

SHORT TITLE: Enacting the "Literacy Improvement Act of 1996";
codification; effective date; emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 944

By: Hendrick

AS INTRODUCED

An Act relating to criminal justice, juveniles and public assistance; enacting the "Literacy Improvement Act of 1996"; providing short title; amending 10 O.S. 1991, Section 1141, as amended by Section 89, Chapter 352, O.S.L. 1995 and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-5.1), which relates to the Department of Juvenile Justice's intake, probation and parole services; providing for literacy skills assessment and purpose; providing limited disclosure of assessment; amending 22 O.S. 1991, Section 982, as amended by Section 1, Chapter 319, O.S.L. 1992 (22 O.S. Supp. 1995, Section 982), which relates to providing for literacy in presentence investigation; amending Section 27, Chapter 346, O.S.L. 1995 (56 O.S. Supp. 1995, Section 230.18), which relates to providing for literacy skills assessment and participation in literacy program as part of personal responsibility agreements; providing for literacy skills assessment in a criminal proceeding; providing for payment of cost of testing; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. This act shall be known and may be cited as the "Literacy Improvement Act of 1996".

SECTION 2. AMENDATORY 10 O.S. 1991, Section 1141, as amended by Section 89, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7302-5.1), is amended to read as follows:

Section 7302-5.1 A. The Department of Juvenile Justice shall provide intake, probation and parole services for juveniles and may enter into agreements to supplement probationary services to juveniles in any county. The Department may participate in federal programs for juvenile probation officers, and may apply for, receive, use and administer federal funds for such purpose.

B. A pre-adjudicatory substance abuse assessment of a child may be conducted in conjunction with a court intake or preliminary inquiry pursuant to an alleged delinquent act or upon admission to a juvenile detention facility through the use of diagnostic tools including but not limited to urinalysis, structured interviews or substance abuse projective testing instruments.

1. Information gained from the substance abuse assessment pursuant to this subsection shall be used only for substance abuse treatment and for no other purpose. The results shall not be used in any evidentiary or fact-finding hearing in a juvenile proceeding or as the sole basis for the revocation of a community-based placement or participation in a community-based program.

2. The results of the substance abuse assessment may be given to the child's intake, probation or parole counselor, the parent or guardian of the child or to his attorney. In accordance with the guidelines established pursuant to the Serious and Habitual Juvenile Offender Program and Section 620.6 of this title, the counselor may also provide the results of the substance abuse assessment with

medical personnel, therapists, school personnel or others for use in the treatment and rehabilitation of the child.

C. In accordance with the guidelines adopted pursuant to the Serious and Habitual Juvenile Offender Program, the Department of Juvenile Justice and the juvenile bureaus shall implement:

1. Court intake risk-assessment for children alleged or adjudicated to be delinquent;
2. The imposition of administrative sanctions for the violation of a condition of probation or parole;
3. A case management system for ensuring appropriate:
 - a. diversion of youth from the juvenile justice system,
 - b. services for and supervision of all youth on pre-adjudicatory or postadjudicatory probation or on parole and for juvenile offenders in the custody of the Department of Juvenile Justice, and
 - c. intensive supervision of serious and habitual offenders and communication between law enforcement and juvenile court personnel and others regarding said offenders;
4. Guidelines for juvenile court personnel recommendations to district attorneys regarding the disposition of individual cases by district attorneys.

D. The Department of Juvenile Justice shall establish directly and by contract, the services necessary to implement the Serious and Habitual Juvenile Offender Program, including but not limited to: misdemeanor and non-serious first-time offender programs, tracking and mentor services, weekend detention, five-day out-of-home sanction placements, short-term thirty-day intensive, highly structured placements, transitional programs, substance abuse treatment and diagnostic and evaluation programs and day treatment programs. In implementing these services, the Department shall give

priority to those areas of the state having the highest incidences of juvenile crime and delinquency.

E. Upon intake of a child by the Department of Juvenile Justice, or any county operating a juvenile bureau, a pre-adjudicatory literacy skills assessment of a child shall be conducted in conjunction with the intake proceeding pursuant to an alleged delinquent act or an alleged child in need of supervision through the use of diagnostic tools including, but not limited to, structured interviews or literacy testing instruments to determine the education proficiency of the child and any other factor relevant to determining if the child is capable of achieving a high school education.

1. Information gained from the literacy skills assessment pursuant to this subsection shall be made available to the court by the District Attorney for use in the disposition phase. The results shall not be used in any evidentiary or fact-finding hearing in a juvenile proceeding to determine whether a juvenile shall be adjudicated or as the sole basis for the revocation of a community-based placement or participation in a community-based program.

2. The results of the literacy skills assessment may be given to the child's intake, probation or parole counselor, the parent or guardian of the child or the child's attorney. In accordance with the guidelines established pursuant to the Serious and Habitual Juvenile Offender Program and Section 620.6 of this title, the counselor may also provide the results of the literacy skills assessment with therapists, school personnel or others for use in the training and rehabilitation of the child.

SECTION 3. AMENDATORY 22 O.S. 1991, Section 982, as amended by Section 1, Chapter 319, O.S.L. 1992 (22 O.S. Supp. 1995, Section 982), is amended to read as follows:

Section 982. A. Whenever a person is convicted of a felony except when the death sentence is imposed, the court shall, before

imposing sentence to commit any felon to incarceration by the Department of Corrections, order a presentence investigation to be made by the Department. The court may order the defendant to pay a fee to the Department of Corrections not to exceed Two Hundred Fifty Dollars (\$250.00) for the presentence investigation, if in the opinion of the court the defendant has the ability to pay such fee.

