

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 1632

By: Benson and Boyd (Laura)  
of the House

and

Fisher and Martin of the  
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to children; amending 10 O.S. 1991, Section 40.7, which relates to agreements with Indian tribes; authorizing the Office of Juvenile Affairs to enter into agreements for care of Indian children; amending Section 72, Chapter 352, O.S.L. 1995, as last amended by Section 7, Chapter 247, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7301-1.3), which relates to definitions for the Oklahoma Juvenile Code; modifying definitions; amending Section 7, Chapter 190, O.S.L. 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 9, Chapter 247, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7302-2.1), which relates to the Executive Director of the Office of Juvenile Affairs and the Deputy Director of the Department of Juvenile Justice; modifying authority of the Executive Director; permitting the Board of Juvenile Justice to authorize the Deputy Director to assume duties of the Executive Director in event of vacancy; amending 10 O.S. 1991, Section 603, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 12, Chapter 247, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7302-3.3), which relates to community-based programs; authorizing community-based programs for youth alleged or adjudicated to be in need of supervision; creating a special agency account; stating purpose; limiting use; amending 10 O.S. 1991, Sections 1138 and 1139, as last amended by Sections 91 and 92, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Sections 7302-5.3 and 7302-5.4), which relate to supervision, placement and discharge of delinquent children; removing references to placement guidelines and procedures to take effect upon adoption of such guidelines; amending 10 O.S. 1991, Section 1401, as last amended by Section 98, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995, and Section 11, Chapter 290, O.S.L. 1994, as amended by Section 100, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Sections 7302-6.6 and 7302-6.8), which relate to juvenile facilities; eliminating specific bed-space requirements; amending Section 12, Chapter 290, O.S.L. 1994, as amended by Section 101, Chapter 352, O.S.L. 1995, and as renumbered

by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7302-6.9), which relates to regimented juvenile training programs; removing bed-space restriction; modifying maximum time limit for Phase I of program; amending 10 O.S. 1991, Sections 1160.2, as last amended by Section 109, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995, 1160.3, as amended by Section 110, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 and 1160.4, as last amended by Section 111, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Sections 7302-9.2, 7302-9.3 and 7302-9.4), which relate to the Serious and Habitual Juvenile Offender Program; removing references to and appointment procedure for defunct task force; removing references to placement guidelines; authorizing the removal from detention of a juvenile with a lower priority status for a juvenile with a higher priority status, in certain circumstances; amending Section 114, Chapter 352, O.S.L. 1995, as amended by Section 18, Chapter 247, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7303-1.1), which relates to taking of a child into custody; providing that a child taken into custody as a delinquent child or a child in need of supervision prior to adjudication shall not be considered to be in the custody of the Office of Juvenile Affairs; amending Section 132, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7303-5.3), which relates to disposition orders; authorizing the court to impose a probation supervision fee under certain circumstances; providing maximum amount of fee; providing for distribution of fee; authorizing the court to order the parents or custodial parent of any child living with the parents or custodial parent to supervise the performance of community service by the child; removing references to placement guidelines; amending Section 142, Chapter 352, O.S.L. 1995, as amended by Section 26, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7303-7.6), which relates to reimbursement for care and maintenance of child and other costs and expenses; authorizing the court to require parents to assign medical insurance coverage benefits for the child to the Department of Juvenile Justice; requiring the court to use child support guidelines in determining amount to be paid for care and maintenance of child; amending Section 143, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7303-8.1), which relates to placement of adjudicated children; providing that state employees shall not be liable for certain costs; amending 10 O.S. 1991, Section 1108, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 22, Chapter 247, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7304-1.3), which relates to detention; changing agency that is to receive certain report; amending Section 28, Chapter 290, O.S.L. 1994, as amended by Section 174, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7306-2.11), which relates to the Youthful Offender Act; providing that state employees shall not be liable for certain costs; amending Sections 180 and 181, Chapter 352, O.S.L. 1995, as amended by Sections 6 and 7, Chapter 211, O.S.L. 1996 (10 O.S. Supp. 1996, Sections 7307-1.4 and 7307-1.5), which relate to juvenile records; modifying list of who may obtain certain records without court order; amending 21 O.S.

1991, Section 650.2, as last amended by Section 223 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature and 10 O.S. 1991, Section 1149, as renumbered by Section 200, Chapter 352, O.S.L. 1995 (21 O.S. Supp. 1996, Section 650.8), and as last amended by Section 226 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, which relate to assault and battery upon certain employees; expanding list of employees; providing for felony crime of battery or assault and battery resulting in serious injury; providing fine; amending 28 O.S. 1991, Section 162, as last amended by Section 12, Chapter 339, O.S.L. 1996 (28 O.S. Supp. 1996, Section 162), which relates to fees and costs in juvenile proceedings; authorizing the Office of Juvenile Affairs to withdraw funds received from court costs or orders for care and maintenance in juvenile cases in certain counties from the court fund upon approval by the Chief Justice of the Oklahoma Supreme Court; specifying how the funds are to be expended; amending 57 O.S. 1991, Section 530.1, as last amended by Section 2, Chapter 168, O.S.L. 1996 (57 O.S. Supp. 1996, Section 530.1), which relates to assessment and reception of inmates by the Department of Corrections; modifying duties of the Department of Corrections; providing for obtaining certain records; requiring the Department of Juvenile Justice to allow access to database for certain purpose; amending 62 O.S. 1991, Section 195, as last amended by Section 1 of Enrolled House Bill No. 1762 of the 1st Session of the 46th Oklahoma Legislature, which relates to petty cash funds; eliminating a petty cash fund; creating petty cash funds at certain institutions; repealing Section 49, Chapter 290, O.S.L. 1994, as amended by Section 5, Chapter 247, O.S.L. 1996 (10 O.S. Supp. 1996, Section 1507.27), which relates to the Juvenile Placement Guidelines Committee; repealing 10 O.S. 1991, Section 1160.5, as last amended by Section 112, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7302-9.5), which relates to the Serious and Habitual Juvenile Offender Program Implementation Task Force; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 40.7, is amended to read as follows:

Section 40.7 The Director of the Department of Human Services ~~is~~ and the Executive Director of the Office of Juvenile Affairs are authorized to enter into agreements with Indian tribes in Oklahoma regarding care and custody of Indian children as authorized by the Federal Indian Child Welfare Act, 25 U.S.C. Section 1919.

SECTION 2. AMENDATORY Section 72, Chapter 352, O.S.L. 1995, as last amended by Section 7, Chapter 247, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7301-1.3), is amended to read as follows:

Section 7301-1.3 When used in the Oklahoma Juvenile Code, unless the context otherwise requires:

1. "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition filed pursuant to the provisions of Article III of the Oklahoma Juvenile Code are supported by the evidence and whether a juvenile should be adjudged to be a ward of the court;

2. "Alternatives to secure detention" means those services and facilities which are included in the State Plan for the Establishment of Juvenile Detention Services adopted by the Board of Juvenile Affairs and which are used for the temporary detention of juveniles in lieu of secure detention in a juvenile detention facility;

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

4. "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 7306-1.1 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 7306-1.1 of this title, or any individual who has been certified as an adult pursuant to Section 7303-4.3 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 7306-1.1 of this title, any individual against whom the imposition of judgment and sentence has been deferred after certification as an adult pursuant to Section 7303-4.3 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 7306-1.1 of this title, or any individual who is not convicted after certification as an adult pursuant to Section 7303-4.3 of this title, shall continue to be subject to the jurisdiction of the juvenile court;

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

6. "Child or juvenile in need of supervision" means a juvenile who:

