in Section 128 of this act.

B. In accordance with the rules adopted for such purpose pursuant to the Serious and Habitual Juvenile Offender Act, and Section 620.6 of this title, the records listed in subsection A of Section 129 of this act may be inspected and their contents disclosed without a court order to the following:

1. Participating agencies as defined by Section 128 of this act;

2. The following, provided that the inspection of records and disclosure authorized by this paragraph may be limited to summaries

or to information directly necessary for the purpose of such inspection or disclosure:

- a. pursuant to the provisions of this title, a person, agency, hospital or clinic authorized or directed by the court or the Department of Juvenile Justice to care for, treat, examine, evaluate or supervise a child or to treat, examine, or evaluate the parent, legal guardian or other adult person living in the home of the child,
- b. a legally recognized school that is not a participating agency in which the child who is the subject of the record is currently enrolled, and
- c. individuals or agencies engaged in legitimate research for educational, scientific or public purposes or for the purpose of an audit authorized by law. No information identifying the subjects of the records shall be made available or disclosed unless it is essential to the research or audit purpose; and

3. The chairman of any standing or special committee of the Legislature if a subpoena, authorized by law, has been issued by the committee requesting the records.

C. Records and their contents disclosed without an order of the court as provided by this section shall remain confidential. The use of such information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for commercial, political or any other unauthorized purpose.

SECTION 131. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-6-104 of Title 10, unless there is created a duplication in numbering, reads as follows:

Department of Juvenile Justice agency records pertaining to a child may be inspected and their contents disclosed without a court order to the following upon showing of proper credentials:

1. The court having the child currently before it in any proceeding pursuant to Title 10 of the Oklahoma Statutes, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, court-appointed special advocates, and members of review boards established pursuant to the Children's Code;

2. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to Title 10 of the Oklahoma Statutes or the prosecution of crimes against children;

3. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of Title 10 of the Oklahoma Statutes. Said attorney may also access other records listed in subsection A of Section 129 of this act for use in the legal representation of the child;

4. Employees of juvenile bureaus in the course of their official duties;

5. Employees of a law enforcement agency of this or another state and employees of a child protective service of another state or federally recognized Indian tribe in the course of their official duties pertaining to investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

6. Employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under eighteen (18)

years of age. Records or information disclosed pursuant to this subparagraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation; provided, records pertaining to any alleged or adjudicated abuse or neglect of the person shall not be inspected or disclosed;

7. The Oklahoma Commission on Children and Youth as provided by Sections 601.2 and 601.6 of this title;

8. Any public or private agency or person authorized by the Department of Juvenile Justice to diagnose, or provide care, treatment, supervision or other services to a child who is the subject of a report or record of delinquency, child abuse or neglect, or other adjudicatory category, provided the Department may limit such disclosure to summaries or to information directly necessary for the purpose of such disclosure;

9. Any federally recognized Indian tribe or state or county child protective services or child welfare agency providing for or supervising the diagnosis, care, treatment, supervision or other services provided such child; and

10. The parents of the child who is the subject of such records.

## ARTICLE VII

### Miscellaneous

SECTION 132. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-105 of Title 10, unless there is created a duplication in numbering, reads as follows:

Whenever parental rights of a child have been terminated and the child is committed to the Department of Juvenile Justice, the Executive Director of the Office of Juvenile Justice shall serve as the legal guardian of the estate of the child, until another guardian is legally appointed, for the purpose of preserving the child's property rights, securing for the child any benefits to

which he may be entitled under social security programs, insurance, claims against third parties, and otherwise, and receiving and administering such funds or property for the care and education of the child.

SECTION 133. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-106 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

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

SECTION 134. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-107 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Department of Juvenile Justice may provide for the care of a child who is in the custody of the Department and found by a court to be a child in need of mental health treatment pursuant to the Inpatient Mental Health Treatment of Children Act who is in the custody of the Department:

1. In the home of the child, the home of a relative of the child, a foster home, a group home, a transitional living program, an independent living program or in any other community-based child care facility under the jurisdiction or licensure of the Department appropriate for the care of the child, or as otherwise provided in

this Code, and shall provide for the outpatient care and treatment of the child; or

2. The Department shall place a child who has been committed by a court for inpatient mental health treatment as provided by the Inpatient Mental Health Treatment of Children Act in a Department-operated treatment center or other appropriate public or private mental health facility as determined by the Department. The Department may place such child with the Department of Mental Health and Substance Abuse Services upon the consent of the Commissioner of Mental Health and Substance Abuse Services or his designee. The Department shall establish a system for the regular review by a qualified mental health professional, at intervals of not more than thirty (30) days, of the case of each child in need of treatment in the custody of the Department and receiving inpatient care and treatment to determine whether or not continued inpatient treatment is required and appropriate for the child. When such child no longer requires inpatient care and treatment in a mental health treatment facility, the Department shall place the child as provided in paragraph 1 of this subsection.

