

ENGROSSED HOUSE
BILL NO. 3151

By: Benson and Boyd (Laura)
of the House

and

Fisher of the Senate

An Act relating to children; amending 10 O.S. 1991, Section 620.3, as amended by Section 1, Chapter 307, O.S.L. 1992 (10 O.S. Supp. 1997, Section 620.3), which relates to agencies required to promulgate uniform rules and procedures for maintenance, transfer and release of confidential information; adding an agency; amending Section 4, Chapter 299, O.S.L. 1991, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 15, Chapter 247, O.S.L. 1996, and 10 O.S. 1991, Section 1141, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 2, Chapter 392, O.S.L. 1997 (10 O.S. Supp. 1997, Sections 7302-3.11 and 7302-5.1), which relate to the Oklahoma Juvenile Code; authorizing combining information in separate report with Department of Juvenile Justice annual report on programs and services; modifying information required; expanding scope of literacy skills improvement programs; amending Section 114, Chapter 352, O.S.L. 1995, as last amended by Section 15, Chapter 293, O.S.L. 1997, Section 116, Chapter 352, O.S.L. 1995, and Section 129, Chapter 352, O.S.L.

1995 (10 O.S. Supp. 1997, Sections 7303-1.1, 7303-1.3 and 7303-4.6), which relate to the Oklahoma Juvenile Code; providing that certain children are not considered to be in the custody of the Office of Juvenile Affairs; authorizing the district attorney to defer filing petitions alleging children to be in need of supervision; authorizing deferral of adjudication proceedings to determine if child is in need of supervision under certain circumstances; amending Section 21, Chapter 290, O.S.L. 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 26, Chapter 293, O.S.L. 1997, and Section 27, Chapter 294, O.S.L. 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 31, Chapter 293, O.S.L. 1997 (10 O.S. Supp. 1997, Sections 7306-2.4 and 7306-2.10), which relate to the Youthful Offender Act; clarifying discharge from custody or supervision and judicial jurisdiction; amending 20 O.S. 1991, Section 123, as amended by Section 1, Chapter 224, O.S.L. 1997 (20 O.S. Supp. 1997, Section 123), which relates to jurisdiction of special judges; expanding jurisdiction with restriction; repealing Section 5, Chapter 306, O.S.L. 1993, as amended by Section 127, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7303-4.4), which relates to jurisdiction over certain children; 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 620.3, as amended by Section 1, Chapter 307, O.S.L. 1992 (10 O.S. Supp. 1997, Section 620.3), is amended to read as follows:

Section 620.3 A. Prior to April 1, 1991, the following agencies shall promulgate uniform rules and adopt uniform procedures and forms for the maintenance, transfer and release of confidential information:

1. Department of Human Services;
2. Department of Mental Health and Substance Abuse Services;
3. State Department of Health;
4. State Department of Education;
5. State Department of Vocational and Technical Education;
6. Oklahoma Commission on Children and Youth;
7. J. D. McCarty Center for Children with Developmental Disabilities; ~~and~~
8. Department of Corrections; and
9. Beginning July 1, 1998, the Office of Juvenile Affairs.

B. Private agencies receiving public funds pursuant to a grant or contract with a state agency listed in subsection A of this section and providing institutional, community residential or community-based services, as defined by Section 1101 of ~~Title 10 of the Oklahoma Statutes~~ this title, to children and families, shall comply with the rules regarding the maintenance, transfer and release of confidential information adopted by the governing board of the state agency or agencies from which they receive funds.

C. The provisions of Sections 620.1 through 620.6 of this act ~~title~~ shall not apply to court records of juvenile cases maintained by the district courts. The supervising judge of a statutorily-constituted juvenile bureau may establish court rules for the transfer and release of other confidential information maintained by the juvenile bureau which substantially conform with the rules, forms and procedures promulgated and adopted by state

agencies pursuant to the provisions of Sections 620.1 through 620.6 of this ~~act~~ title.

