

SHORT TITLE: Juveniles; requiring the military department to implement alternative school program; codification; effective date.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 612

By: Kerr

AS INTRODUCED

An Act relating to juveniles; amending 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), which relates to disposition orders; authorizing order requiring participation in certain program; authorizing order to suspend or postpone driving privileges; creating program; providing for administration; stating eligibility requirements and duration of program; stating goals; providing for cooperation with certain agencies; requiring the military department to implement alternative school program; authorizing compensation and credits for successful completion of program; making program subject to appropriations; requiring payment of State Aid to alternative school program; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 1116, as last amended by Section 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:

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

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

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

educational handicap. The results of such tests shall be made available to the court for use by the court in determining the disposition of the case.

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

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

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

state. Whenever the court shall commit a child to any institution or agency, it shall transmit with the order of commitment a summary of its information concerning the child, and such institution or agency shall give to the court such information concerning the child as the court may at any time require.

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

4. The court may 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 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.

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. if the child has been adjudicated delinquent for a property or other offense, order the child to participate in the Green Space Program, as defined by Section 2 of this act,
- i. 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~~ h 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. In any dispositional order removing a child from the home of the child, the court shall make a determination that, in accordance with the best interests of the child, reasonable efforts have been made to provide for the return of the child to the child's own home, or that efforts to reunite the family are not feasible, and reasonable efforts are being made to secure an alternate permanent placement for the child.

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

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

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

court may suspend the juvenile's driver's license for one (1) to four (4) years or may postpone the driving privileges for one (1) to four (4) years at the discretion of the judge. Provided, however, upon a third documented contact with a law enforcement agency the judge shall require the juvenile to enter the Green Space Program.

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~~ the defendant's own behalf and to be confronted by witnesses against ~~him~~ the defendant. 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 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1507 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created a program for juveniles to be known as the "Green Space Program".

B. The Office of Juvenile Justice shall administer the Program and shall promulgate rules necessary for the operation and implementation of the provisions of this section.

C. Children twelve (12) through seventeen (17) years of age who have been adjudicated delinquent for property or other offenses and who are at high risk of penetrating deeper into the juvenile justice system shall be eligible for the Program. The duration of the Program shall be for a period of not less than nine (9) weeks nor more than two (2) years with intense community supervision for not less than ninety (90) days following completion of the Program. The goals of the Program shall be to emphasize positive behavior changes with an awareness of the cognitive, emotional and social skills deficiencies of the youth served and to provide direction and encouragement for a successful transition from childhood into adulthood without reoccurrence of delinquent behaviors.

D. The court may order any child deemed appropriate for the Green Space Program directly into such Program or a child may be placed into the Program by the placement division of the Department of Human Services, or any school official may petition the court for an order directing placement of a child into the Program for repeatedly demonstrating disciplinary problems while attending school or by failing to attend school.

E. The Military Department, in conjunction with the members of the National Guard, shall be responsible for implementing an alternative school program as part of the Green Space Program. The school shall be a year-round educational program for adjudicated delinquents with recreational, physical fitness and disciplinary components. Students who comply with all alternative school disciplinary and physical programs and receive no demerits may be compensated in an amount to be determined by the National Guard. Students may earn credits to enter service of the National Guard upon leaving the program.

F. The Office of Juvenile Justice shall emphasize use of abandoned school facilities or military armory facilities for location of programs and shall attempt to place programs in the four quadrants of the state.

G. The Program shall be subject to legislative appropriations and shall be developed by the Office of Juvenile Justice in cooperation with the Department of Mental Health and Substance Abuse Services, the Department of Education and the Military Department. State Aid for average daily attendance shall follow the students from the local school district for the time in attendance at the alternative school.

SECTION 3. This act shall become effective November 1, 1995.

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