- a. has repeatedly disobeyed reasonable and lawful commands or directives of the parent, legal guardian, or other custodian,
- b. is willfully and voluntarily absent from his home without the consent of the parent, legal guardian, or other custodian for a substantial length of time or without intent to return,
- c. is willfully and voluntarily absent from school, as specified in Section 10-106 of Title 70 of the Oklahoma Statutes, if the juvenile is subject to compulsory school attendance, or
- d. has been served with an ex parte or final protective order pursuant to the Protection from Domestic Abuse Act;

7. "Community-based" means a facility, program or service, or open group home or other suitable place located near the home or family of the juvenile, 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, diversion programs for first-time offenders, transitional living, independent living and other rehabilitative services;

8. "Community intervention center" means a facility which serves as a receiving center for children who are taken into custody and which performs at least one of the functions provided for in subsection D of Section 7302-3.3 of this title;

9. "Community residential center" means a residential facility for no more than twenty juveniles 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;

10. "Day treatment" means a program which provides intensive services to juveniles 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;

11. "Delinquent child or juvenile" means a juvenile who:

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

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

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

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

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

16. "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;

17. "Group home" means a residential facility housing no more than twelve juveniles 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. "Independent living program" means a program designed to assist a juvenile 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;

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. "Juvenile detention facility" means a secure facility which meets the certification standards of the Department and which is entirely separate from any prison, jail, adult lockup, or other adult facility, for the temporary care of children. A juvenile detention facility shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes;

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

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

23. "Person responsible for a juvenile'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 juvenile'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;

24. "Preliminary inquiry" or "intake" means a mandatory, preadjudicatory interview of the juvenile and, if available, the parents, legal guardian, or other custodian of the juvenile, which is performed by a duly authorized individual to determine whether a juvenile comes within the purview of the Oklahoma Juvenile Code,

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

25. "Probation" means a legal status created by court order whereby a delinquent juvenile is permitted to remain outside a Department of Juvenile Justice 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;

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

27. "Secure detention" means the temporary care of juveniles 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;

28. "Training school" or "secure facility" means a facility, maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of delinquent juveniles or youthful offenders ~~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, and fences, ~~or~~ for physical restraint in order to control behavior of its residents; and

29. "Transitional living program" means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting juveniles 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.

SECTION 3. AMENDATORY Section 7, Chapter 190, O.S.L. 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 9, Chapter 247, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7302-2.1), is amended to read as follows:

Section 7302-2.1 A. 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.

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. 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 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 Department of Juvenile Justice, or to assist the Executive

Director of the Office of Juvenile Affairs or Deputy Director of the Department of Juvenile Justice in the performance of 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 any and all duties of the Deputy Director of the Department of Juvenile Justice in addition to duties as Executive Director; and

5. Exercise all incidental powers which are necessary and proper to implement the purposes of the Office of Juvenile Affairs pursuant to the Oklahoma Juvenile Code.

D. The Executive Director shall employ an attorney to be designated the "General Counsel" who shall be the legal advisor for the Office of Juvenile Affairs and the Department of Juvenile Justice. Except as provided in this subsection, the General Counsel is authorized to appear for and represent the Board, Office and Department in any litigation that may arise in the discharge of the duties of the Board, Office or Department.

It shall continue to be the duty of the Attorney General to give an official opinion to the Executive Director of the Office of Juvenile Affairs, the Deputy Director of the Department of Juvenile Justice, the Office of Juvenile Affairs and the Department of Juvenile Justice, and to prosecute and defend actions therefor, if requested to do so. The Attorney General may levy and collect costs, expenses of litigation and a reasonable attorney's fee for such legal services from the Office or Department. Neither the Office nor Department shall contract for representation by private legal counsel unless approved by the Attorney General. Such contract for private legal counsel shall be in the best interests of the state. The Attorney General shall be notified by the Office of Juvenile Affairs or its counsel of all lawsuits against the Office of Juvenile Affairs or the Department of Juvenile Justice or officers or employees thereof, that seek injunctive relief which would impose obligations requiring the expenditure of funds in excess of unencumbered

monies in the agency's appropriations or beyond the current fiscal year. The Attorney General shall review any such cases and may represent the interests of the state, if the Attorney General considers it to be in the best interest of the state to do so, in which case the Attorney General shall be paid as provided in this subsection. Representation of multiple defendants in such actions may, at the discretion of the Attorney General, be divided with counsel for the Office and Department as necessary to avoid conflicts of interest.

E. 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 shall appoint a new Executive Director. The Board may designate an interim or acting Executive Director who is authorized to exercise such powers and duties until a permanent Executive Director is employed. The Board may authorize the Deputy Director of the Department of Juvenile Justice to assume the duties of the Executive Director, in the event of a vacancy in the position of Executive Director, in addition to the person's duties as Deputy Director.

SECTION 4. AMENDATORY 10 O.S. 1991, Section 603, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 12, Chapter 247, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7302-3.3), is amended to read as follows:

Section 7302-3.3 The Department of Juvenile Justice, in its role as planner and coordinator for juvenile justice and delinquency prevention services, is hereby authorized to and shall enter into agreements for the establishment and maintenance of community-based prevention and diversionary youth services programs which may include, but are not limited to: Emergency shelter, diagnosis, crisis intervention, counseling, group work, case supervision, job placement, alternative diversion programs for first-time offenders and for youth alleged or adjudicated to be in need of supervision, recruitment and training of volunteers, consultation, brokerage of services, agency coordination with

emphasis on keeping youth with a high potential for delinquency out of the traditional juvenile justice process and community intervention centers. The Department shall enter into agreements based on need as indicated in the State Plan for Services to Children and Youth.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7302-4.2 of Title 10, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a special agency account for court and hearing costs of the Office of Juvenile Affairs. The money in the account shall be used only for court costs, court filing fees, witness fees, fees for court transcripts, audio tape duplication charges for Merit Protection hearings, service of process, costs for mailing legal documents, and expenses related to any case or proceeding within the official responsibility of the Office of General Counsel of the Office of Juvenile Affairs.

SECTION 6. AMENDATORY 10 O.S. 1991, Section 1138, as last amended by Section 91, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7302-5.3), is amended to read as follows:

Section 7302-5.3 A. It is the intent of the Legislature of this state to provide for the creation of all reasonable means and methods that can be established by a state for:

1. The prevention of delinquency;
2. The care and rehabilitation of delinquent children; and
3. The protection of the public.

It is further the intent of the Legislature that this state, through the Department of Juvenile Justice, establish, maintain and continuously refine and develop a balanced and comprehensive state program for children who are potentially delinquent or are delinquent.

B. Except as provided in subsection C of this section, whenever a child who has been adjudicated by the court as a delinquent child has been committed to the Department of Juvenile Justice, the Department shall provide for placement pursuant to

any option authorized by paragraphs 1 through 7 of this subsection; provided, nothing in this subsection shall be construed to establish a priority in regard to the selection of an option or to mandate the exclusive use of one particular option:

1. Place the child in a state training school or other institution or facility maintained by the state for delinquent children if the child has:

- a. exhibited seriously violent, aggressive or assaultive behavior,
- b. committed a serious felony constituting violent, aggressive and assaultive behavior,
- c. habitually committed delinquent acts if such acts would constitute felonies if committed by an adult,
- d. committed multiple serious delinquent acts, or
- e. violated any condition of probation or parole,

to the extent that it is necessary for the protection of the public. For purposes of placement, all deferred prosecutions for serious, habitual, violent, aggressive or assaultive crimes shall count toward placement decisions;

2. Place the child in a facility maintained by the state for children, or in a foster home, group home, transitional living program or community residential center;

3. Allow the child his liberty, under supervision, in an independent living program;

4. Allow the child his liberty, under supervision, either immediately or after a period in one of the facilities referred to in paragraphs 1 and 2 of this subsection;

5. Place the child in a state school for mentally retarded, if the child is eligible for admission thereto;

6. Place the child in any licensed private facility deemed by the Department of Juvenile Justice to be in the best interest of the child; or

7. Place the child as provided by Section 7303-8.4 of this title and the Inpatient Mental Health Treatment of Children Act, if the delinquent child has been found by a court to be in need of mental health treatment.