SECTION 2. AMENDATORY Section 4, Chapter 299, O.S.L. 1992, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 15, Chapter 247, O.S.L. 1996 (10 O.S. Supp. 1997, Section 7302-3.11), is amended to read as follows:

Section 7302-3.11 A. The Department of Juvenile Justice shall from time to time, but not less often than annually, review its programs and services and submit a report to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Supreme Court of the State of Oklahoma, the Board of Juvenile Affairs, and the Oklahoma Commission on Children and Youth analyzing and evaluating the effectiveness of the programs and services being carried out by the Department of Juvenile Justice. Such report shall include, but not be limited to:

1. An analysis and evaluation of programs and services continued, established and discontinued during the period covered by the report;

2. A description of programs and services which should be implemented;

3. Relevant information concerning the number of children comprising the population of any facility of the Office of Juvenile Affairs operated by the Department of Juvenile Justice during the period covered by the report; ~~and~~

4. An analysis and evaluation, by age, of the number of children assessed for literacy skills, the number who failed to demonstrate age-appropriate reading skills, and the number who were required to participate in a literacy skills improvement program;
and

5. Such other information as will enable a user of the report to ascertain the effectiveness of the programs, services and facilities.

B. Beginning July 1, 1998, and at least annually thereafter, the Department of Juvenile Justice shall review the implementation of the Youthful Offender Act and submit a report to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Supreme Court of the State of Oklahoma, the Oklahoma Court of Criminal Appeals, the Board of Juvenile Affairs, and the Oklahoma Commission on Children and Youth analyzing and evaluating the effectiveness of the Youthful Offender Act and any problems which have occurred which have limited the effectiveness of the Youthful Offender Act.

SECTION 3. AMENDATORY 10 O.S. 1991, Section 1141, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 2, Chapter 392, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7302-5.1), is amended to read as follows:

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

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

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

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

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

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

D. 1. The Department of Juvenile Justice shall establish directly and by contract, the services necessary to implement the Serious and Habitual Juvenile Offender Program including, but not limited to:

- a. misdemeanor and non-serious first-time offender programs,
- b. tracking and mentor services,
- c. weekend detention,
- d. five-day out-of-home sanction placements,
- e. short-term thirty-day intensive, highly structured placements,
- f. transitional programs,
- g. substance abuse treatment and diagnostic and evaluation programs, and
- h. day treatment programs.

2. In implementing these services, the Department shall give priority to those areas of the state having the highest incidences of juvenile crime and delinquency.

E. 1. The following entities shall conduct, upon adjudication of a child as a delinquent or in need of supervision unless such child has been previously assessed within the six (6) months prior to such intake, a literacy skills assessment:

- a. the Department of Juvenile Justice,
- b. a first-time offender program within a designated youth services agency,
- c. any metropolitan county juvenile bureau, or
- d. any county operating a juvenile bureau.

2. Such assessment shall be conducted through the use of diagnostic tools which include, but are not limited to:

- a. structured interviews,
- b. standardized literacy testing instruments which measure the educational proficiency of the child, and
- c. any other measure used to determine:
 - (1) whether a child is reading at an age-appropriate level, and
 - (2) the child's capacity to read at such level.

3. The results of the literacy skills assessment required pursuant to this subsection shall be made available to the court by the district attorney for use in the disposition phase; provided, however, the results shall not be used in any evidentiary or fact-finding hearing in a juvenile proceeding to determine whether a juvenile should be adjudicated. Provided, further, such results shall not be used as the sole basis for the revocation of a community-based placement or participation in a community-based program.

4. a. Upon request, the results of the literacy skills assessment shall be given to the following:

- (1) the child's intake, probation or parole counselor,
- (2) the parent or guardian of the child, or
- (3) the child's attorney.

b. In accordance with the guidelines established pursuant to the Serious and Habitual Juvenile Offender Program and Section 620.6 of this title, the counselor may also provide the results of the literacy skills assessment to therapists, school personnel or others for use in the training and rehabilitation of the child.

