

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 CONFERENCE COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED

5 HOUSE BILL NO. 1843

6 By: Benson and Wells of the  
7 House

8 and

9 Fisher of the Senate

10  
11 CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to children; amending Section 15,  
13 Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1998, Section  
14 7003-4.7), which relates to petitions for termination  
15 of parent-child relationship and parental rights;  
16 modifying circumstances authorizing filing of  
17 petition; modifying circumstances authorizing  
18 district attorney not to file petition; amending  
19 Section 72, Chapter 352, O.S.L. 1995, as last amended  
20 by Section 2, Chapter 268, O.S.L. 1998 (10 O.S. Supp.  
21 1998, Section 7301-1.3), which relates to definitions  
22 for the Oklahoma Juvenile Code; modifying definition;  
23 adding definitions; amending 10 O.S. 1991, Section  
24 607, as renumbered by Section 199, Chapter 352,  
25 O.S.L. 1995, and as amended by Section 13, Chapter  
26 247, O.S.L. 1996 (10 O.S. Supp. 1998, Section 7302-  
27 3.5), which relates to community-based youth service  
28 programs, shelters and community intervention  
29 centers; modifying purposes, duties, authority and  
30 procedures relating to community intervention  
31 centers; amending Section 11, Chapter 290, O.S.L.  
32 1994, as renumbered by Section 199, Chapter 352,  
O.S.L. 1995, and as last amended by Section 1,  
Chapter 34, O.S.L. 1998 (10 O.S. Supp. 1998, Section  
7302-6.8), which relates to detention beds and a  
regional juvenile facility; modifying number of beds  
authorized at regional juvenile facility; exempting  
detention beds constructed and operated solely  
through county revenue sources from provisions of the  
State Plan for the Establishment of Juvenile  
Detention Services; amending Section 12, Chapter 290,  
O.S.L. 1994, as renumbered by Section 199, Chapter  
352, O.S.L. 1995, and as last amended by Section 11,  
Chapter 293, O.S.L. 1997 (10 O.S. Supp. 1998, Section  
7302-6.9), which relates to the regimented juvenile  
training program; authorizing participation by  
juveniles from other states, with restrictions;  
providing for certain fees; amending 10 O.S. 1991,  
Section 1102, as renumbered by Section 199, Chapter  
352, O.S.L. 1995, and as last amended by Section 1,  
Chapter 127, O.S.L. 1998 (10 O.S. Supp. 1998, Section  
7303-1.2), which relates to jurisdiction over

1 juveniles; authorizing holding juveniles in community  
2 intervention centers in certain circumstances;  
3 amending Section 133, Chapter 352, O.S.L. 1995 (10  
4 O.S. Supp. 1998, Section 7303-5.4), which relates to  
5 review of dispositional orders; modifying time for  
6 conducting certain hearings; amending Section 25,  
7 Chapter 290, O.S.L. 1994, as renumbered by Section  
8 199, Chapter 352, O.S.L. 1995, and as last amended by  
9 Section 29, Chapter 293, O.S.L. 1997 (10 O.S. Supp.  
10 1998, Section 7306-2.8), which relates to the  
11 Youthful Offender Act; authorizing the court to  
12 require persons sentenced as adults to pay a fee for  
13 presentence investigation; providing for hardship  
14 cases; amending 70 O.S. 1991, Section 10-109, as  
15 amended by Section 3, Chapter 270, O.S.L. 1995 (70  
16 O.S. Supp. 1998, Section 10-109), which relates to  
17 temporary detention of certain children; authorizing  
18 holding juveniles in community intervention centers  
19 in certain circumstances; modifying certain factors  
20 to be considered; and providing an effective date.

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

SECTION 1. AMENDATORY Section 15, Chapter 421, O.S.L.  
1998 (10 O.S. Supp. 1998, Section 7003-4.7), is amended to read as  
follows:

Section 7003-4.7 A. Except as otherwise provided by this  
section, the district attorney shall file a petition for termination  
of the parent-child relationship and parental rights with respect to  
a child or, if a petition has been filed, shall join in the petition  
filed by the child's attorney, pursuant to any of the following  
circumstances:

1. The child has been placed in foster care by the Department  
of Human Services for fifteen (15) of the most recent twenty-two  
(22) months. For purposes of this paragraph, a child shall be  
considered to have entered foster care on the earlier of:

- a. the date of adjudication ~~date~~ as a deprived child, or
- b. the date that is sixty (60) days after the date on  
which the child is removed from the home;

2. The child has been placed in foster care by the Department  
of Juvenile Justice or in a child-care institution, as defined in

1 Section 472(c) (2) of the Social Security Act, by the Department of  
2 Juvenile Justice for fifteen (15) of the most recent twenty-two (22)  
3 months. For purposes of this paragraph, a child shall be considered  
4 to have entered foster care on the earlier of:

5 a. the date of disposition as a delinquent, or

6 b. the date that is sixty (60) days after the date on  
7 which the child is removed from the home;

8 3. The child has been judicially determined to be an abandoned  
9 infant;

10 ~~3.~~ 4. A court has determined that the parent has committed the  
11 murder of any child or has aided or abetted, attempted, conspired  
12 in, or solicited the commission of the murder of any child;

13 ~~4.~~ 5. A court has determined that the parent has committed  
14 voluntary manslaughter of another child of the parent, or has aided  
15 or abetted, attempted, conspired in, or solicited the commission of  
16 voluntary manslaughter of another child of the parent; or

17 ~~5.~~ 6. A court has determined that the parent has committed a  
18 felony assault that has resulted in serious bodily injury to the  
19 child or to another child of the parent.

