

SHORT TITLE: Juveniles; relating to juvenile detention and courts;  
judicial officials and driver license revocations; effective date.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 825

By: Martin

AS INTRODUCED

An Act relating to juveniles; amending Section 141, Chapter 352, O.S.L. 1995, and 10 O.S. 1991, Sections 1107.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 1, Chapter 15, O.S.L. 1997 and 1207, as amended by Section 159, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Sections 7303-7.5, 7304-1.1 and 7305-1.7), which relate to juvenile detention, juvenile courts, and judicial officials; removing population limits for certain judicial officers; expanding length of authorized detention; and modifying salary provisions of certain judicial officers; amending 47 O.S. 1991, Section 6-107.1, as last amended by Section 4, Chapter 309, O.S.L. 1996 (47 O.S. Supp. 1997, Section 6-107.1), which relates to driver license revocations; modifying crimes for which a license may be revoked; and providing an effective date.

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

SECTION 1. AMENDATORY Section 141, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7303-7.5), is amended to read as follows:

Section 7303-7.5 A. Any judge who is assigned to hear juvenile cases ~~in counties having a population in excess of one hundred thousand (100,000)~~ may appoint a suitable person or persons to act as referee or referees, to hold office at the pleasure of the judge. Such referees shall be lawyers and shall be specially qualified for their duties. The judge may direct that any case, or all cases of a class or within a county to be designated by the judge, shall be heard in the first instance by a referee in the manner provided for the hearing of cases by the court. Upon the conclusion of the hearing in each case, the referee shall transmit to the court all papers relating to the case, together with the referee's findings of fact and conclusions of law, and recommendations in writing.

B. Notice of the referee's findings and recommendations shall be given to the parent, guardian or custodian of the child or to any other person concerned whose case has been heard by the referee. A hearing by the court shall be allowed upon the filing with the court of a request for such hearing, if the request is filed within three (3) days after the service of such notice. In case no hearing by the court is requested, the findings and recommendations of the referee, when confirmed by an order of the court, shall become the decree of the court.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 1107.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 1, Chapter 15, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7304-1.1), is amended to read as follows:

Section 7304-1.1 A. When a child is taken into custody pursuant to the provisions of the Oklahoma Juvenile Code, the child shall be detained only if it is necessary to assure the appearance of the child in court or for the protection of the child or the public.

1. a. No pre-adjudicatory or predisposition detention or custody order shall remain in force and effect for

more than thirty (30) days. The court, for good and sufficient cause shown, may extend the effective period of such an order for an additional period not to exceed sixty (60) days. If the child is being detained for the commission of a murder, the court may, if it is in the best interests of justice, extend the effective period of such an order an additional sixty (60) days.

- b. Whenever the court orders a child to be held in a juvenile detention facility, an order for secure detention shall remain in force and effect for not more than ten (10) days after such order. Upon an application of the district attorney and after a hearing on such application, the court, for good and sufficient cause shown, may extend the effective period of such an order for an additional period not to exceed ten (10) days after such hearing. The total period of pre-adjudicatory or predisposition shall not exceed the ninety-day limitation as specified in subparagraph a of this paragraph. The child shall be present at the hearing on the application for extension unless, as authorized and approved by the court, the attorney for the child is present at the hearing and the child is available to participate in the hearing via telephone conference communication. For the purpose of this paragraph, "telephone conference communication" means use of a telephone device that allows all parties, including the child, to hear and be heard by the other parties at the hearing. After the hearing, the court may order continued detention in a juvenile detention center, may order the child detained in an alternative to

secure detention or may order the release of the child from detention.

2. No child alleged or adjudicated to be deprived or in need of supervision or who is or appears to be a child in need of mental health treatment as defined by the Inpatient Mental Health Treatment of Children Act, shall be confined in any jail, adult lockup, or adult detention facility. No child shall be transported or detained in association with criminal, vicious, or dissolute persons.