5. a. If the child is a juvenile placed in an institution or facility operated by the Department, the child shall be assessed and a literacy improvement program shall be implemented in accordance with Sections 7302-6.1 and 7302-6.3 of this title.

b. If the child is adjudicated delinquent or in need of supervision ~~or is being detained as part of a deferral of prosecution agreement, deferral to file agreement or a deferral sentence agreement,~~ and the results of the literacy skills assessment show that the child is

not reading at an age-appropriate level but has the capacity to improve his or her reading skills, the child shall be required to ~~enroll and~~ actively participate in a literacy skills improvement program which may include, but not be limited to, a program of instruction through a public or private school, including any area vocational-technical school, of this state or any other state. The child shall provide documentation of substantial quantifiable literacy improvement, sufficient to demonstrate reading proficiency at an age-appropriate or developmentally appropriate level; provided, however, failure to demonstrate substantial quantifiable literacy improvement shall not be the sole basis for not dismissing a case against a child.

6. On or before December 31 of each year, the Office of Juvenile Affairs shall annually provide to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives a written report outlining by age the number of children:

- a. assessed for literacy skills,
- b. who failed to demonstrate age-appropriate reading skills,
- c. who were required to enroll and participate in a literacy skills improvement program, and
- d. who provided documentation of substantial quantifiable literacy skills improvement.

SECTION 4. AMENDATORY Section 114, Chapter 352, O.S.L. 1995, as last amended by Section 15, Chapter 293, O.S.L. 1997 (10 O.S. Supp. 1997, 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.

Any such child shall not be considered to be in the custody of the Office of Juvenile Affairs.

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 pursuant to subsection A of this section~~, 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 5. AMENDATORY Section 116, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7303-1.3), is amended to read as follows:

Section 7303-1.3 A. The court may provide by rule who shall make a preliminary inquiry to determine whether the interests of the public or of the child who is within the purview of the Oklahoma Juvenile Code require that further court action be taken. Provided, that where intake is to be provided by the Department of Juvenile Justice under contract with the Supreme Court, or under the provision of rules issued by the Supreme Court, the preliminary inquiry shall follow the uniform contractual procedures as agreed to by the Supreme Court and the Department. If it is determined by the preliminary inquiry that no further action be taken and if agreed to by the district attorney, said person or the court may make such informal adjustment as is practicable without a petition.

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

The petition shall be verified and may be upon information and belief. It shall set forth:

1. With particularity facts which bring the child within the purview of the Oklahoma Juvenile Code;
2. The name, age and residence of the child;

3. The names and residences of the parents of the child;
4. The name and residence of the legal guardian of the child, if applicable;
5. The name and residence of the person or persons having custody or control of the child;
6. The name and residence of the nearest known relative, if no parent or guardian can be found;
7. The relief requested; and
8. The specific federal law, state law or municipal ordinance under which the child is charged, and an endorsement of witnesses intended to be called by the petitioner, where the child is sought to be adjudged a delinquent child.

If a termination of parental rights is desired, it must be stated in the petition and summons, and if an order for the payment of funds for the care and maintenance of the child is desired, it must be stated in the petition and summons. If any of the facts herein required are not known by the petitioner, the petition shall so state, along with the reasons why said facts are not known to petitioner.

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

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

E. A district attorney may defer filing a petition alleging a child to be delinquent or in need of supervision for a period of ninety (90) days if the child participates in a teen court program or a first-time offender program, as defined in Section 7303-4.6 of ~~Title 10 of the Oklahoma Statutes~~ this title. If the child successfully completes the program, the district attorney shall not file the petition. The records of a case for which a petition is

not filed shall be subject to the provisions of Article VII of the Oklahoma Juvenile Code.

SECTION 6. AMENDATORY Section 129, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7303-4.6), is amended to read as follows:

Section 7303-4.6 A. If the court finds that the allegations of a petition alleging a child to be delinquent or in need of supervision are supported by the evidence, the court shall sustain the petition, and shall make an order of adjudication setting forth whether the child is delinquent or in need of supervision and shall adjudge the child as a ward of the court.

B. A court may defer delinquency adjudication proceedings or proceedings to determine if a child is in need of supervision for ninety (90) days if the child:

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

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

3. Has not been previously adjudicated a delinquent; and

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

C. The Teen Court program must be approved by the court.

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

E. The court may require a child who requests a Teen Court program to pay a fee, as determined by the court, not to exceed Twenty Dollars (\$20.00) to cover the costs of administration. The fee shall be deposited in the court clerk's official depository

account. Eighty percent (80%) of the costs so paid shall be distributed to the organization sponsoring the Teen Court to be used for Teen Court operating expenses. The remaining twenty percent (20%) of said cost shall be paid by the court clerk to the court fund.