20 B. If any of the following conditions exist, the district  
21 attorney is not required to file a petition as provided in  
22 subsection A of this section for a deprived child:

23 1. At the option of the Department of Human Services or by  
24 order of the court, the child is properly being cared for by a  
25 relative;

26 2. The Department of Human Services has documented in the  
27 child's case plan that is provided or available to the court a  
28 compelling reason for determining that filing the petition would not  
29 be in the best interests of the child; or

30 3. The state has not provided to the family of the child,  
31 consistent with the time period in the state case plan, such  
32 services as the state deems necessary for the safe return of the

1 child to the child's home, if reasonable efforts are required to be  
2 made with respect to the child.

3 C. If any of the following conditions exist, the district  
4 attorney is not required to file a petition as provided in  
5 subsection A of this section for a delinquent child:

6 1. At the option of the Department of Juvenile Justice or by  
7 order of the court, the child is properly being cared for by a  
8 relative; or

9 2. The Department of Juvenile Justice has documented in the  
10 child's case plan that is provided or available to the court a  
11 compelling reason for determining that filing the petition would not  
12 be in the best interests of the child.

13 SECTION 2. AMENDATORY Section 72, Chapter 352, O.S.L.  
14 1995, as last amended by Section 2, Chapter 268, O.S.L. 1998 (10  
15 O.S. Supp. 1998, Section 7301-1.3), is amended to read as follows:

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

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

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

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

30 4. "Child" or "juvenile" means any person under eighteen (18)  
31 years of age, except for any person sixteen (16) or seventeen (17)  
32 years of age who is charged with any crime specified in subsection A

1 of Section 7306-1.1 of this title, or any person thirteen (13),  
2 fourteen (14) or fifteen (15) years of age who is charged with  
3 murder in the first degree pursuant to subsection B of Section 7306-  
4 1.1 of this title or Section 7306-2.5 of this title, or any  
5 individual who has been certified as an adult pursuant to Section  
6 7303-4.3 of this title, or any individual against whom the  
7 imposition of judgment and sentence has been deferred for any crime  
8 specified in subsection A or B of Section 7306-1.1 of this title,  
9 any individual against whom the imposition of judgment and sentence  
10 has been deferred after certification as an adult pursuant to  
11 Section 7303-4.3 of this title, or any person fifteen (15) years of  
12 age or older and charged or certified as a youthful offender  
13 pursuant to the Youthful Offender Act; provided that any person  
14 under eighteen (18) years of age who is not convicted after being  
15 charged with a crime pursuant to Section 7306-1.1 of this title, or  
16 any individual who is not convicted after certification as an adult  
17 pursuant to Section 7303-4.3 of this title, or any individual who is  
18 not convicted as a youthful offender pursuant to the Youthful  
19 Offender Act, shall continue to be subject to the jurisdiction of  
20 the juvenile court;

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

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

- 26 a. has repeatedly disobeyed reasonable and lawful  
27 commands or directives of the parent, legal guardian,  
28 or other custodian,  
29 b. is willfully and voluntarily absent from his home  
30 without the consent of the parent, legal guardian, or  
31 other custodian for a substantial length of time or  
32 without intent to return,

1 c. is willfully and voluntarily absent from school, as  
2 specified in Section 10-106 of Title 70 of the  
3 Oklahoma Statutes, if the juvenile is subject to  
4 compulsory school attendance, or

5 d. has been served with an ex parte or final protective  
6 order pursuant to the Protection from Domestic Abuse  
7 Act;

8 7. "Community-based" means a facility, program or service, or  
9 open group home or other suitable place located near the home or  
10 family of the juvenile, and programs of community supervision and  
11 service which maintain community participation in their planning,  
12 operation, and evaluation. These programs may include but are not  
13 limited to medical, educational, vocational, social, and  
14 psychological guidance, training, counseling, alcoholism treatment,  
15 drug treatment, diversion programs for first-time offenders,  
16 transitional living, independent living and other rehabilitative  
17 services;

18 8. "Community intervention center" means a facility which  
19 serves as a ~~receiving center for children who are taken into custody~~  
20 ~~and which performs at least one of the functions~~ short-term  
21 reception facility to receive and hold juveniles for an alleged  
22 violation of a municipal ordinance or state law, as provided for in  
23 subsection D of Section 7302-3.5 of this title;

24 9. "Community residential center" means a residential facility  
25 for no more than twenty juveniles which offers a range of services  
26 including personal and social services, and emphasizes normal group  
27 living, school attendance, securing employment, and general  
28 participation in the community;