~~C. Subject to the placement guidelines developed by the Juvenile Placement Guidelines Committee, if approved by the Legislature, the court shall have the authority to require secure placement of a serious juvenile offender or habitual juvenile offender, as defined in the Serious and Habitual Juvenile Offender Act, adjudicated delinquent and committed to the Office of Juvenile Affairs. If the court orders a placement that is not in conformity with the placement guidelines, the reason for such placement shall be included in the record and shall be an appealable order.~~

~~D.~~ The Department shall place priority on the placement of delinquent youth held in secure juvenile detention facilities.

~~E.~~ D. Placement of a juvenile pursuant to ~~subsection C~~ of this section or any other provision of law shall be the responsibility of the Department of Juvenile Justice and shall occur as soon as reasonably possible after adjudication and after the selected placement option becomes available.

The court shall not have authority to require specific placement of a juvenile in a time frame which would require the removal of any other juvenile from such placement.

SECTION 7. AMENDATORY 10 O.S. 1991, Section 1139, as last amended by Section 92, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7302-5.4), is amended to read as follows:

Section 7302-5.4 A. Except as otherwise provided by law, all children adjudicated delinquent and committed to the Department of Juvenile Justice shall be discharged at such time as the Department determines there is a reasonable probability that it is no longer necessary, either for the rehabilitation and treatment of the child, or for the protection of the public, that the Department retain legal custody. Following a hearing, the court may also order that a child adjudged delinquent and committed to the Department shall be discharged by the Department provided the child is on parole status and the court deems the discharge in the best interest of the child and public. The Department shall give a fifteen-day notice to the court and the district attorney before

discharging from legal custody any child committed and confined in a secure facility.

B. Except as otherwise provided by law, all children adjudged delinquent and committed to the Department of Justice and not discharged under subsection A of this section shall be discharged when the child becomes eighteen (18) years of age, unless the Department is authorized by the court to retain custody of the child until nineteen (19) years of age. Upon the court's own motion or motion of the Department or the district attorney, the court, after notice to the delinquent child and to the parents and attorney of said child, may authorize the Department to retain custody of the child until he reaches nineteen (19) years of age. If the court sustains a motion to retain custody, the delinquent child during the extended period shall be considered as a child for purposes of receiving services from the Department. If a criminal offense is committed by the individual during the extended period, said offense shall be considered as having been committed by an adult. Except to the extent necessary to effectuate the purposes of this section, an individual after age eighteen (18) years is considered an adult for purposes of other applicable law.

C. The Department of Juvenile Justice shall not place a child under ten (10) years of age in an institution maintained for delinquent children.

D. The court may retain jurisdiction over a child adjudged delinquent beyond the age of seventeen (17) years to the extent necessary for the child to complete payment of restitution or court costs. The court may institute contempt proceedings pursuant to Sections 565 through 567 of Title 21 of the Oklahoma Statutes against any person adjudged delinquent and ordered to pay restitution or court costs who neglects or refuses to pay such restitution or court costs.

~~E. After placement guidelines are developed by the Juvenile Placement Guidelines Committee and approved by the Legislature, all children adjudicated delinquent and committed to the Office of Juvenile Affairs who are serious juvenile offenders or habitual~~

~~juvenile offenders, as defined in the Serious and Habitual Juvenile Offender Act, shall remain in the custody of the Office of Juvenile Affairs for a period of time determined by the court in conformity with the placement guidelines and shall not be discharged from custody at an earlier time unless the court determines there is a reasonable probability that it is no longer necessary, either for the rehabilitation and treatment of the child, or for the protection of the public, that the Office of Juvenile Affairs retain legal custody.~~ Following a hearing, the court may ~~also~~ order that any ~~such~~ child shall be discharged by the Department of Juvenile Justice of the Office of Juvenile Affairs provided the child is on parole status and the court deems the discharge in the best interest of the child and public. The Department of Juvenile Justice shall give a fifteen-day notice to the district attorney before discharging from legal custody any child committed and confined in a secure facility.

SECTION 8. AMENDATORY 10 O.S. 1991, Section 1401, as last amended by Section 98, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7302-6.6), is amended to read as follows:

Section 7302-6.6 A. The Office of Juvenile Affairs through its 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 prior to July 1, 1995, shall be administered by the 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 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, life and health 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 Board of Juvenile Affairs, the Executive Director of the Office of Juvenile Affairs, the 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, the Office of Juvenile System Oversight and the Oklahoma Commission on Children and Youth. 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.

SECTION 9. AMENDATORY Section 11, Chapter 290, O.S.L. 1994, as amended by Section 100, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7302-6.8), is amended to read as follows:

Section 7302-6.8 A. Beginning July 1, 1995, the Office of Juvenile Justice shall oversee the expansion of the number of preadjudicatory secure detention beds available in this state. By July 1, 1996, 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. 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 Beckham 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 7304-1.3 of this title.

~~B. Thirty-two of the beds at the Central Oklahoma Juvenile Center shall be used as regimented juvenile training program beds pursuant to Section 7302-6.6 of this title. 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.~~ Effective July 1, 1995, the responsibilities for establishing and operating a regional juvenile facility in the southwestern part of the state shall be transferred to the Office

of Juvenile Affairs. The facility shall include six transitional beds and sixty-four medium secure beds for such programs as the Department of Juvenile Justice 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 Juvenile Justice locate an existing facility that can be remodeled and used for this purpose.

SECTION 10. AMENDATORY Section 12, Chapter 290, O.S.L. 1994, as amended by Section 101, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7302-6.9), is amended to read as follows:

Section 7302-6.9 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 Office of Juvenile Affairs through the 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 Juvenile Justice. The juveniles eligible for the program shall include only juveniles adjudicated delinquent and placed in the custody of the Office of Juvenile Affairs.

2. A juvenile may be eliminated from the program upon a determination by the 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)~~ one hundred twenty (120) days and administered by the Department of Juvenile Justice. The Department may operate Phase I at 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 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 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 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 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 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 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 Office of Juvenile Affairs shall establish standards, which shall be enforced by the 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 Department shall be made available under the phases of the regimented juvenile training program, as deemed appropriate by the Office of Juvenile Affairs.

SECTION 11. AMENDATORY 10 O.S. 1991, Section 1160.2, as last amended by Section 109, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7302-9.2), is amended to read as follows:

Section 7302-9.2 As used in the Oklahoma Juvenile Code:

1. "Agencies and programs comprising the juvenile justice system" means:

- a. the courts, the District Attorney's Council and offices of the district attorneys, state and local law enforcement agencies, juvenile bureaus, the Department of Human Services, the Department of Juvenile Justice of the Office of Juvenile Affairs, the Oklahoma Commission on Children and Youth, the Department of Corrections, the Criminal Justice Resource Center, any other state agency responsible for the care, custody or supervision of youth alleged or adjudicated to be delinquent, and
- b. to the extent that they are responsible for the provision of services to youth alleged or adjudicated to be delinquent, including but not limited to educational, treatment or residential services, local school districts and area vocational-technical schools and other public and private agencies not otherwise specifically included in subparagraph a of this paragraph, comprising the "children and youth service system" as defined by Section 600 of this title;

2. "Felony act" or "felony offense" means any criminal offense that would constitute a felony crime if committed by an adult;

3. "Habitual criminal acts" means three separate delinquency adjudications for the commission of felony acts. The felony acts

relied upon shall not have arisen out of the same transaction or occurrence or series of events related in time and location;

4. "Juvenile court personnel" means those persons responsible for juvenile court intake, probation and parole supervision and services to youth alleged or adjudicated to be delinquent;

5. "Juvenile Justice Information System" means the automated information system established by Section 7302-9.6 of this title;

6. "Juvenile offender" means a delinquent child or juvenile as defined by Section 7301-1.3 of this title;

7. "Sanction" means a consequence imposed upon a juvenile offender:

- a. as a result of a criminal act, and
- b. as a result of a violation of a condition of probation or parole;

8. "Serious act" means any crime specified by subsection A of Section 7306-1.1 of this title;

9. "Serious and Habitual Juvenile Offender Program" means the program of information, information sharing, case tracking, case management, supervision and sanctions established by Section 7302-9.3 of this title; and

~~10. "Serious and Habitual Juvenile Offender Program Implementation Task Force" means the Task Force created by Section 7302-9.5 of this title for the purpose of implementing the Serious and Habitual Juvenile Offender Program; and~~

~~11.~~ "Serious juvenile offender" and "habitual juvenile offender" means persons under eighteen (18) years of age who have been adjudicated delinquent for the commission of serious acts or habitual criminal acts and are subject to the Serious and Habitual Juvenile Offender Program in accordance with the criteria established pursuant to Section 7302-9.3 of this title.