F. A court may defer delinquency proceedings or proceedings to determine if a child is in need of supervision for ninety (90) days for any child that has not been previously adjudicated delinquent, if the child and, if required by the court, the parent or legal guardian of the child agree to participate in an alternative diversion program for first-time offenders that has been approved by the court. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the alternative diversion program for first-time offenders has been successfully completed. The records of a case dismissed pursuant to this subsection shall be subject to the provisions of Article VII of the Oklahoma Juvenile Code.

G. A court may defer delinquency proceedings for ninety (90) days for any child that has not been previously adjudicated delinquent, if the child agrees to participate in a military mentor program that has been approved by the court. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the military mentor program has been successfully completed. The records of a case dismissed pursuant to this subsection shall be subject to the provisions of Article VII of the Oklahoma Juvenile Code.

H. As used in this section:

1. "Alternative diversion programs for first-time offenders" means programs for juveniles who have been identified by law enforcement personnel, the district attorney, or the court as having committed acts which are not serious enough to warrant adjudication through the juvenile court process, but which do indicate a need for

intervention to prevent further development toward juvenile delinquency. The program shall be administered, pursuant to contact with the Department of Juvenile Justice, by organizations designated as youth services agencies in accordance with Section 7302-3.6 of ~~Title 10 of the Oklahoma Statutes~~ this title;

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

3. "Military mentor program" means a program administered by the Oklahoma Military Department as provided in Section 7303-5.3 of ~~Title 10 of the Oklahoma Statutes~~ this title.

SECTION 7. AMENDATORY Section 21, Chapter 290, O.S.L. 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 26, Chapter 293, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7306-2.4), is amended to read as follows:

Section 7306-2.4 A. A child who is arrested for an offense pursuant to subsection A or B of Section 7306-2.6 of this title or who is certified as a youthful offender pursuant to Section 7306-2.5 of this title, shall be charged by information in the same manner as provided for adults.

B. When a person is certified to stand trial as an adult or a youthful offender as provided by the Youthful Offender Act, the accused person shall have all the statutory and constitutional rights and protections of an adult accused of a crime. All proceedings shall be as for a criminal action and the provisions of

Title 22 of the Oklahoma Statutes shall apply, except as provided for in the Youthful Offender Act. All youthful offender court records for such a person shall be considered adult records and shall not be subject to the provisions of Article VII of the Oklahoma Juvenile Code.

C. Proceedings against a youthful offender shall be heard by any judge of the district court; provided, if the case is heard by a special judge, the judge must be trained in juvenile-related matters.

D. Upon arrest and detention of a person subject to the provisions of Section 7306-2.5 or 7306-2.6 of this title, the person has the same right to be released on bail as would an adult in the same circumstances and, if detained, may be detained in a juvenile detention facility or in a county jail if separated from the adult population as otherwise authorized by law.

E. Upon a verdict of guilty or entry of a plea of guilty or nolo contendere by a youthful offender who has been certified for the imposition of an adult sentence as provided by Section 7306-2.8 of this title the person may be detained as an adult and, if incarcerated, may be incarcerated with the adult population.

F. A child or youthful offender shall be tried as an adult in all subsequent criminal prosecutions, and shall not be subject to the jurisdiction of the juvenile court or youthful offender processes in any further proceedings if:

1. The child or youthful offender has been certified to stand trial as an adult pursuant to any certification procedure provided by law; or

2. The youthful offender has been certified for the imposition of an adult sentence as provided by Section 7306-2.8 of this title and is subsequently convicted of the alleged offense or against whom the imposition of judgment and sentencing has been deferred.

G. Except as otherwise provided in the Youthful Offender Act, a person who has been prosecuted and sentenced as a youthful offender shall be prosecuted as a youthful offender in all subsequent criminal proceedings until the youthful offender has attained eighteen (18) years of age.

All proceedings for the commission of a crime committed after a youthful offender has reached eighteen (18) years of age shall be adult proceedings.