29 10. "Day treatment" means a program which provides intensive  
30 services to juveniles who reside in their own home, the home of a  
31 relative, or a foster home. Day treatment programs include  
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1 educational services and may be operated as a part of a residential  
2 facility;

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

4 a. has violated any federal or state law or municipal  
5 ordinance except a traffic statute or traffic  
6 ordinance or any provision of the Oklahoma Wildlife  
7 Conservation Code, the Oklahoma Vessel and Motor  
8 Regulation Act or the Oklahoma Boating Safety  
9 Regulation Act, or has violated any lawful order of  
10 the court made pursuant to the provisions of the  
11 Oklahoma Juvenile Code, or

12 b. has habitually violated traffic laws, traffic  
13 ordinances or boating safety laws or rules;

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

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

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

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

22 16. "Facility" means a place, an institution, a building or  
23 part thereof, a set of buildings, or an area whether or not  
24 enclosing a building or set of buildings which is used for the  
25 lawful custody and treatment of juveniles. A facility shall not be  
26 considered a correctional facility subject to the provisions of  
27 Title 57 of the Oklahoma Statutes;

28 17. "Group home" means a residential facility housing no more  
29 than twelve juveniles with a program which emphasizes family-style  
30 living in a homelike environment. Said group home may also offer a  
31 program within the community to meet the specialized treatment needs  
32 of its residents. A group home shall not be considered a

1 correctional facility subject to the provisions of Title 57 of the  
2 Oklahoma Statutes;

3 18. "Independent living program" means a program designed to  
4 assist a juvenile to enhance skills and abilities necessary for  
5 successful adult living and may include but shall not be limited to  
6 minimal direct staff supervision and supportive services in making  
7 the arrangements necessary for an appropriate place of residence,  
8 completing an education, vocational training, obtaining employment  
9 or other similar services;

10 19. "Institution" means a residential facility offering care  
11 and treatment for more than twenty residents. An institution shall  
12 not be considered a correctional facility subject to the provisions  
13 of Title 57 of the Oklahoma Statutes. Said institution may:

14 a. have a program which includes community participation  
15 and community-based services, or

16 b. be a secure facility with a program exclusively  
17 designed for a particular category of resident;

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

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

26 22. "Municipal Juvenile Facility" means a facility other than a  
27 community intervention center that accepts a child under eighteen  
28 (18) years of age charged with violating a municipal ordinance and  
29 meets the requirements of Section 7303-1.2 of this title.

30 23. "Office" means the Office of Juvenile Affairs;

31 ~~23.~~ 24. "Person responsible for a juvenile's health or welfare"  
32 includes a parent, a legal guardian, custodian, a foster parent, a



1 person eighteen (18) years of age or older with whom the juvenile's  
2 parent cohabitates or any other adult residing in the home of the  
3 child, an agent or employee of a public or private residential home,  
4 institution or facility, or an owner, operator, or employee of a  
5 child care facility as defined by Section 402 of this title;

6 ~~24.~~ 25. "Preliminary inquiry" or "intake" means a mandatory,  
7 preadjudicatory interview of the juvenile and, if available, the  
8 parents, legal guardian, or other custodian of the juvenile, which  
9 is performed by a duly authorized individual to determine whether a  
10 juvenile comes within the purview of the Oklahoma Juvenile Code,  
11 whether nonadjudicatory alternatives are available and appropriate,  
12 and if the filing of a petition is necessary;

13 ~~25.~~ 26. "Probation" means a legal status created by court order  
14 whereby a delinquent juvenile is permitted to remain outside a  
15 Department of Juvenile Justice facility directly or by contract  
16 under prescribed conditions and under supervision by the Department,  
17 subject to return to the court for violation of any of the  
18 conditions prescribed;

19 ~~26.~~ 27. "Rehabilitative facility" means a facility maintained  
20 by the state exclusively for the care, education, training,  
21 treatment, and rehabilitation of juveniles in need of supervision;

22 ~~27.~~ 28. "Secure detention" means the temporary care of  
23 juveniles who require secure custody in physically restricting  
24 facilities:

- 25 a. while under the continuing jurisdiction of the court
- 26 pending court disposition, or
- 27 b. pending placement by the Department of Juvenile
- 28 Justice after adjudication;

29 ~~28.~~ 29. "Training school" or "secure facility" means a  
30 facility, maintained by the state exclusively for the care,  
31 education, training, treatment, and rehabilitation of delinquent  
32 juveniles or youthful offenders which relies on locked rooms and

1 buildings, and fences for physical restraint in order to control  
2 behavior of its residents. A training school or secure facility  
3 shall not be considered a correctional facility subject to the  
4 provisions of Title 57 of the Oklahoma Statutes; and

5 ~~29.~~ 30. "Transitional living program" means a residential  
6 program that may be attached to an existing facility or operated  
7 solely for the purpose of assisting juveniles to develop the skills  
8 and abilities necessary for successful adult living. Said program  
9 may include but shall not be limited to reduced staff supervision,  
10 vocational training, educational services, employment and employment  
11 training, and other appropriate independent living skills training  
12 as a part of the transitional living program.