3. Except as otherwise authorized by this section a child who has been taken into custody as a deprived child, a child in need of supervision, or who appears to be a child in need of mental health treatment, may not be placed in any detention facility pending court proceedings, but must be placed in shelter care or foster care or, with regard to a child who appears to be a child in need of mental health treatment, a mental health facility in accordance with the provisions of the Inpatient Mental Health Treatment of Children Act, or released to the custody of his parents or some other responsible party. When a child is taken into custody as a child in need of supervision as a result of being a runaway, the court may order the child placed in a juvenile detention facility pending court proceedings if it finds said detention to be essential for the safety of the child.

B. No child shall be placed in secure detention unless:

1. The child is an escapee from any delinquent placement;

2. The child is a fugitive from another jurisdiction with a warrant on a delinquency charge or confirmation of delinquency charges by the home jurisdiction;

3. The child is seriously assaultive or destructive towards others or ~~himself~~ themselves;

4. The child is detained for the commission of a crime that would constitute a serious act as defined by Section 7302-9.2 of this title;

5. The child is detained for the commission of a crime that would constitute a habitual criminal act as defined by Section 7302-9.2 of this title;

6. The child is currently charged with a felony act as defined by Section 7302-9.2 of this title or misdemeanor and:

- a. is on probation or parole on a prior delinquent offense,
- b. is on pre-adjudicatory community supervision,
- c. is currently on release status on a prior delinquent offense, or
- d. has willfully failed or there is reason to believe that the child will willfully fail to appear for juvenile court proceedings.

C. A child who has violated a court order and has had the order revoked or modified pursuant to Section 7303-5.3 of this title may be placed into an Office of Juvenile Affairs-designated sanction detention bed or an Office of Juvenile Affairs-approved sanction program.

D. A child shall be detained in secure detention only in accordance with the guidelines adopted pursuant to Section 7302-9.3 of this title.

E. 1. Except as otherwise provided in this section, no child shall be placed in secure detention in a jail, adult lockup, or other adult detention facility unless:

- a. the child is detained for the commission of a crime that would constitute a felony if committed by an adult, and
- b. the child is awaiting an initial court appearance, and
- c. the child's initial court appearance is scheduled within twenty-four (24) hours after being taken into custody, excluding weekends and holidays, and

- d. the court of jurisdiction is outside of the Standard Metropolitan Statistical Area as defined by the Bureau of Census, and
- e. there is no existing acceptable alternative placement for the child, and
- f. the jail, adult lockup or adult detention facility meets the requirements for licensure of juvenile detention facilities, as adopted by the Office of Juvenile Affairs, is appropriately licensed, and provides sight and sound separation for juveniles, which includes:

- (1) total separation between juveniles and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities,
- (2) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities, and
- (3) separate juvenile and adult staff, specifically direct care staff such as recreation, education and counseling.

Specialized services staff, such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of juvenile and adults can serve both.

2. Nothing in this section shall preclude a child who is detained for the commission of a crime that would constitute a felony if committed by an adult, or a child who is an escapee from a

juvenile training school or from a Department of Juvenile Justice group home from being held in any jail certified by the State Department of Health, police station or similar law enforcement offices for up to ~~six (6)~~ twenty-four (24) hours for purposes of identification, processing or arranging for transfer to a secure detention or alternative to secure detention. Such holding shall be limited to the absolute minimum time necessary to complete these actions.

- a. The time limitations for holding a child in a jail for the purposes of identification, processing or arranging transfer established by this section shall not include the actual travel time required for transporting a child from a jail to a juvenile detention facility or alternative to secure detention.
- b. Whenever the time limitations established by this subsection are exceeded, this circumstance shall not constitute a defense in a subsequent delinquency or criminal proceeding.

3. Nothing in this section shall preclude detaining in a county jail or other adult detention facility an eighteen-year old charged in a juvenile petition for whom certification to stand trial as an adult is prayed.