H. When a person who has been sentenced as a youthful offender is placed in the custody or under the supervision of the Office of Juvenile Affairs, if the youthful offender has not been previously discharged by the court from the custody or supervision of the Office of Juvenile Affairs, within the thirty (30) days immediately preceding the date on which the youthful offender becomes eighteen (18) years of age, or if extended by the court, nineteen (19) years of age, the court shall hold a review hearing and shall make further orders regarding the youthful offender as provided by Section 7306-2.10 of this title.

SECTION 8. AMENDATORY Section 27, Chapter 290, O.S.L. 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 31, Chapter 293, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7306-2.10), is amended to read as follows:

Section 7306-2.10 A. Whenever a youthful offender is placed in the custody of or under the supervision of the Office of Juvenile Affairs, the Office shall within thirty (30) days prepare and file with the court a written rehabilitation plan for the youthful offender. The rehabilitation plan shall include but not be limited to:

1. When the youthful offender is placed in the custody of the Office of Juvenile Affairs, the placement of the youthful offender;

2. Clearly stated, measurable objectives which the youthful offender is expected to achieve; and

3. The services that will be provided to the youthful offender by the Department of Juvenile Justice to assist the youthful offender to achieve the objectives.

B. Whenever a youthful offender is placed in the custody or under the supervision of the Office of Juvenile Affairs as provided by the Youthful Offender Act, the court shall conduct a semiannual review based upon written reports of the youth's conduct, progress and condition. Written reports concerning the conduct, progress and condition of a youthful offender shall be submitted to the court prior to scheduled reviews by the Department of Juvenile Justice. Such reports shall include a written report of the youthful offender with respect to the rehabilitation plan. Copies of those reports shall be provided by the agency to the youthful offender, his counsel, parent or guardian if the youthful offender is less than eighteen (18) years of age, and the district attorney. The court shall consider any timely written response to the agency report before concluding its review.

C. The court may schedule a semiannual review for hearing in open court, after notice, at its discretion and may schedule such other hearings, after notice, as the court deems necessary. The court shall hold a review hearing for good cause shown, upon the motion of the district attorney, the Department of Juvenile Justice, or the youthful offender for the purpose of making a determination as to:

1. The discharge of the youthful offender from the supervision or custody of the Department of Juvenile Justice; or

2. A change in the custody status of the youthful offender. For the purpose of this section, "change in the custody status" means a revocation of an order of probation or supervision, revocation of parole, or a transfer of custody or supervision to the Department of Corrections.

D. If the youthful offender has not been previously discharged, the court shall hold a review hearing within the thirty (30) days immediately preceding the date the youthful offender becomes eighteen (18) years of age or nineteen (19) years of age, if extended by law.

E. A review hearing shall be conducted in open court after notice to the youth, his counsel, parent or guardian if the youthful offender is less than eighteen (18) years of age, the Department of Juvenile Justice, and the appropriate district attorney.

F. At the conclusion of any review hearing in open court and after consideration of all reports and other evidence properly submitted to the court, the court may:

1. Order the youthful offender discharged from the supervision or custody of the Department of Juvenile Justice without a court judgment of guilt, and order the verdict or plea of guilty or plea of nolo contendere expunged from the record as provided in paragraphs 1 through 5 of subsection C of Section 991c of Title 22 of the Oklahoma Statutes and dismiss the charge with prejudice to any further action if the court finds that the youthful offender has reasonably completed the rehabilitation plan and objectives and that such dismissal will not jeopardize public safety;

2. Revoke an order of probation and place the youthful offender in the custody of the Office of Juvenile Affairs;

3. Revoke a community supervision placement by the Department of Juvenile Justice;

4. Place the youthful offender in a sanction program operated or contracted for by the Office of Juvenile Affairs community placement, if the youthful offender fails to comply with a written plan of rehabilitation or fails substantially to achieve reasonable treatment objectives while in community or other nonsecure programs;
or

5. Enter a judgment of guilt and proceed as provided in Section 991a of Title 22 of the Oklahoma Statutes, including transfer of the youthful offender to the custody or supervision of the Department of Corrections for the remainder of the youthful offender sentence, if the court finds by clear and convincing evidence that the youthful offender has:

- a. after conviction as a youthful offender, seriously injured or endangered the life or health of another person by his violent behavior,
- b. escaped from a training school,
- c. committed a felony crime while in the custody or under the supervision of the Department of Juvenile Justice as shown by a judgment entered following a verdict of guilty or a plea of guilty or nolo contendere, or
- d. failed substantially to comply with a written plan of rehabilitation or failed substantially to achieve reasonable treatment objectives and is within thirty (30) days of his eighteenth birthday, or nineteenth birthday if custody has been extended, and is still placed in an institution or other long-term staff secure facility.