13 SECTION 3. AMENDATORY 10 O.S. 1991, Section 607, as  
14 renumbered by Section 199, Chapter 352, O.S.L. 1995, and as amended  
15 by Section 13, Chapter 247, O.S.L. 1996 (10 O.S. Supp. 1998, Section  
16 7302-3.5), is amended to read as follows:

17 Section 7302-3.5 A. The Department of Juvenile Justice is  
18 authorized to enter into agreements to establish or maintain  
19 community-based youth service programs, shelters and community  
20 intervention centers out of local, state and federal monies.

21 B. The Department shall take all necessary steps to develop and  
22 implement a diversity of community services and community  
23 residential care as needed to provide for adequate and appropriate  
24 community-based care, treatment and rehabilitation of children in  
25 the custody of the Department. Such community services and  
26 residential care shall be consistent with the treatment needs of the  
27 child and the protection of the public.

28 1. The Department shall, to the extent reasonable and  
29 practicable, provide community services, community residential care  
30 and community intervention centers to children in the custody of the  
31 Department through financial agreements, as authorized in Sections  
32 7302-3.3 and 7302-3.4 of this title.

1        2. The Department shall establish procedures for the letting of  
2 grants or contracts, and the conditions and requirements for the  
3 receipt of such grants or contracts, for community-based services,  
4 community residential care and community intervention centers. A  
5 copy of such procedures shall be made available to any member of the  
6 general public upon request.

7        C. Any state agency letting grants or contracts for the  
8 establishment of community residential care or treatment facilities  
9 for children shall require, as a condition for receipt of such  
10 grants or contracts, documented assurance from the agency or  
11 organization establishing such facility that appropriate  
12 arrangements have been made for providing the educational services  
13 to which residents of the facility are entitled pursuant to state  
14 and federal law.

15        D. 1. The Department shall implement a pilot program for  
16 establishment and continued operation of community intervention  
17 centers. The centers shall be established pursuant to interlocal  
18 agreements between one or more municipalities, ~~a service provider~~  
19 and the Office of Juvenile Affairs pursuant to rules promulgated by  
20 the Office. ~~The program shall provide for selection of the provider~~  
21 ~~by the municipality~~ may enter into subcontracts with one or more  
22 service providers, with subject to the approval by the Office of  
23 Juvenile Affairs. The service provider, whether a municipality or  
24 other entity, must have access to the management information system  
25 provided for in Section 7302-3.8 of this title and must employ  
26 qualified staff, as determined by the Office of Juvenile Affairs.

27        2. The community intervention center shall ~~perform at least one~~  
28 ~~of the following functions: assessment, information gathering,~~  
29 ~~processing, service as a center for law enforcement to bring~~  
30 ~~children who have been taken into custody, and service as a facility~~  
31 ~~for limited short-term holding for a period not to exceed twenty-~~  
32 ~~four (24) hours, unless extended by a court of competent~~

1 ~~jurisdiction for a period not to exceed forty-eight (48) additional~~  
2 ~~hours. Community intervention centers also may work with community-~~  
3 ~~based organizations, neighborhoods, and municipal organizations to~~  
4 ~~implement violence prevention programs and programs to reduce~~  
5 ~~violence in the community, if this function is provided for in the~~  
6 ~~interlocal agreement serve as a short-term reception facility to~~  
7 ~~receive and hold juveniles who have been taken into custody by law~~  
8 ~~enforcement agencies for the alleged violation of a municipal~~  
9 ~~ordinance or state law and for whom detention is inappropriate or~~  
10 ~~unavailable. The community intervention center may be a secure~~  
11 ~~facility. Juveniles held in the community intervention facility~~  
12 ~~shall not be isolated from common areas other than for short-term~~  
13 ~~protective holding for combative or self-destructive behavior, as~~  
14 ~~defined by the Office of Juvenile Affairs.~~

15 3. Juveniles shall not be held in a community intervention  
16 center for more than twenty-four (24) hours.

17 4. The community intervention center shall perform the  
18 following functions:

19 a. enter demographic information into the management  
20 information system provided for in Section 7302-3.8 of  
21 this title,

22 b. immediately notify the parents or parent, guardian, or  
23 other person legally responsible for the juvenile's  
24 care, or if such legally responsible person is  
25 unavailable the adult with whom the juvenile resides,  
26 that the juvenile has been taken into custody and to  
27 pick up the juvenile, and

28 c. hold juveniles until they can be released to a parent,  
29 guardian, or other responsible adult or until a  
30 temporary placement can be secured, but in no event  
31 for longer than twenty-four (24) hours.  
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1        5. The community intervention center may perform the following  
2 functions:

3        a. gather information to determine if the juvenile is in  
4 need of immediate medical attention,

5        b. conduct an initial assessment pursuant to rules  
6 promulgated by the Office of Juvenile Affairs. Such  
7 initial assessment may be given without parental  
8 consent if the juvenile agrees to participate in the  
9 assessment, and