4. Nothing in this section shall preclude detaining in a county jail or other adult detention facility a person provided for in Section 7304-1.2 of this title if written or electronically transmitted confirmation is received from the state seeking return of the individual that the person is a person provided for in Section 7304-1.2 of this title and if, during the time of detention, the person is detained in a facility meeting the requirements of 7304-1.3 of this title.

5. Nothing in this section shall preclude detaining a person, whose age is not immediately ascertainable and who is being detained

for the commission of a felony, in a jail certified by the State Department of Health, a police station or similar law enforcement office for up to twenty-four (24) hours for the purpose of determining whether or not the person is a child, if:

- a. there is a reasonable belief that the person is eighteen (18) years of age or older,
- b. there is a reasonable belief that a felony has been committed by the person,
- c. a court order for such detention is obtained from a judge of the district court within six (6) hours of initially detaining the person,
- d. there is no juvenile detention facility that has space available for the person and that is within thirty (30) miles of the jail, police station, or law enforcement office in which the person is to be detained, and
- e. during the time of detention the person is detained in a facility meeting the requirements of subparagraph f of paragraph 1 of this subsection.

The time limitation provided for in this paragraph shall include the time the person is detained prior to the issuance of the court order.

The time limitation provided for in this paragraph shall not include the actual travel time required for transporting the person to the jail, police station, or similar law enforcement office. If the time limitation established by this paragraph is exceeded, this circumstance shall not constitute a defense in any subsequent delinquency or criminal proceeding.

F. Nothing contained in this section shall in any way reduce or eliminate a county's liability as otherwise provided by law for injury or damages resulting from the placement of a child in a jail, adult lockup, or other adult detention facility.

G. Any juvenile detention facility shall be available for use by any eligible Indian child as that term is defined by the Oklahoma Indian Child Welfare Act, providing that the use of the juvenile detention facility meets the requirements of the Oklahoma Juvenile Code. The Indian tribe may contract with any juvenile detention facility for the providing of detention services.

H. Each member of the staff of a juvenile detention facility shall satisfactorily complete a training program provided or approved by the Department of Juvenile Justice.

SECTION 3. AMENDATORY 10 O.S. 1991, Section 1207, as amended by Section 159, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7305-1.7), is amended to read as follows:

Section 7305-1.7 A. 1. The salary of the director and other employees of the bureau and any detention home established pursuant to Section 7305-1.8 of this title shall be fixed by the judge of the Juvenile Division, subject to the general administrative authority of the county commissioners of the contracting county. The salary of the director shall not exceed ninety percent (90%) of salaries of county Class A officers. The salary of a referee in a county having a population in excess of one hundred thousand (100,000) shall not be less than that of the associate district judge of the county. The salary of a referee in a county having a population of one hundred thousand (100,000) or less shall be fixed by the judge of the juvenile division subject to approval by the county commissioners.

2. The salary of supervisors with intake or intake-probational duties shall not be less than Twelve Thousand Three Hundred Dollars (\$12,300.00) per year, and not more than eighty-five percent (85%) of Class A county officers.

3. The salary of employees with case, probation, counseling or juvenile duties shall not be less than Ten Thousand Five Hundred

Dollars (\$10,500.00) per year, and not more than eighty percent (80%) of Class A county officers.

B. The judge of the Juvenile Division, subject to the general administrative authority of the county commissioners of the contracting county, may fix a limit on the amount of expenses that may be incurred by the director and assistants to the director, such limit to be in the judgment of the judge adequate to care for the expenses necessary to carrying out the orders of the court in an efficient and expedient manner. The director and assistants to the director and other personnel of the court shall keep and maintain their offices at the place where the office of the judge of the court is kept, unless the judge of the Juvenile Division, subject to the general administrative authority of the county commissioners of the contracting county, shall direct otherwise. The offices of the director and assistants to the director shall contain adequate equipment, desk space and consultation rooms necessary for appropriate office procedure.