SECTION 12. AMENDATORY 10 O.S. 1991, Section 1160.3, as amended by Section 110, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7302-9.3), is amended to read as follows:

Section 7302-9.3 The Serious and Habitual Juvenile Offender Program shall include, but not be limited to:

1. The Juvenile Justice Information System pursuant to the provisions of Section 7302-9.6 of this title;

2. Specific procedures for identifying juvenile offenders who have committed a serious act or habitual criminal acts for the purposes of intensive supervision and communication between law enforcement and juvenile court personnel and others regarding said offenders;

3. Court intake risk-assessment for children alleged or adjudicated to be delinquent;

4. ~~Until placement guidelines are in effect, structured~~ Structured decision-making instruments utilizing risk-assessment, offense, needs-assessment, and other appropriate criteria for determining the imposition of appropriate specific sanctions for:

- a. youth adjudicated delinquent, and
- b. the violation of a condition of probation or parole;

5. 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 juvenile offenders and habitual juvenile offenders and communication between law enforcement and juvenile court personnel and others regarding said offenders;

6. Detention criteria, the uniform statewide application of said detention criteria, and guidelines for the use of secure detention. Said guidelines shall provide for priority to be given to the use of juvenile detention facilities for the detention of serious juvenile offenders and habitual juvenile offenders through provisions requiring the removal from detention of a juvenile with a lower priority status if an empty detention bed is not available at the time of referral of a juvenile with a higher priority status and if the juvenile with a higher priority status would be more of a danger to the public than the juvenile with the lower priority status;

7. Guidelines for the imposition of sanctions for any criminal offenses committed by juveniles and for probation and parole violations;

8. Guidelines for juvenile court personnel recommendations to district attorneys regarding the disposition of individual cases by district attorneys; and

9. Guidelines for the disposition of individual cases by district attorneys.

SECTION 13. AMENDATORY 10 O.S. 1991, Section 1160.4, as last amended by Section 111, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7302-9.4), is amended to read as follows:

Section 7302-9.4 For the purpose of achieving full implementation of the Serious and Habitual Juvenile Offender Program ~~on or before July 1, 1996:~~

~~1. The Oklahoma Commission on Children and Youth shall:~~

~~a. appoint the members of the Serious and Habitual Juvenile Offender Program Implementation Task Force and facilitate and coordinate the work of the Serious and Habitual Juvenile Offender Program Implementation Task Force,~~

~~b. facilitate and oversee the adoption of the contracts or interagency agreements necessary for:~~

~~(1) the delineation of the service responsibilities and the coordinated delivery of services to youth alleged or adjudicated to be delinquent by the agencies responsible for the implementation of the Serious and Habitual Juvenile Offender Program, and~~

~~(2) the delineation of the roles and responsibilities of the agencies for the implementation of the Juvenile Justice Information System, the information to be shared among them on a regular basis, and the procedures for processing case profiles as cases~~

~~move through agencies that come into contact  
with juvenile offenders, and  
e. oversee the implementation of the Serious and  
Habitual Juvenile Offender Program;~~

~~2. In accordance with the proposed guidelines recommended by  
the Serious and Habitual Juvenile Offender Program Implementation  
Task Force,~~ the Department of Juvenile Justice of the Office of  
Juvenile Affairs, the juvenile bureaus, the District Attorney's  
Council, the Oklahoma State Supreme Court as authorized and  
directed by Section 7302-2.3 of this title and Section 23 of Title  
20 of the Oklahoma Statutes, the Oklahoma Commission on Children  
and Youth, the Oklahoma State Bureau of Investigation, local law  
enforcement agencies, and other agencies comprising the juvenile  
justice system shall:

- a. develop and implement the Serious and Habitual  
Juvenile Offender Program,
- b. develop and implement the Juvenile Justice  
Information System,
- c. adopt rules, policies, procedures, standards,  
protocols and guidelines, as appropriate, for the  
development and implementation of the Serious and  
Habitual Juvenile Offender Program and the Juvenile  
Justice Information System, and
- d. enter into contracts or interagency agreements under  
the Interlocal Cooperation Act, as appropriate for  
the purpose of implementing the Serious and Habitual  
Juvenile Offender Program and the Juvenile Justice  
Information System.

SECTION 14. AMENDATORY Section 114, Chapter 352,  
O.S.L. 1995, as amended by Section 18, Chapter 247, O.S.L. 1996  
(10 O.S. Supp. 1996, Section 7303-1.1), is amended to read as  
follows:

Section 7303-1.1 A. A child may be taken into custody prior  
to the filing of a petition alleging that the child is delinquent  
or in need of supervision:

1. By a peace officer, without a court order for any criminal offense for which the officer is authorized to arrest an adult without a warrant, or if the child is willfully and voluntarily absent from the home of the child without the consent of the parent, legal guardian, legal custodian or other person having custody and control of the child 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, legal guardian, legal custodian or other person having custody and control of the child 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 shall 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 probation, parole or order of the court;

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, legal guardian, legal custodian or other person having custody or control of the child is unwilling or unavailable to consent to such medical or mental health treatment or other action; and

5. Pursuant to an emergency ex parte or a final protective order of the district court issued pursuant to the Protection from Domestic Abuse Act.

B. Whenever a child is taken into custody as a delinquent child or a child in need of supervision prior to the filing of a petition, the child shall not be considered to be in the custody

of the Office of Juvenile Affairs but shall be detained, held temporarily in the custodial care of a peace officer or other person employed by a police department, or be released to the custody of the child's parent, legal guardian, legal custodian, attorney or other responsible adult, upon the written promise of such person to bring the child to the court at the time fixed if a petition is to be filed and to assume responsibility for costs for damages caused by the child if the child commits any delinquent acts after being released regardless of whether or not a petition is to be filed. It shall be a misdemeanor for any person to sign the written promise and then fail to comply with the terms of the promise. Any person convicted of violating the terms of the written promise shall be subject to imprisonment in the county jail for not more than six (6) months or a fine of not more than Five Hundred Dollars (\$500.00) or both such fine and imprisonment. In addition, if a parent, legal guardian, legal custodian, attorney or other responsible adult is notified that the child has been taken into custody, it shall be a misdemeanor for such person to refuse to assume custody of the child within a timely manner. If detained, the 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 the 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 secure 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. 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, legal guardian, legal custodian, or other responsible adult or to any other person appointed by the court, or be detained pursuant to Article IV of the Oklahoma Juvenile Code 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 the health of the child, 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 the child's parent, legal guardian, legal custodian, or other person having custody and control of the child 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 child's parent, legal guardian, legal custodian, or other person legally competent to authorize said medical treatment. The child's parent, legal guardian, legal custodian, or other person having custody and control 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 Code 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. The child's parent, legal guardian, legal custodian, or other person having custody and control shall be

responsible for such mental health 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 mental health evaluation or treatment shall have any liability, civil or criminal, for giving such authorization.