G. For the purpose of calculating time served to be applied toward any sentence imposed upon a youthful offender, in the event a youthful offender has been placed in the custody or under the supervision of the Office of Juvenile Affairs, he shall receive credit for the time spent in the custody or under the supervision of the Office of Juvenile Affairs. Upon commitment to the Department of Corrections, a youthful offender shall also receive other credits as provided by law, for an adult inmate.

SECTION 9. AMENDATORY 20 O.S. 1991, Section 123, as amended by Section 1, Chapter 224, O.S.L. 1997 (20 O.S. Supp. 1997, Section 123), is amended to read as follows:

Section 123. A. Special judges may hear and decide the following:

1. Actions for the recovery of money where the amount claimed does not exceed Ten Thousand Dollars (\$10,000.00) and counterclaim or setoff does not exceed Ten Thousand Dollars (\$10,000.00);

2. All uncontested matters, whether by default, agreement or otherwise, except that a nonlawyer special judge may not hear any uncontested matters, whether by default, agreement or otherwise, in actions for the recovery of money where judgment is sought for a greater sum than One Thousand Dollars (\$1,000.00);

3. Actions for forcible entry and detainer except a nonlawyer special judge may not hear such actions if title to land or a boundary dispute is involved;

4. Actions for replevin where the amount in controversy does not exceed Ten Thousand Dollars (\$10,000.00), except that nonlawyer special judges may not hear such actions where the amount in controversy exceeds One Thousand Dollars (\$1,000.00);

5. Misdemeanors, except that special judges who are not lawyers may not hear criminal actions where the punishment prescribed by law exceeds a fine of Two Hundred Dollars (\$200.00), or imprisonment in a county jail for thirty (30) days, or both such fine and imprisonment except by written consent of all parties;

6. Felonies involving a second and subsequent offense of driving, operating, or being in actual physical control of a motor vehicle while under the influence of alcohol or any other intoxicating substance, including any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, to a degree that renders the defendant incapable of safely driving or operating a motor vehicle, except that nonlawyer special judges may not hear such matters;

7. When there is no district or associate district judge present in the county or when they are disqualified, the issuance of

a temporary injunction or restraining order, but this paragraph shall not embrace nonlawyer special judges;

8. Issuance of writs of habeas corpus, but this paragraph shall not embrace nonlawyer special judges;

9. Any matter, regardless of value, at any stage, whether intermediate or final, and whether or not title to property, real, personal, tangible, intangible, or any combination thereof, is to be determined, in a probate, divorce, domestic relations, custody, support, guardianship, conservatorship, mental health, juvenile, adoption, or determination of death proceeding, except that nonlawyer special judges may not hear such matters;

10. An appeal from an order of the Department of Public Safety revoking a person's license to drive, except that nonlawyer special judges may not hear such matters;

11. Other actions and proceedings, regardless of court rules, where the parties agree in writing, at any time before trial, to the action being heard by a special judge; ~~and~~

12. Any postjudgment collection matter regardless of the amount of the judgment; and

13. Youthful offender cases pursuant to the Youthful Offender Act, if the judge is trained in the law pertaining to juvenile-related cases.

B. Special judges shall be authorized to serve as referee in any matter before the district court.

C. A special judge may perform the duties of a magistrate in criminal cases.

SECTION 10. REPEALER Section 5, Chapter 306, O.S.L. 1993, as amended by Section 127, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7303-4.4), is hereby repealed.

SECTION 11. This act shall become effective July 1, 1998.

SECTION 12. 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.

Passed the House of Representatives the 24th day of February, 1998.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1998.

President of the Senate