10       c. conduct an assessment pursuant to a Problem Behavior  
11 Inventory or a Mental Status Checklist or an  
12 equivalent assessment instrument authorized by rules  
13 promulgated by the Office of Juvenile Affairs, if  
14 written permission to do so is obtained from the  
15 parent, guardian or other person legally responsible  
16 for the juvenile's care. Such person and the juvenile  
17 may review the assessment instrument prior to the  
18 assessment process, must be informed that  
19 participation in the assessment is voluntary and that  
20 refusal to participate shall not result in any  
21 penalty, and must sign a written acknowledgment that  
22 they were given an opportunity to review the  
23 assessment instrument. The assessment shall be used  
24 to develop recommendations to correct the behavior of  
25 the juvenile, to divert the progression of the  
26 juvenile into the juvenile justice system, to  
27 determine if the juvenile is in need of nonemergency  
28 medical treatment, and to determine if the juvenile is  
29 the victim of violence. Information derived from the  
30 assessment shall not be used in any phase of  
31 prosecution but may be used by the court following  
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1           adjudication for the dispositional order and may be  
2           used for referrals to social services.

3           6. A juvenile alleged to have committed an offense which would  
4 be a felony if committed by an adult may be fingerprinted at a  
5 community intervention center. No other juveniles shall be  
6 fingerprinted at community intervention centers.

7           7. Community intervention centers shall be certified pursuant  
8 to standards established and rules promulgated by the Office of  
9 Juvenile Affairs.

10           SECTION 4.           AMENDATORY           Section 11, Chapter 290, O.S.L.  
11 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as  
12 last amended by Section 1, Chapter 34, O.S.L. 1998 (10 O.S. Supp.  
13 1998, Section 7302-6.8), is amended to read as follows:

14           Section 7302-6.8 A. Beginning July 1, 1995, the Office of  
15 Juvenile Justice shall oversee the expansion of the number of  
16 preadjudicatory secure detention beds available in this state. By  
17 July 1, 1996, the number of such beds shall be increased by one  
18 hundred nine beds or by the number necessary to result in a total of  
19 two hundred sixty-five such beds. It is the intent of the  
20 Legislature to establish such beds on a geographic basis throughout  
21 the state in order to provide more accessibility to services for all  
22 regions of the state. Therefore, such beds shall be established as  
23 follows: In Oklahoma County thirty-seven beds, in Tulsa County  
24 twenty-six beds, in Cleveland County twelve beds, in Lincoln County  
25 ten beds, in Comanche County six beds, in Beckham County six beds,  
26 in Texas County six beds and in Talihina in LeFlore County six beds.  
27 The six beds in Comanche County shall be regional detention beds and  
28 out-of-county placements shall be given priority for these beds.  
29 The beds established by this subsection shall be operated in  
30 accordance with Section 7304-1.3 of this title.

31           B. Effective July 1, 1995, the responsibilities for  
32 establishing and operating a regional juvenile facility in the

1 southwestern part of the state shall be transferred to the Office of  
2 Juvenile Affairs. The facility shall include six transitional beds  
3 and ~~sixty-four~~ seventy medium secure beds for such programs as the  
4 Department of Juvenile Justice determines will most appropriately  
5 and effectively provide required services; provided, no more than  
6 thirty-two beds shall be used for any one type of program. It is  
7 the intent of the Legislature that the Department of Juvenile  
8 Justice locate an existing facility that can be remodeled and used  
9 for this purpose.

10 C. Beginning July 1, 1998, detention beds constructed and  
11 operated by a county solely through revenues from county sources  
12 shall be exempt from the provisions of subparagraph 6 of Section  
13 7302-9.3 of this title and from the provisions of the State Plan for  
14 the Establishment of Juvenile Detention Services adopted pursuant to  
15 subsection D of Section 7304-1.3 of this title.

16 SECTION 5. AMENDATORY Section 12, Chapter 290, O.S.L.  
17 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as  
18 last amended by Section 11, Chapter 293, O.S.L. 1997 (10 O.S. Supp.  
19 1998, Section 7302-6.9), is amended to read as follows:

20 Section 7302-6.9 A. It is the intent of the Legislature that  
21 the program established pursuant to this section benefit the state  
22 by providing a two-phase regimented juvenile training program under  
23 which certain adjudicated juveniles are subject to a controlled and  
24 regimented environment that affirms dignity of self and respect for  
25 others; promotes the value of education, work, and self-discipline;  
26 and develops useful skills and abilities that can be applied when  
27 the juvenile is reintegrated into the community.