B. The Department shall inquire into the circumstances of the offense. This information shall include the voluntary statement of the victim concerning the offense, the amount of the loss of the victim, and the criminal record, social history, literacy skills and present condition of the convicted person. The Department shall make a report of such investigation to the court, including a recommendation as to appropriate sentence, and specifically a recommendation for or against probation. Such reports must be presented to the judge so requesting, within a reasonable time, and upon the failure to so present the same, the judge may proceed with sentencing. Whenever, in the opinion of the court or the Department, it is desirable, the investigation shall include a physical and mental examination of the convicted person.

C. The presentence investigation reports so received by the court shall not be referred to, or be considered, in any appeal proceedings. Before imposing sentence, the court shall advise the defendant or ~~his~~ the defendant's counsel and the district attorney of the factual contents and the conclusions of any presentence investigation or psychiatric examination and afford fair opportunity, if the defendant so requests, to controvert them. If either the defendant or the district attorney desires, such hearing shall be ordered by the court providing either party an opportunity to offer evidence proving or disproving any finding contained in such report, which shall be a hearing in mitigation or aggravation of punishment.

D. If the district attorney and the defendant desire to waive such presentence investigation and report, both shall execute a suitable waiver subject to approval of the court, whereupon the judge shall proceed with the sentencing.

SECTION 4. AMENDATORY Section 27, Chapter 346, O.S.L. 1995 (56 O.S. Supp. 1995, Section 230.18), is amended to read as follows:

Section 230.18 A. The Department of Human Services shall require services to be provided to each applicant or recipient of benefits in any program according to a written personal responsibility agreement. The agreement shall be:

1. Written in English, Spanish or other language, according to the applicant's or recipient's needs;
2. Signed by the applicant or recipient;
3. Signed by the parent of the applicant or recipient, if the applicant or recipient is under eighteen (18) years of age;
4. Signed by the case manager, for the applicant or recipient and the recipient's family; and
5. Reviewed by both the applicant or recipient and the case manager at least once a year. The agreement may be revised from time to time according to the needs of the recipient, the recipient's family and the program.

B. The personal responsibility agreement shall set forth the specific responsibilities of the recipient, at a minimum, to:

1. Develop a detailed plan for achieving self-sufficiency;
2. Acknowledge that additional benefits pursuant to the Aid to Families with Dependent Children (AFDC) program will be paid for a child born more than ten (10) months after the recipient qualifies for assistance only pursuant to a voucher system;
3. If the recipient is a minor parent, live in a place maintained by the recipient's parents, legal guardian or other adult relative as the parent's, legal guardian's or other adult relative's

own home, or live in a foster home, maternity home or other supportive living arrangement supervised by an adult in order to receive AFDC benefits;

4. Accept responsibility for ensuring that the recipient's child complies with the attendance requirements of the local school district and attends school until the child of the recipient either:

a. graduates from high school or attains a high school equivalency certificate, or

b. becomes nineteen (19) years of age,

whichever occurs first;ti

5. Accept responsibility for attending any classes required by a program at least ninety percent (90%) of the time;

6. Immunize the recipients' minor children pursuant to the State Department of Health's immunization schedule;

7. Register and participate as funds are available, in the Job Opportunities and Basic Skills (JOBS) program;

8. Be available for and actively seek and maintain employment and accept any reasonable employment as soon as it becomes available if required by the program;

9. Participate in any educational or training program required by the Department; ~~and~~

10. Participate in a community service, public works or private sector job for a minimum of twenty-four (24) hours per week regardless of the amount of the AFDC grant if the recipient has been unsuccessful in finding unsubsidized employment; provided, that this requirement shall not apply to a recipient participating in the work supplementation program or the work experience program; and

11. Be assessed for literacy skills to determine the recipient's capacity to benefit from compulsory participation in a literacy improvement program and, depending on the results of said assessment, agree to enroll in a literacy improvement program and provide documentation of successful completion of the program.

C. AFDC benefits shall be denied to a recipient who fails to comply with the requirements of the personal responsibility agreement pursuant to this section until such time as the Department determines that the recipient is once again in compliance with the personal responsibility agreement.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 990 of Title 22, unless there is created a duplication in numbering, to read as follows:

A. Every defendant in a criminal proceeding shall be administered a nationally validated examination to determine the education proficiency of the defendant and any other factors relevant to determining if the defendant is literate.

B. The district attorney shall maintain a list of organizations and individuals who are qualified to determine literacy levels. The district attorney shall make available the results of the evaluation to the court for use in determining appropriate sentencing of the defendant or disposition of the case.

C. The court may order the defendant to pay for all costs of the testing in total or in installments and, in the case of installment payments, the court shall set the amount and due date of each installment. If the defendant is a juvenile, the court may order the parent or guardian of the juvenile to pay for all costs of testing. If the defendant is determined to be indigent pursuant to the provisions of Section 55 of Title 20 of the Oklahoma Statutes, payment for all costs of testing shall be made from the budget of the Indigent Defense System. Nothing contained in this subsection shall be construed to prohibit the court from sentencing the defendant or otherwise disposing of the case in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation required by this subsection.

SECTION 6. This act shall become effective July 1, 1996.

SECTION 7. 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.

45-2-1651

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