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, legal guardian, legal custodian, or other responsible adult 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, legal guardian, legal custodian, or other responsible adult 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 child's parent, legal guardian, legal custodian, or other person having custody or control of the child 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, legal guardian, legal custodian, or other 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, legal guardian, legal custodian, or other 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.

SECTION 15. AMENDATORY Section 132, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7303-5.3), is amended to read as follows:

Section 7303-5.3 A. The following kinds of orders of disposition may be made in respect to children adjudicated in need of supervision or delinquent:

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. If the child is placed on probation, the court may impose a probation supervision fee of not more than Twenty-five Dollars (\$25.00) per month, if the court finds that the child or parent or legal guardian of the child has

the ability to pay the fee. In counties having a juvenile bureau, the fee shall be paid to the juvenile bureau; in all other counties, the fee shall be paid to the Office of Juvenile Affairs.

2. If it is consistent with the welfare of the child, the child shall be placed with the parent or legal guardian of the child, 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 only upon the basis of truancy or noncompliance with the mandatory school attendance law shall 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 any 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 Office of Juvenile Affairs through its 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 Office of Juvenile Affairs under the supervision of the Department of Juvenile Justice. Any order adjudicating the child to be delinquent and committing the child to the Department of Juvenile Justice shall be for an indeterminate period of time; however, 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 to supervise the performance of community service by the child. 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 preadjudicatory 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 and the protection of the public, 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. No child who has been adjudicated in need of supervision may be placed in a state training school.

C. 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. Nothing contained in this subsection shall prohibit 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 and nothing contained in this section shall prohibit detaining a juvenile pursuant to Section 7303-1.2 of Title 10 of the Oklahoma Statutes.

D. 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 the child's behalf and to be confronted by witnesses against the child. 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 type and length of placement of said juvenile if the juvenile is committed to the Department.~~

SECTION 16. AMENDATORY Section 142, Chapter 352, O.S.L. 1995, as amended by Section 26, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7303-7.6), is amended to read as follows:

Section 7303-7.6 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 fees, expert witness fees, sheriff's fees, witness fees, transcripts and postage;

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;

3. Assign the benefits of medical insurance coverage for the child to the Department of Juvenile Justice for the period of time the child is in the custody of the Department of Juvenile Justice;

4. Reimburse the Department of Juvenile Justice, in whole or in part, for any costs and expenses incurred by the Department in providing any services or authorized actions taken pursuant to the Juvenile Justice Code for the child; and

~~4.~~ 5. Reimburse any law enforcement agency, in whole or in part, for any costs or expenses incurred by the law enforcement agency for custodial services or other authorized actions taken pursuant to the Juvenile Justice Code.

B. 1. The court shall use the child support guidelines provided for in Section 118 of Title 43 of the Oklahoma Statutes in determining the amount a parent is to pay for care and maintenance of a child. If any parent is financially able but has willfully failed to pay any costs or reimbursements as ordered by the court pursuant to this section, 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 reimbursements, in whole or in part, specified by this section, the court shall order the costs and reimbursements. The court may order such payments and reimbursements to be paid in installments and shall set the amount and due date of each installment.

3. Even though the court has previously found the parent indigent, if a parent is subsequently found to be financially able to pay costs and reimbursements, the court may order such payments and reimbursements paid in installments.

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. 1. 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.

2. 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.

E. 1. The Department may effectuate the order for payment of any costs and expenses authorized pursuant to the provisions of this section against any asset of the parent. Any assignment, attachment, garnishment, or lien against such assets shall be served upon the person in possession of the assets or shall be recorded in the office of the county clerk in the county in which the parent resides or in which the asset is located.

2. Pursuant to Section 7302-2.1 of this title, the Department may contract on a contingency fee basis with private attorneys for the collection and enforcement of orders against such assets. Any such third-party payment shall be paid directly to the Department.

SECTION 17. AMENDATORY Section 143, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7303-8.1), is amended to read as follows:

Section 7303-8.1 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, Req. No. 7640Page 39

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 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. No state employee shall be liable for the costs of any medical care or mental health services provided to any child in the custody of the Office of Juvenile Justice.

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 7303-2.1 and 7303-5.1 of Title 10 of the

Oklahoma Statutes 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 18. AMENDATORY 10 O.S. 1991, Section 1108, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 22, Chapter 247, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7304-1.3), is amended to read as follows:

Section 7304-1.3 A. Provision shall be made for the temporary detention of children in a juvenile detention facility or the court may arrange for the care and custody of such children temporarily in private homes, subject to the supervision of the court, or the court may provide shelter or may enter into a contract with any institution or agency to receive, for temporary care and custody, children within the jurisdiction of the court. The Department of Juvenile Justice shall not be ordered to provide detention unless said Department has designated and is operating detention services or facilities.

B. County sheriffs, their designee, private contractors under contract with the Department of Juvenile Justice for transportation services, or juvenile court officers shall provide for the transportation of juveniles to and from secure detention for purposes of admission, interfacility transfer, discharge, medical or dental attention, court appearance, or placement designated by the Department. No private contract for transportation services shall be entered into by the Department unless the private contractor demonstrates to the satisfaction of the Department that such contractor is able to obtain insurance or provide self-insurance to indemnify the Department against possible lawsuits and meets the requirements of subparagraphs a, b and d of paragraph 4 of subsection C of this section. The Department of Juvenile Justice shall not be ordered to provide transportation for a juvenile who is detained in or is destined for secure detention. The Department of Juvenile Justice shall

provide reimbursement to the entity transporting juveniles for necessary and actual expenses for transporting juveniles who are detained in or destined for a secure detention center as follows:

1. A fee for the cost of personal services at the rate of Twelve Dollars (\$12.00) per hour;
2. Mileage reimbursement for each mile actually traveled at the rate established in the State Travel Reimbursement Act;
3. Meals for transporting personnel, not to exceed Six Dollars (\$6.00) per meal; and
4. Meals for juveniles being transported, not to exceed Six Dollars (\$6.00) per meal.

The Department of Juvenile Justice shall process and mail reimbursement claims within sixty (60) days of receipt. Payments for services provided by a county sheriff's office shall be paid to the county and deposited in the sheriff service fee account.

C. 1. All juvenile detention facilities shall be certified by the Office of Juvenile Affairs. To be certified, a juvenile detention facility shall be required to meet standards for certification promulgated by the Board of Juvenile Affairs. Until such standards are promulgated, the standards promulgated by the Oklahoma Commission for Human Services shall remain in effect.

2. The board of county commissioners of every county shall provide for the temporary detention of a child who is or who may be subject to secure detention and may construct a building or rent space for such purpose. The boards of county commissioners shall provide for temporary detention services and facilities in accordance with the provisions of the State Plan for the Establishment of Juvenile Detention Services adopted pursuant to subsection D of this section and in accordance with Section 7302-6.8 of this title. The boards of county commissioners are hereby authorized to create multi-county trust authorities for the purpose of operating juvenile detention facilities.

3. In order to operate the juvenile detention facilities designated in the State Plan for the Establishment of Juvenile Detention Services and in Section 7302-6.8 of this title, the

boards of county commissioners in the designated host counties shall:

- a. operate the juvenile detention facility through a statutorily constituted juvenile bureau subject to the supervision of the district court, or
- b. operate the juvenile detention facility by employing a manager who may employ personnel and incur other expenses as may be necessary for its operation and maintenance, or
- c. contract with a public agency, private agency, federally recognized tribe, or single or multi-county trust authority for the operation of the juvenile detention facility. In the event any board of county commissioners contracts with a public or private agency or a federally recognized tribe, pursuant to the provisions of this section, the Department is authorized to directly contract with and pay such public or private agency or federally recognized tribe for provision of detention services. Any contract with a federally recognized tribe shall become effective upon approval by the board of county commissioners.