28 B. 1. The Office of Juvenile Affairs through the Department of  
29 Juvenile Justice shall establish, maintain, and operate a regimented  
30 juvenile training program. Juveniles eligible for participation in  
31 the program shall be assessed and deemed appropriate for the program  
32 by the Department of Juvenile Justice. The juveniles eligible for

1 the program shall include only juveniles adjudicated delinquent ~~and~~  
2 ~~placed in the custody of the Office of Juvenile Affairs in this~~  
3 ~~state or another state. However, no more than one-third of the~~  
4 ~~juveniles allowed to participate in the program during any~~  
5 ~~particular time period shall be from other states. No juvenile~~  
6 ~~adjudicated in this state or any other state for murder or any~~  
7 ~~offense which, if committed or attempted in this state, would be a~~  
8 ~~crime or attempt to commit a crime requiring registration as a sex~~  
9 ~~offender pursuant to Section 582 of Title 57 of the Oklahoma~~  
10 ~~Statutes shall be eligible for the program. Juveniles from other~~  
11 ~~states shall be placed in the program pursuant to provisions of the~~  
12 ~~Interstate Compact on the Placement of Children and rules~~  
13 ~~promulgated by the Office of Juvenile Affairs.~~

14 2. Three percent (3%) of any fees received by a program for a  
15 delinquent from another state shall be deposited in the Office of  
16 Juvenile Affairs Revolving Fund.

17 3. A juvenile may be eliminated from the program upon a  
18 determination by the Department of Juvenile Justice that a physical  
19 or mental condition will prevent full participation in the program  
20 by such offender.

21 C. The regimented juvenile training program shall consist of  
22 two phases, which shall be administered as follows:

23 1. Phase I: An intensive physical training and discipline  
24 phase in a secure facility or a nonsecure facility, for a period of  
25 not more than one hundred twenty (120) days and administered by the  
26 Department of Juvenile Justice. The Department may operate Phase I  
27 at facilities operated by the Office of Juvenile Affairs or contract  
28 for such services;

29 2. Phase II: A community reintegration phase for juveniles who  
30 have completed Phase I of the program, which is administered by the  
31 Office, as follows:  
32



1           a.    if appropriate juvenile diversion services are  
2                available, the Department of Juvenile Justice may  
3                contract for such services, and

4           b.    if appropriate diversion services are not available,  
5                the juvenile shall be subject to a period of  
6                supervision under the Department of Juvenile Justice;

7           3.    A juvenile in the regimented juvenile training program shall  
8           be required to participate in the reintegration phase for a period  
9           to be determined by the Department of Juvenile Justice; and

10          4.    In addition to the requirements set forth in this  
11          subsection, juveniles shall be required to participate in a job  
12          training and educational component, as deemed appropriate by the  
13          Department of Juvenile Justice. The educational component shall  
14          include classroom work comprised of basic academic and/or vocational  
15          instruction. Educational services for juveniles adjudicated by  
16          another state shall be funded pursuant to Section 1-113 of Title 70  
17          of the Oklahoma Statutes.

18          D.    If a juvenile fails to progress through or complete the  
19          initial phase of the regimented juvenile training program, the  
20          Department of Juvenile Justice may reassign the juvenile to another  
21          appropriate facility. In addition, if a juvenile fails to progress  
22          through or complete the second phase of the program, the Department  
23          may return the juvenile to Phase I of the program for completion of  
24          all or part of the earlier phase; except that a juvenile shall not  
25          be returned for participation in the initial phase more than once.

26          E.    The Office of Juvenile Affairs shall establish standards,  
27          which shall be enforced by the Department of Juvenile Justice, for  
28          the regimented juvenile training program and each of the phases  
29          thereof described in this section. Supportive services deemed  
30          necessary by the Department shall be made available under the phases  
31          of the regimented juvenile training program, as deemed appropriate  
32          by the Office of Juvenile Affairs.

1 SECTION 6. AMENDATORY 10 O.S. 1991, Section 1102, as  
2 renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last  
3 amended by Section 1, Chapter 127, O.S.L. 1998 (10 O.S. Supp. 1998,  
4 Section 7303-1.2), is amended to read as follows:

5 Section 7303-1.2 A. 1. Upon the filing of a petition, or upon  
6 the assumption of custody pursuant to the provisions of Section  
7 7303-1.1 of this title, the district court of the county in which a  
8 child:

9 a. resides,

10 b. is found, or

11 c. is alleged to be or is found to be in need of  
12 supervision,

13 shall have jurisdiction of any child who is or is alleged to be in  
14 need of supervision and shall have jurisdiction of the parent,  
15 guardian, legal custodian, legal guardian or stepparent of said  
16 child, regardless of where the parent, guardian, legal custodian,  
17 legal guardian or stepparent is found; and shall have jurisdiction  
18 of any other adult person living in the home of such child. For any  
19 child who is or is alleged to be delinquent, the district court of  
20 the county where the cause of action arose shall have jurisdiction  
21 of the child and of the parent, guardian, legal custodian, legal  
22 guardian or stepparent of said child, regardless where the parent,  
23 guardian, legal custodian, legal guardian or stepparent is found;  
24 and shall have jurisdiction of any other adult person living in the  
25 home of such child.

26 2. When jurisdiction shall have been obtained over a child who  
27 is or is alleged to be in need of supervision, such may be retained  
28 until the child becomes eighteen (18) years of age and when  
29 jurisdiction shall have been obtained over a child who is or is  
30 alleged to be a delinquent, jurisdiction may be retained until the  
31 child becomes nineteen (19) years of age upon the court's own  
32 motion, motion by the district attorney or motion by the Department

1 of Juvenile Justice, as provided in subsection B of Section 7302-5.4  
2 of this title.