B. In providing for the outpatient mental health care and the treatment of children in its custody, the Department shall utilize to the maximum extent possible and appropriate the services available through:

1. The guidance centers operated by the State Department of Health; and

2. The Department of Mental Health and Substance Abuse Services; and

3. Community-based private nonprofit agencies and organizations.

SECTION 135. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-108 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

SECTION 136. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-109 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

SECTION 137. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-110 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Office of Juvenile Affairs shall establish and maintain such methods of administration, including those necessary to establish and maintain a merit system of personnel administration, and shall prescribe such rules as it deems necessary for the efficient and effective operation of the children's institutions and facilities operated by the Department.

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

C. The superintendent of a children's institution or facility shall be the guardian of the person of each child in the institution or facility for the limited purpose of providing care and protection for any life-threatening situation that may arise.

SECTION 138. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-111 of Title 10, unless there is created a duplication in numbering, reads as follows:

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 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.

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 139 of this act.

SECTION 139. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-112 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

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

SECTION 140. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-113 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

B. The Department shall promptly and immediately report to the appropriate district attorney having jurisdiction any act or omission by persons employed by the Department, perpetrated, committed or suffered or allowed to be perpetrated or committed by

such person or persons upon any child in the custody of the Department, wherever housed, when such act or omission, upon conviction, would constitute an offense against the criminal laws of this state. Copies of all such reports shall be forwarded to the Attorney General.

SECTION 141. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-114 of Title 10, unless there is created a duplication in numbering, reads as follows:

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 children placed in Department-operated institutions and facilities:

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

2. Transfer from a children's institution to another facility under the jurisdiction of the Department, a child who has been adjudicated delinquent, if the Department believes it advisable to do so; transfer from a facility for children in need of supervision to another such facility, a child who has been adjudicated in need of supervision, provided that such transfer is consistent with the treatment needs of the child; transfer from a children's institution or facility to a state school for the mentally retarded, any child eligible for admission thereto, if the child appears to be in need of the care and treatment provided at such school; transfer from a

facility for delinquent or in need of supervision children to an appropriate facility or to the Department of Mental Health and Substance Abuse Services any child found by the court to be a child in need of mental health treatment pursuant to the Inpatient Mental Health Treatment of Children Act and committed to inpatient mental health treatment as provided by the Inpatient Mental Health Treatment of Children Act; and

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

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

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

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

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

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

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

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

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

C. The Department may participate in federal programs relating to delinquent children, or children in need of supervision, or institutions and services for such children; 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 142. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-115 of Title 10, unless there is created a duplication in numbering, reads as follows:

The Attorney General, the district attorney of the appropriate district and any other law enforcement official having jurisdiction, shall have the authority to bring civil actions against any person, officer or department, board, commission or other entity, to enforce the provisions of this chapter or to enforce any of the laws of this state protecting or applying in any way to children removed from the custody of the lawful parent or parents of the child by a disposition order of the court.

SECTION 143. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-116 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

B. The Department is:

1. Authorized to provide for community-based services by contract and if the Department decides to do so, the Department shall enter into agreements with designated youth services agencies for the establishment, maintenance and expansion of community-based youth services programs which may include, but not be limited to: Emergency shelter, diagnosis, crisis intervention, counseling, group work, case supervision, job placement, recruitment and training of volunteers, education programs, reintegration services, sexual abuse treatment, consultation, brokerage of services and agency coordination with emphasis on strengthening the family unit through parental education, family preservation and family counseling; and

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

C. The Department shall:

1. Establish guidelines for community-based juvenile justice and delinquency prevention services and programs, including but not limited to:

- a. counseling programs,
- b. recreational programs,

- c. job skills workshops,
- d. community public improvement projects,
- e. mediation programs,
- f. programs to improve relationships between families and law enforcement personnel,
- g. diagnostic evaluation services,
- h. substance abuse prevention programs, and
- i. independent living skills and self-sufficiency planning programs; and

2. Provide that personnel shall be available in each county of the state to assist local communities in developing and implementing community-based programs. The Department shall provide this service in each county either directly or by contract.

C. 1. The Department may contract with designated youth services agencies for community-based youth service programs. To be eligible to enter into such a contract with the Department a provider must be certified as a designated youth services agency. Such certification shall be granted in accordance with standards criteria promulgated by the Board of Juvenile Affairs. The Board shall consider any recommendations concerning standards and criteria by the Oklahoma Association of Youth Services and any similar organizations that are presented to the Commission prior to promulgation.

2. Until new standards and criteria are promulgated after the effective date of this chapter, the Department shall certify designated youth services agencies in accordance with the "Standards and Criteria for Community Youth Services and Emergency Youth Shelter Programs" previously promulgated by the Oklahoma Human Services Commission. The criteria for certification to provide community-based youth services programs for the Department shall be established by the Board of Juvenile Affairs and shall include but shall not be limited to requirements that the provider of services:

- a. maintain capability to deliver all or part of the compensable services required by law for community-based youth services,
- b. have adequate and qualified staff,
- c. maintain financial viability,
- d. provide a documented need for the community-based services to be offered, and

such other criteria as the Board determines appropriate.

3. Each provider that was designated as a designated youth services agency by the Department of Human Services prior to July 1, 1995, is hereby designated as a designated youth services agency to provide community-based youth services programs for the Department of Juvenile Affairs.