4. Management contracts for privately operated detention facilities shall be negotiated with the firm found most qualified by the board of county commissioners. However, no private management contract shall be entered into by the board unless the private contractor demonstrates to the satisfaction of the board:

- a. that the contractor has the qualifications, experience, and personnel necessary to implement the terms of the contract,
- b. that the financial condition of the contractor is such that the term of the contract can be fulfilled,
- c. that the ability of the contractor to obtain insurance or provide self-insurance to indemnify the county against possible lawsuits and to compensate the county for any property damage or expenses

incurred due to the private operation of the juvenile detention facility, and

- d. that the contractor has the ability to comply with applicable court orders and rules of the Department of Juvenile Justice.

5. All counties to be served by a secure juvenile detention facility may, upon the opening of such facility, contract with the operators for the use of the facility for the temporary detention of children who are subject to secure detention; provided, however, a jail, adult lockup, or other adult detention facility may be used for the secure detention of a child as provided for in Section 7304-1.1 of this title.

6. Expenses incurred in carrying out the provisions of this section shall be paid from the general fund of the county or from other public funds lawfully appropriated for such purposes or from private funds that are available for such purposes. A county may also issue bonds for the construction of detention facilities.

7. The operation of a juvenile detention facility by a county shall constitute a quasi-judicial function and is also hereby declared to be a function of the State of Oklahoma for purposes of the Eleventh Amendment to the United States Constitution. In addition, no contract authorized by the provisions of this section for the providing of transportation services or for the operation of a juvenile detention facility shall be awarded until the contractor demonstrates to the satisfaction of the county that the contractor has obtained liability insurance with the limits specified by the Governmental Tort Claims Act against lawsuits arising from the operation of the juvenile detention facility by the contractor, or if the contract is for the providing of transportation services, the contractor has obtained liability insurance with the limits specified by the Governmental Tort Claims Act against lawsuits arising from the transportation of juveniles as authorized by subsection A of this section.

D. The Board of Juvenile Affairs, from monies appropriated for that purpose, shall develop, adopt, and implement a plan for secure juvenile detention services and alternatives to secure

detention, to be known as the State Plan for the Establishment of Juvenile Detention Services, which shall provide for the establishment of juvenile detention facilities and services with due regard for appropriate geographical distribution and existing juvenile detention programs operated by statutorily constituted juvenile bureaus. Said plan may be amended or modified by the Board as necessary and appropriate. Until said plan is adopted by the Board, the plan adopted by the Oklahoma Commission for Human Services shall remain in effect.

1. The Board of Juvenile Affairs shall establish procedures for the letting of contracts or grants, including grants to existing juvenile detention programs operated by statutorily constituted juvenile bureaus, and the conditions and requirements for the receipt of said grants or contracts for juvenile detention services and facilities as provided in this section and Section 7302-4.1 of this title. A copy of such procedures shall be made available to any member of the general public upon request. All such grants or contracts shall require the participation of local resources in the funding of juvenile detention facilities. A contract for services shall be based upon a formula approved by the Board which shall set the contract amount in accordance with the services offered and the degree of compliance with standards for certification. Until the procedures are established by the Board, the procedures established by the Commission for Human Services shall remain in effect.

2. The Board of Juvenile Affairs shall establish standards for the certification of detention services and juvenile detention facilities. Such standards may include, but not be limited to: Screening for detention; education and recreation opportunities for juveniles in secure detention; and accreditation by the American Correctional Association. As a condition of continuing eligibility for grants or contracts, secure juvenile detention services and facilities shall be certified by the Board within two (2) years of the date of the initial grant or contract.

E. The State Department of Health, with the assistance of the Office of Juvenile Justice, shall establish standards for the

certification of jails, adult lockups, and adult detention facilities used to detain juveniles. Such standards shall include but not be limited to: Separation of juveniles from adults; supervision of juveniles; and health and safety measures for juveniles. The Department of Health is authorized to inspect any jail, adult lockup, or adult detention facility for the purpose of determining compliance with such standards. No jail, adult lockup, or other adult detention facility shall be used to detain juveniles unless such jail, adult lockup, or other adult detention facility complies with the standards established by the Department of Health and is designated as a place for the detention of juveniles by the judge having juvenile docket responsibility in the county from a list of eligible facilities supplied by the Department of Health.

The development and approval of the standards provided for in this paragraph shall comply with the provisions of the Administrative Procedures Act.

F. The State Board of Health shall promulgate rules providing for the routine recording and reporting of the use of any adult jail, lockup or other adult facility for the detention of any person under the age of eighteen (18).

1. For the purpose of ensuring the uniformity and compatibility of information related to the detention of persons under age eighteen (18), said rules shall be reviewed and approved by the Oklahoma Commission on Children and Youth prior to their adoption by the Board; and

2. Said records of detention shall be reviewed during each routine inspection of adult jails, lockups or other adult detention facilities inspected by the State Department of Health and a statistical report of said detentions shall be submitted to the ~~Oklahoma Commission on Children and Youth~~ Office of Juvenile Affairs at least every six (6) months in a form approved by the ~~Commission~~ Board of Juvenile Affairs.

SECTION 19. AMENDATORY Section 28, Chapter 290, O.S.L. 1994, as amended by Section 174, Chapter 352, O.S.L. 1995, and as

renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7306-2.11), is amended to read as follows:

Section 7306-2.11 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 youthful offenders;

2. Place the youthful offender in a group home or community residential facility for youthful offenders; 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. No state employee shall be liable for the costs of any medical care or mental health services provided to any child in the custody of the Office of Juvenile Justice.

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 20. AMENDATORY Section 180, Chapter 352, O.S.L. 1995, as amended by Section 6, Chapter 211, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7307-1.4), is amended to read as follows:

Section 7307-1.4 A. Juvenile court records which are confidential may be inspected, and their contents shall be disclosed, without a court order to the following persons upon showing of proper credentials and pursuant to lawful duties:

1. The judge having the child currently before the court in any proceeding pursuant to the Oklahoma Juvenile Code, or any judge of the district court or tribal court to which such proceedings may be transferred;

2. Employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court;

3. Members of review boards established pursuant to Sections 1116.2 and 1116.6 of this title. In addition to juvenile court

records, any member 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;

4. A district attorney and the employees of an office of a district attorney in the course of their official duties;

5. The attorney representing a child who is the subject of a juvenile proceeding pursuant to the provisions of this chapter. The attorney representing a child or considering representing a child in a juvenile proceeding may also access other records listed in subsection A of Section 7307-1.2 of this title for use in the legal representation of the child;

6. Employees of juvenile bureaus in the course of their official duties;

7. Employees of the Department of Juvenile Justice in the course of their official duties;

8. 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;

9. The Oklahoma Commission on Children and Youth;

10. The Department of Juvenile Justice or other public or private agency or any individual having court-ordered custody or custody pursuant to Department of Juvenile Justice placement of the child who is the subject of the record;

11. The Department of Human Services;

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

13. Any 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 due to the child being 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; provided such Indian tribe member, in the course of official duties:

- a. is 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. is providing services to or for the benefit of a child including but not limited to protective, emergency, social and medical services;

14. Any federally recognized Indian tribe in which 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 pursuant to the provisions of this subsection shall include all case records, reports and documents as defined in this chapter;

15. The Governor or to any person the Governor designates, in writing;

16. Any federal official of the United States Department of Health and Human Services; ~~and~~

~~17. 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~~ Any member of the Legislature, upon the written approval of the Speaker of the House of Representatives or the President Pro Tempore of the Senate; and

18. Employees of the Department of Corrections in the course of their official duties.

B. Records and their contents disclosed without an order of the court as provided by the provisions of this section shall

remain confidential. The use of any information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful for any person to furnish any confidential record or disclose any confidential information contained in any juvenile record for commercial, political or any other unauthorized purpose. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor.