3 3. For the convenience of the parties and in the interest of  
4 justice, a proceeding under the Oklahoma Juvenile Code, Section  
5 7301-1.1 et seq. of this title, may be transferred to the district  
6 court in any other county.

7 4. Any arrest or detention under the Oklahoma Juvenile Code or  
8 any adjudication in a juvenile proceeding shall not be considered an  
9 arrest, detention or conviction for purposes of employment, civil  
10 rights, or any statute, regulation, license, questionnaire,  
11 application, or any other public or private purposes, unless  
12 otherwise provided by law.

13 B. The district court in which a petition is filed or the  
14 district court in which custody has been assumed pursuant to the  
15 provisions of Section 7303-1.1 of this title may retain jurisdiction  
16 of a delinquent child in such proceeding notwithstanding the fact  
17 that the child is subject to the jurisdiction of another district  
18 court within the state. Any adjudication and disposition made by  
19 the court in which said petition is filed shall control over prior  
20 orders in regard to the child.

21 C. The district court in which a petition is filed which  
22 alleges that a child is in need of supervision can issue any  
23 temporary order or grant any interlocutory relief authorized by this  
24 Code notwithstanding the fact that another district court within the  
25 state has jurisdiction of the child.

26 D. If the district court in which a petition is filed pursuant  
27 to either subsection B or subsection C of this section sustains the  
28 petition, the district court shall have the jurisdiction to make a  
29 final determination on the juvenile petition or to transfer the  
30 proceedings to a court having prior jurisdiction over the child.

31 Where the other proceeding is pending in the same judicial district  
32 in which the juvenile petition is filed, the chief judge of the

1 judicial district shall determine if the proceedings shall be  
2 consolidated and, if consolidated, which judge shall try the issues  
3 when the judges to whom the cases have been assigned are unable to  
4 agree on the procedure that should be followed.

5 E. 1. A municipality may enter into an interlocal cooperation  
6 agreement with the district court pursuant to the Interlocal  
7 Cooperation Act, Sections 1001 through 1008 of Title 74 of the  
8 Oklahoma Statutes, to assume jurisdiction of cases involving  
9 children under eighteen (18) years of age charged with violating any  
10 municipal ordinance as agreed by the district court, the district  
11 attorney and the municipality. For the purposes of this subsection,  
12 "district court" shall mean the district court judicial district or  
13 districts in which the contracting municipality is situated. The  
14 chief juvenile judge of the district court judicial district is  
15 hereby authorized to enter into the interlocal cooperation agreement  
16 as provided for in this section for and on behalf of said judicial  
17 district if the judge determines that the agreement is  
18 constitutional and complies with state and federal law. Provided,  
19 if there is no chief juvenile judge in the judicial district, then  
20 the presiding judge of the judicial administrative district that  
21 includes the contracting judicial district may enter into the  
22 agreement for and on behalf of said judicial district if the judge  
23 determines that the agreement is constitutional and complies with  
24 state and federal law.

25 2. A child under eighteen (18) years of age who is taken into  
26 custody for the alleged violation of a municipal ordinance relating  
27 to truancy may be held pursuant to Section 10-109 of Title 70 of the  
28 Oklahoma Statutes.

29 3. A child under eighteen (18) years of age who is taken into  
30 custody for the alleged violation of a municipal ordinance relating  
31 to curfews may be held temporarily under the custodial care of a  
32 peace officer or other person employed by a police department only

1 until the child's parent, legal guardian, legal custodian, attorney  
2 or other responsible adult assumes custody or, if such a person  
3 cannot be located within a reasonable time of the taking of the  
4 child into custody or if such a person refuses to assume custody,  
5 until temporary shelter is found for the child. In no event shall  
6 the child be placed in a jail, lockup, or detention facility;  
7 provided however, this provision shall not restrict or prohibit  
8 placing the child in a community intervention center pursuant to  
9 Section 7302-3.5 of this title. The temporary custody provided for  
10 by this paragraph shall be utilized as a means of returning the  
11 child to the child's home or other place of shelter.

12 4. Notwithstanding any other provision of this Code, a child  
13 less than eighteen (18) years of age, who is taken into custody for  
14 the alleged violation of a municipal ordinance, and who can be  
15 prosecuted in municipal court for such offense pursuant to  
16 jurisdiction assumed by the municipal court pursuant to the  
17 provisions of paragraph 1 of this subsection, may be temporarily  
18 detained by the municipality in a municipal juvenile facility, as  
19 defined by this paragraph, but only pursuant to the following  
20 conditions:

- 21 a. the municipality shall immediately take all reasonable  
22 steps to attempt to locate the child's parent, legal  
23 guardian, legal custodian, attorney or another  
24 responsible adult and determine if said parent, legal  
25 guardian, legal custodian, attorney or other  
26 responsible adult is willing to appear at the  
27 municipal juvenile facility and assume personal  
28 custody of the child upon the child's release from  
29 such facility,
- 30 b. the child shall be released to the personal custody of  
31 the child's parent, legal guardian, legal custodian,  
32 attorney or other responsible adult as soon as

