

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 755

By: Fisher and Milacek of the
Senate

and

Benson of the House

COMMITTEE SUBSTITUTE

An Act relating to schools; amending 70 O.S. 1991, Section 24-101, as last amended by Section 43, Chapter 247, O.S.L. 1996 (70 O.S. Supp. 1996, Section 24-101), which relates to out-of-school suspension; changing education policies related to suspended students; stating contents of certain plan; modifying procedure of students right to appeal; providing options for out-of-school suspension; deleting certain exception to violent offense; requiring school districts to forward certain disciplinary records to receiving school districts; directing the State Board of Education to adopt certain rules; amending Section 133, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7303-5.3), which relates to orders of disposition for certain children; requiring certain entities to notify certain schools of the delinquency adjudication and order of disposition; 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 70 O.S. 1991, Section 24-101, as last amended by Section 43, Chapter 247, O.S.L. 1996 (70 O.S. Supp. 1996, Section 24-101), is amended to read as follows:

Section 24-101. A. Any pupil who is guilty of immorality or violation of the regulations of a public school, or who has been adjudicated as a delinquent for an offense that is not a violent offense, as defined in subsection E of this section, may be suspended out-of-school by the ~~principal~~ administration of such school only pursuant to the provisions of this subsection. The suspension shall not extend beyond the current school semester and the succeeding semester. A pupil suspended out-of-school ~~pursuant to this subsection~~ whose suspension is longer than ten (10) days and who was not suspended for committing a violent act or for possessing dangerous weapons shall be placed in a supervised, structured environment provided by the parent or legal guardian in either a home-based school work assignment setting or another appropriate setting in accordance with a plan prescribed by the school administration that provides education to ~~and monitoring of~~ the student^r. The plan shall include local school board policies addressing grading and monitoring of the work performed, and development of and procedures for implementing the education plan which shall be complied with by the parent or legal guardian. ~~Unless the district board of education has adopted a policy authorizing appeal to a committee under circumstances as provided in this section and the out-of-school suspension falls within the category of suspensions to which appeal to a committee is authorized, the~~ The suspended pupil shall have the right to appeal

from the decision of out-of-school suspension to the board of education of the district, which shall, upon a full investigation of the matter, determine the guilt or innocence of the pupil and the reasonableness of the term of the suspension, and its decision shall be final. A district board of education may adopt policies and procedures applicable to out-of-school suspensions ~~of ten (10) or fewer school days, the length of time to be set by the board,~~ by which a pupil shall have the right to appeal the decision of the principal to a committee composed of administrators or teachers or a combination of administrators and teachers. The committee shall, upon full investigation of the matter, determine the guilt or innocence of the pupil and the reasonableness of the term of the out-of-school suspension. The policy adopted by the board ~~may, but is not required to,~~ shall provide for appeal of the committee's decision to the board.

B. Before a pupil is suspended out-of-school, pursuant to subsection A of this section, the principal shall consider and apply, if appropriate, alternative in-school placement options that are not to be considered suspension, such as placement in an alternative school setting, reassignment to another classroom or in-school detention.

C. A pupil who has been suspended out-of-school from a public or private school in the State of Oklahoma or another state for a violent act or an act showing deliberate or reckless disregard for the health or safety of faculty or other pupils shall not be entitled to enroll in a public school of this state, and no public school shall be required to enroll such pupil, until the terms of the suspension have been met or the time of suspension has expired.

D. No public school of this state shall be required to provide education services ~~in the regular school setting~~ to any pupil who has been adjudicated as a delinquent for an offense defined in subsection E of this section as a violent offense or convicted as an

adult of an offense defined in subsection E of this section as a violent offense or who has been removed from a public or private school in the State of Oklahoma or another state by administrative or judicial process for a violent act or an act showing deliberate or reckless disregard for the health or safety of faculty or other pupils until the school in which such pupil is subsequently enrolled determines that the pupil no longer poses a threat to self, other pupils, or faculty. Until the school in which such pupil subsequently enrolls or re-enrolls determines that the pupil no longer poses a threat to self, other pupils, or faculty, the school may provide education services through an alternative school setting, home-based instruction, or other appropriate setting. Education and related services for such pupils on an individualized education plan (IEP) pursuant to the Individuals with Disabilities Education Act (IDEA), P.L. No. 101-476, shall be provided the education and related services in accordance with the pupil's individualized education plan.

E. For purposes of this section, "violent offense" shall include those offenses listed as the exceptions to the term "nonviolent offense" as specified in Section 571 of Title 57 of the Oklahoma Statutes. ~~"Violent offense" shall not include the offense of assault.~~

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 24-114.2 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. For any student that enrolls in a district other than their school district of origination for that year or the prior year, upon notification the sending district shall include in the student records to be forwarded to the receiving school district, a copy of the disciplinary record for that student.

B. The State Board of Education shall promulgate rules for monitoring school district compliance with this section and providing sanctions for noncompliance with this section.

SECTION 3. AMENDATORY Section 133, 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.

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 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. With respect to a child adjudicated a delinquent child, either the juvenile bureau in counties which have a juvenile bureau or the Office of Juvenile Affairs in all other counties, shall notify the chief administrator of the school in which the child is or will be enrolled of the delinquency adjudication and the contents of the order of disposition.

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

~~C.~~ D. No child charged in a state or municipal court with a violation of state or municipal traffic laws or ordinances, or convicted therefor, may be incarcerated in jail for any said violation unless the charge for which the arrest was made would constitute a felony if the child were an adult. 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.~~ E. 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 4. This act shall become effective July 1, 1997.

SECTION 5. 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.

46-1-7184

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