SECTION 21. AMENDATORY Section 181, Chapter 352, O.S.L. 1995, as amended by Section 7, Chapter 211, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7307-1.5), is amended to read as follows:

Section 7307-1.5 A. Department of Juvenile Justice agency records pertaining to a child which are confidential may be inspected and their contents disclosed without a court order to the following persons upon showing of proper credentials:

1. The judge having the child currently before the court in any proceeding pursuant to this title, any judge of the district court or tribal court to which any proceedings may be transferred;
2. 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 members of review boards established pursuant to the Oklahoma Children's Code;
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 juvenile proceeding pursuant to the provisions of this title. The attorney representing a child or an attorney considering representing a child in a juvenile proceeding may access other confidential records listed in subsection A of Section 7307-1.2 of this title for use in the legal representation of the child;
5. Employees of juvenile bureaus in the course of their official duties;
6. Employees of a law enforcement agency of this or another state and employees of a child protective service of another state or any federally recognized Indian tribe member 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 subparagraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation;

8. The Oklahoma Commission on Children and Youth;

9. The Department of Human Services;

10. 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 the disclosure to summaries or to information directly necessary for the purpose of the 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;

12. The parents of the child who is the subject of any records;

13. Any person or agency for research purposes, if all of the following conditions are met:

- a. the person or agency conducting the research is employed by the State of Oklahoma or is under contract with this state and is authorized by the ~~Department of Human Services~~ Office of Juvenile Affairs to conduct the research, and
- b. the person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to any documents by unauthorized persons is

prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed;

14. The Governor or to any person the Governor designates, in writing; ~~and~~

15. Any federal official of the United States Department of Health and Human Services or the United States Department of Justice;

16. Any member of the Legislature, upon the written approval of the Speaker of the House of Representatives or the President Pro Tempore of the Senate; and

17. Employees of the Department of Corrections in the course of their official duties.

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

SECTION 22. AMENDATORY 21 O.S. 1991, Section 650.2, as last amended by Section 223 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 650.2 A. Every person in the custody of the Oklahoma Department of Corrections who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of a Department of Corrections employee while said employee is in the performance of his or her duties shall, upon conviction thereof, be guilty of a felony.

B. Every person in the custody of the Department of Human Services who, without justifiable or excusable cause, knowingly

commits any aggravated assault and battery upon the person of a Department of Human Services employee while said employee is in the performance of his or her duties shall, upon conviction thereof, be guilty of a felony.

C. Every person in the custody of the Office of Juvenile Affairs who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of an Office of Juvenile Affairs employee while said employee is in the performance of his or her duties shall, upon conviction thereof, be guilty of a felony.

D. Every person in the custody of the Office of Juvenile Affairs who, without justifiable or excusable cause, knowingly commits any battery or assault and battery resulting in serious bodily injury to any employee of the Office of Juvenile Affairs or employee of any residential facility while said employee is in the performance of duties of employment shall, upon conviction thereof, be guilty of a felony. The fine for a violation of this subsection shall not be less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

SECTION 23. AMENDATORY 10 O.S. 1991, Section 1149, as renumbered by Section 200, Chapter 352, O.S.L. 1995 (21 O.S. Supp. 1996, Section 650.8), and as last amended by Section 226 of Enrolled House Bill No. 1213 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 650.8 A. Every person who, without justifiable or excusable cause, knowingly commits any aggravated assault and battery upon the person of an employee of a facility maintained by the Office of Juvenile Affairs ~~or~~, a facility maintained by a private contractor pursuant to a contract with the Office of Juvenile Affairs primarily for delinquent children, a juvenile detention center, or a juvenile bureau, while the employee is in the performance of his duties, shall upon conviction thereof be guilty of a felony.

B. This section shall not supersede any other act or acts, but shall be cumulative thereto.

SECTION 24. AMENDATORY 28 O.S. 1991, Section 162, as last amended by Section 12, Chapter 339, O.S.L. 1996 (28 O.S. Supp. 1996, Section 162), is amended to read as follows:

Section 162. A. The clerks of the courts shall collect as costs in every juvenile delinquency, child in need of supervision, or deprived case in which the juvenile is adjudicated, irrespective of whether or not the sentence is deferred, or child in need of mental health treatment case pursuant to the Inpatient Mental Health Treatment of Children Act, Section 5-501 et seq. of Title 43A of the Oklahoma Statutes, irrespective of whether the child is committed for inpatient mental health treatment, or in every such case in which a petition is filed at the demand of the parents of a juvenile and said petition is subsequently dismissed prior to adjudication at said parents' request, the following flat charge and no more, except for the charges provided for in this section, which fee shall cover docketing of the case, filing of all papers, issuance of process, warrants and orders, and other services to date of judgment:

- For each case where one or more juveniles are adjudicated deprived..... \$50.00
- For each juvenile who is certified to stand trial as an adult..... \$75.00
- In each juvenile case wherein parental rights are terminated..... \$50.00
- For each juvenile adjudicated in need of supervision..... \$50.00
- For each child found to be a child in need of mental health treatment..... \$50.00
- For each juvenile adjudicated for an offense which would be a misdemeanor if committed by an adult, including violation of any traffic law, whether charged individually or conjointly with others..... \$50.00
- For each juvenile adjudicated for an offense which would be a felony if committed by an adult, whether charged individually or conjointly with others..... \$75.00

For the services of a court reporter at each trial held in the case..... \$20.00

When a jury is requested..... \$30.00

A sheriff's fee for serving or endeavoring to serve all writs, warrants, orders, process, commands, or notices or pursuing any fugitive from justice..... \$20.00 or mileage as established by Oklahoma Statutes, whichever is greater.

B. Such costs shall be levied against the juvenile, the parent, or both, but shall not be levied against the legal guardian or any state or private agency having custody of any juvenile subject to such proceedings.

C. Prior to adjudication, parties in juvenile delinquency, child in need of supervision, child in need of treatment, and deprived cases shall not be required to pay, advance, or post security for the issuance or service of process to obtain compulsory attendance of witnesses. These fees shall be deposited into the court fund, except the sheriff's fee, when collected, shall be transferred to the general fund of the county in which service is made or attempted to be made.

D. The clerk of the district court shall charge the sum of One Hundred Dollars (\$100.00) for preparing, assembling, indexing, and transmitting the record for appellate review. This fee shall be paid by the party taking the appeal and shall be entered as costs in the action. If more than one party to the action shall prosecute an appeal from the same judgment or order, the fee shall be paid by the party whose petition in error is determined by the district court or by the appellate court to commence the principal appeal. The fees collected hereunder shall be paid into the court fund.

E. Fees and costs collected in juvenile cases may be withdrawn from the court fund and used for operations of the juvenile bureaus, in counties wherein a statutory juvenile bureau is in operation, upon approval by the Chief Justice of the Oklahoma Supreme Court.

F. In those seventy-four counties in which court services are provided by contract between the Oklahoma Supreme Court and the Department of Human Services, funds received from court costs in juvenile cases may be withdrawn from the court fund and paid to the Department of Human Services upon approval by the Chief Justice of the Oklahoma Supreme Court. Said funds are to be expended by the Department of Human Services to supplement community-based programs, such as ~~juvenile offender victim restitution work programs~~, youth services programs, day treatment programs, and group home services, ~~and detention services~~. Specific annual training of Department workers in community-based services providing the above court-related services is also to be included for expenditure of funds received from court costs in juvenile cases by the Department of Human Services.