C. In addition to their salaries, the director and assistants to the director shall be reimbursed at the same rate as state employees for mileage traveled by them in the investigation of court cases and in supervising probationers; with the approval of the judge in charge of the Juvenile Division, the director and assistants may also receive reimbursement, at the rate and in the manner applicable to other county officers, for actual and necessary expenses incurred by them in attending conferences, meetings, seminars or official business of the court either within or outside of the State of Oklahoma.

D. In all counties having a juvenile bureau, the budget of the juvenile bureau for salaries and expenses of the director, counselors and other employees shall be established and funded as follows:

1. All expenses incurred in complying with the provisions of this article shall be a county charge;

2. The salaries and other compensation of all employees of the juvenile bureau shall be fixed by the judge within the limit of the total appropriations therefor; and

3. It is made the duty of the county excise board to make the necessary appropriation and levy for the payment of salaries of the director and all other employees, together with the expenses of administering the bureau, consistent with the duty to do likewise with the budget estimates of other county officers under the board's jurisdiction, as required by the Constitution and laws of this state.

E. All expenses incurred by the director and counselor in carrying out the orders of the judge of the court shall be reported to the judge of the Juvenile Division under oath, and such expenses shall not be paid by the board of county commissioners until such judge shall, by order entered of record, approve such accounts, and such judge may hear testimony as to the correctness thereof. A certified copy of the order of approval shall be filed in the office of the county clerk and shall be authority to the board of county commissioners to disburse the necessary funds in payment thereof, provided payment of the same comes within the budgetary provisions of the bureau as established in subsection D of this section.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 6-107.1, as last amended by Section 4, Chapter 309, O.S.L. 1996 (47 O.S. Supp. 1997, Section 6-107.1), is amended to read as follows:

Section 6-107.1 A. When any district court, municipal court of record or any municipal court in a city or town in which the judge is an attorney licensed to practice law in this state has determined that a person under the age of eighteen (18) years has committed any offense described in subsection C of this section, or that a person eighteen (18), nineteen (19), or twenty (20) years of age has

committed an offense described in Section ~~±~~ 6-106.4 of this ~~act~~ title, the court shall notify the Department of Public Safety on a form prescribed by the Department as provided in Section 6-107.2 of this title.

B. The notice shall include the name, date of birth, physical description and, if known, the driver license number of the person. The notice shall contain a recommendation to the Department to cancel or deny driving privileges for a specified period of time, in the discretion of the court, except as otherwise provided by law, as follows:

1. For a period not to exceed six (6) months;
2. For a period not to exceed one (1) year; ~~or~~
3. For a period not to exceed two (2) years; or
4. Until the person attains twenty-one (21) years of age.

The court shall send a copy of the notice to the person first class, postage prepaid.

C. In addition to the administrative revocation of driving privileges pursuant to Section 754 of this title, and the mandatory revocation of driving privileges pursuant to Section 6-205.1 of this title, this section applies to any crime, violation, infraction, traffic offense or other offense involving or relating to the possession, use, sale, purchase, transportation, distribution, manufacture, or consumption of beer, alcohol, or any beverage containing alcohol and to any crime, violation, infraction, traffic offense or other offense involving or relating to the possession, use, sale, purchase, transportation, distribution, manufacture, trafficking, cultivation, consumption, ingestion, inhalation, injection, or absorption of any controlled dangerous substance as defined by paragraph 8 of Section 2-101 of Title 63 of the Oklahoma Statutes or any substance which is capable of being ingested, inhaled, injected, or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing, or

other sensory or motor functions and unauthorized use of a motor vehicle in violation of Section 4-102 of this title and burglary of an automobile in violation of Section 1435 of Title 21 of the Oklahoma Statutes.

SECTION 5. This act shall become effective November 1, 1998.

46-2-2518

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