4. The Department shall provide appropriate community-based funds directly to designated youth services agencies with which the Department has contracts as the Department deems appropriate.

5. The Department, after the opportunity for an administrative hearing, may terminate the certification of an organization that:

- a. is seriously deficient in the administration of its program,
- b. fails to deliver services pursuant to the terms of the contract, or
- c. loses financial viability.

6. The Department, after the opportunity for an administrative hearing, shall terminate the certification of an organization that no longer meets the definition of a designated youth services agency or that no longer provides community-based services.

7. Any applicant organization denied designation pursuant to this section may request an administrative hearing from the Department.

SECTION 144. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-117 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. On or before October 1, 1996, the Department of Juvenile Justice shall implement an agency-wide management information system for all programs and services of the Department related to children, youth and families.

B. The management information system shall:

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

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

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

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

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

C. The management information system implemented by the Department of Juvenile Justice shall be integrated with the management information system implemented by the Department of Human Services.

SECTION 145. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-118 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Department of Juvenile Justice shall establish a planning process for the Department that provides for collaborative ongoing planning for the development of divisional and agency goals

and priorities for services to juveniles. Said planning process of the Department shall be developed with the assistance of the Policy Analysis Division or equivalent division within the Department and the division directors and shall provide for identification and assessment of needs, establishment of goals and priorities, and program implementation and monitoring, in a manner that actively involves all divisions and units within divisions.

1. The Department shall develop a three- to five-year plan for services provided by the Department. The plan shall be reviewed at least once a year and shall be modified as necessary.

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

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

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

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

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

SECTION 146. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-119 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

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

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

3. Requests for proposals developed by the Department shall be based upon documented client and service needs and identified priorities. The request for proposals shall clearly identify the program or service requirements, the population to be served, and performance expectations. The agency shall adopt clear, written

guidelines to ensure uniformity in the management, monitoring and enforcement of contracts for services. If in-state private providers are unable or unwilling to respond to the proposal, then out-of-state providers should be encouraged to respond.

SECTION 147. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-120 of Title 10, unless there is created a duplication in numbering, reads as follows:

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 and the Supreme Court of the State of Oklahoma, analyzing and evaluating the effectiveness of the programs and services being carried out by the Department. 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. Statutory changes necessary;
4. Relevant information concerning the number of children comprising the population of any Department-operated institution or facility during the period covered by the report; and
5. Such other information as will enable a user of the report to ascertain the effectiveness of the facility.

SECTION 148. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-121 of Title 10, unless there is created a duplication in numbering, reads as follows:

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

with any private, nonprofit agency, for juvenile delinquency prevention programs and juvenile treatment programs.

SECTION 149. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-122 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Department of Juvenile Justice shall establish and maintain or enter into agreements to establish or maintain community-based youth service programs. The programs may include, but not be limited to: emergency shelter, diagnosis, crisis intervention, counseling, group work, case supervision, job placement, recruitment and training of volunteers, consultation, brokerage of services and agency coordination.

B. The Department 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.

1. The Department shall, to the extent reasonable and practicable, provide community services and community residential care to children in the custody of the Department through financial agreements, as authorized in Sections 603 and 604 of 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. A copy of such procedures shall be made available to any member of the general public upon request.

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

- a. include in the Medicaid State Plan a service plan or plans for the reimbursement of all available home and community-based optional services for mental health and drug and alcohol treatment services for children and youth,
- b. apply for all available home and community-based Medicaid waivers which will assist in the development of community-based services for mental health and drug and alcohol treatment for children and youth, and
- c. establish procedures to assure that Title XIX reimbursements are the payments of last resort, after payments by the parents or other third party payors, for the medical care, including mental health services, provided to children in the custody of the Department or that the Department is otherwise reimbursed, in accordance with a court order and the financial ability of the parent, for such services provided to the child.

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

C. Contracts for the establishment of community residential care or treatment facilities for juveniles shall require, as a condition for receipt of such contracts, document 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 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, and other shared resources as deemed necessary or appropriate by both Departments.

SECTION 150. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 53-7-123 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Funds appropriated to the Department of Juvenile Justice for community-based youth service programs shall be made available through contracts, to certified organizations designated by the Department as "Designated Youth Services Agencies". Such designations shall be granted in accordance with criteria approved by the Board of Juvenile Affairs. The criteria for designation of Youth Services agencies shall include but shall not be limited to:

1. Capability to deliver all or part of the compensable services enumerated in Section 603 of this title;
2. Adequate and qualified staff;
3. Financial viability; and
4. A documented need for the local services to be offered.

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

1. Successful completion of peer review processes; and
2. Such other criteria as the Commission determines

appropriate.

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

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

1. Is seriously deficient in the administration of its program;
2. Loses financial viability; or
3. Fails to successfully complete the peer review process.

Any applicant organization denied designation as a Youth Services Agency may request an administrative hearing from the Department. The Board of Juvenile Justice shall establish an administrative hearing and appeal process.

SECTION 151. This act shall become effective July 1, 1995.

SECTION 152. 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.

45-1-6364

SD/KSM