G. In those seventy-four counties in which court services are provided by contract between the Oklahoma Supreme Court and the Office of Juvenile Affairs, funds received from court costs or orders for care and maintenance in juvenile cases may be withdrawn from the court fund and paid to the Office of Juvenile Affairs upon approval by the Chief Justice of the Oklahoma Supreme Court. Said funds are to be expended by the Office of Juvenile Affairs to provide care and maintenance and to supplement community-based programs, such as alternative education, juvenile offender community and victim restitution work programs, community sanction programs, youth services programs, day treatment programs, group home services, and detention services. Specific annual training of agency workers in community-based services providing the above court-related services is also to be included for expenditure of funds received from court costs in juvenile cases by the Office of Juvenile Affairs.

SECTION 25. AMENDATORY 57 O.S. 1991, Section 530.1, as last amended by Section 2, Chapter 168, O.S.L. 1996 (57 O.S. Supp. 1996, Section 530.1), is amended to read as follows:

Section 530.1 A. The Department of Corrections, by the rules of that Department, shall have the following duties which shall be

performed as part of the assessment and reception process of the Department of Corrections, upon reception of each inmate:

1. To administer, or cause to be administered, physical and psychological examination of all inmates;
2. To inventory the vocational skills of all inmates;
3. To assess the educational and training needs of all inmates;
4. To determine from available records and interviews, the place of birth of new inmates. The Department of Corrections shall furnish a list of foreign-born nationals and suspected foreign-born nationals to the Immigration and Naturalization Service on a weekly basis;
5. To determine initial security and custody classifications;
6. To determine and recommend for placement in an alcohol or substance abuse treatment facility or program, as provided for in this section, any inmate convicted of alcohol related offenses or otherwise in need of alcohol or substance abuse treatment;
7. To determine and recommend for placement in the Department of Corrections Special Care Unit at the State Penitentiary at McAlester any inmate who is in need of acute psychiatric care;
8. To plan for immediate assignments to institutions, community treatment centers, alcohol or substance abuse treatment centers or programs, alternatives to incarceration authorized by law, or other facilities, public or private, designated by the Department;
9. To recommend possible future assignments to institutions, community treatment centers, alcohol or substance abuse treatment centers or programs, alternatives to incarceration authorized by law, or other facilities designated by the Department; ~~and~~
10. To provide orientation and instruction with respect to rules and procedures for prisoners; and
11. To obtain all relevant juvenile court records and relevant Department of Juvenile Justice agency records, if any, pertaining to inmates and make said records a part of the permanent record maintained by the Department of Corrections regarding the inmate. The information contained in those records

shall be used to determine security level and placement of inmates.

B. An alcohol or substance abuse treatment center in which an inmate is placed shall provide services and standards of treatment as provided by the Department of Mental Health and Substance Abuse Services under its rules for alcoholism or substance abuse treatment. Upon placement of a prisoner in a center for alcoholism or substance abuse treatment, the Department of Corrections shall enter into a third party contract with such center for the custodial and professional services rendered to any prisoner. Such contract may include requirements imposed by law on the Department of Corrections or reimbursement for such services, if necessary. The Department of Corrections is further authorized to enter into third party contracts for substance abuse treatment programs which are certified by the Department of Mental Health and Substance Abuse Services to provide professional services on an outpatient basis to prisoners in need of substance abuse treatment and follow-up treatment while assigned to alternatives to incarceration.

C. The Department of Juvenile Justice shall allow reasonable access to its database for the purpose of obtaining the juvenile records required by subsection A of this section.

D. The Department of Corrections shall adopt rules governing the implementation of this section within sixty (60) days from the effective date of this act.

SECTION 26. AMENDATORY 62 O.S. 1991, Section 195, as last amended by Section 1 of Enrolled House Bill No. 1762 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 195. A. 1. There is hereby created a petty cash fund at each of the following institutions: Oklahoma School for the Blind, Muskogee, Oklahoma; Oklahoma School for the Deaf, Sulphur, Oklahoma; Griffin Memorial Hospital, Norman, Oklahoma; Eastern State Hospital, Vinita, Oklahoma; Northern Oklahoma Resource Center of Enid, Enid, Oklahoma; Southern Oklahoma Resource Center of Pauls Valley, Pauls Valley, Oklahoma; Western

State Psychiatric Center, Fort Supply, Oklahoma; Central Oklahoma Juvenile Treatment Center, Tecumseh, Oklahoma; ~~Hisson Memorial Center, Sand Springs, Oklahoma;~~ L.E. Rader Children's Diagnostic and Evaluation Center, Sand Springs, Oklahoma; L.E. Rader Intensive Treatment Center, Sand Springs, Oklahoma; the Southwest Oklahoma Juvenile Center, Manitou, Oklahoma; the Office of Juvenile Affairs' Boys' Group Home, Enid, Oklahoma; the Office of Juvenile Affairs' Boys' Group Home, Lawton, Oklahoma; the Office of Juvenile Affairs' Girls' Group Home, Tulsa, Oklahoma; the Oklahoma Medical Center; and the J.D. McCarty Center for Children with Developmental Disabilities.

2. The Director of State Finance and the head of the institution involved are hereby authorized and it shall be their duty to fix the maximum amount of the petty cash funds. The Director of State Finance shall prescribe all forms, systems, and procedures for administering the petty cash funds of the institution.

B. 1. There is hereby created a petty cash fund in the legal division of the Department of Human Services which fund shall be used solely to pay court costs, filing fees, witness fees, and expenses related to any case or proceeding within the responsibility of the legal division.

2. There is hereby created a petty cash fund in the Child Support Enforcement Division of the Department of Human Services. The fund shall be used solely to pay litigation expenses, including court costs, filing fees, witness fees, and expenses related to any case or proceeding within the responsibility of the Child Support Enforcement Division.

3. The Director of State Finance, and the Director of the Department of Human Services are hereby authorized and it shall be their duty to fix the maximum amount of the petty cash funds. The Director of State Finance shall prescribe all forms, systems, and procedures for administering the petty cash funds.

C. 1. There is hereby created a petty cash fund in the finance department of the Oklahoma Corporation Commission which shall be used solely to pay litigation expenses of the legal

division, including court costs, filing fees, witness fees, and other expenses related to any case, proceeding, or matter within the responsibility of the legal division.

2. The Director of State Finance and the Corporation Commission are hereby authorized and it shall be their duty to fix the maximum amount of the petty cash fund, not to exceed Five Hundred Dollars (\$500.00). The Director of State Finance shall prescribe all forms, systems, and procedures for administering the petty cash fund.

D. 1. There is hereby created a petty cash fund for the Property Distribution Division of the Department of Central Services.

2. The amount of the Property Distribution petty cash fund shall not exceed Five Hundred Dollars (\$500.00). The initial amount shall be drawn by warrant from the State Surplus Property Revolving Fund. The Director of State Finance and the Director of the Department of Central Services are authorized to prescribe forms, systems and procedures for the administration of the Property Distribution petty cash fund.

E. 1. There is hereby created a petty cash fund in the legal division of the Oklahoma Health Care Authority which fund shall be used solely to pay for court costs, filing fees, witness fees, and expenses related to any case or proceeding within the responsibility of the legal division.

2. The Director of State Finance and the Chief Executive Officer of the Oklahoma Health Care Authority are hereby authorized and it shall be their duty to fix the maximum amount of the petty cash fund, not to exceed Five Hundred Dollars (\$500.00). The Director of State Finance shall prescribe all forms, systems, and procedures for administering the petty cash fund.

SECTION 27. REPEALER Section 49, Chapter 290, O.S.L. 1994, as amended by Section 5, Chapter 247, O.S.L. 1996 and 10 O.S. 1991, Section 1160.5, as last amended by Section 112, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Sections 1507.27 and 7302-9.5), are hereby repealed.

SECTION 28. This act shall become effective July 1, 1997.

SECTION 29. 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.

46-1-7640

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