1           practicable and upon the written promise of such  
2           person to return the child to municipal court to  
3           answer the municipal charges on the date and at the  
4           time set by the municipal court and to assume  
5           responsibility for costs for damages by the child if  
6           the child causes damages while committing any acts in  
7           violation of municipal ordinances listed in this  
8           section after being released. Municipalities may  
9           enact ordinances providing penalties for failure to  
10          comply with the written promise and for refusal to  
11          assume custody of a child in a timely manner,

12          c.   the child shall be detained in the municipal juvenile  
13          facility for no longer than twenty-four (24) hours;  
14          provided, if the child's parent, legal guardian, legal  
15          custodian, attorney or other responsible adult fails  
16          to appear at the municipal juvenile facility and  
17          assume personal custody of the child within said  
18          twenty-four-hour period, then custody or release of  
19          the child shall be determined pursuant to the  
20          provisions of Section 7303-1.1 of this title,

21          d.   the child shall be provided with adequate fresh  
22          drinking water,

23          e.   the child shall be provided with adequate food not  
24          less than three times in a twenty-four-hour period,

25          f.   the child shall be provided with adequate bathroom  
26          facilities and bedding, and

27          g.   the child shall be provided with any necessary medical  
28          care and treatment.

29   Prior to the temporary detention of any child pursuant to the  
30   authority of this subsection, the municipal juvenile facility shall  
31   be certified by the Office of Juvenile Affairs pursuant to the  
32   applicable certification standards set by the Board of Juvenile

1 Affairs, and each member of the staff of the municipal juvenile  
2 facility shall have satisfactorily completed a training program  
3 provided or approved by the Department of Juvenile Justice. In  
4 furtherance of this subsection, the Office of Juvenile Affairs is  
5 directed to and shall establish standards for the certification of  
6 municipal juvenile facilities, with said standards to include, but  
7 not be limited to, the conditions set forth in subparagraphs a  
8 through g, inclusive, of this paragraph, and the Department of  
9 Juvenile Justice is directed to and shall provide or approve an  
10 appropriate training program for staff members of such facilities.  
11 In lieu of operating a municipal juvenile facility with trained  
12 municipal employees, the municipality may contract with an  
13 independent public or private facility properly certified by the  
14 Office of Juvenile Affairs for performance of the detention services  
15 authorized by the provisions of this paragraph. For the purposes of  
16 this section, a "municipal juvenile facility" shall mean a secure  
17 facility which is entirely separate from any jail, adult lockup, or  
18 other adult facility, or is spatially separate if contained inside  
19 any jail, adult lockup, or other adult facility which is certified  
20 by the Office of Juvenile Affairs for use for the temporary  
21 detention of juveniles as authorized by the provisions of this  
22 paragraph. The provisions of this paragraph shall not restrict or  
23 limit the use of municipal juvenile facilities for detention of  
24 juveniles who are detained pursuant to other provisions of law. In  
25 no event shall a juvenile be held in an adult facility that does not  
26 meet the definition of a municipal juvenile facility.

27 5. Pursuant to an interlocal cooperation agreement between a  
28 municipality and the district court, as authorized by the provisions  
29 of paragraph 1 of this subsection, a child less than eighteen (18)  
30 years of age may be charged, prosecuted and, if convicted, fined for  
31 violating a municipal ordinance for which provision is made in  
32 paragraph 1 of this subsection; provided, that the maximum fine

1 which may be imposed shall not exceed the maximum fine authorized by  
2 law. When assessing punishment, the court also may require  
3 appropriate community service work, not to exceed ninety (90) hours,  
4 in lieu of or in addition to a fine if the product of multiplying  
5 the number of hours of community service work by the prevailing  
6 minimum wage plus any fine imposed does not result in a number which  
7 exceeds the maximum fine authorized by law, or restitution, or both  
8 community service work and restitution. If the child fails to  
9 complete the community service, a parent or guardian of the child  
10 who knew or should have known that the child failed to complete the  
11 community service may be fined an amount that is equal to the number  
12 of community service hours that are uncompleted by the child  
13 multiplied by the hourly minimum wage amount. In addition, during  
14 any calendar year that any child:

- 15 a. fails to appear for a court date on more than one  
16 occasion,
- 17 b. is convicted of two or more of the municipal offenses  
18 for which provision is made in paragraph 1 of this  
19 subsection, which offenses occurred on different days,  
20 or
- 21 c. fails to pay any fine or cost properly assessed by a  
22 municipal court,

23 and after the expiration of ninety (90) days, the court clerk shall  
24 mail notice of such occurrence to the Department of Public Safety,  
25 which department shall thereafter suspend or deny driving privileges  
26 for such child for six (6) months. The suspension may be modified  
27 as provided in Section 6-107.2 of Title 47 of the Oklahoma Statutes.  
28 In addition, the court may require the child to receive counseling  
29 or other community-based services, as necessary.

30 If a child is prosecuted for an offense in a municipal court,  
31 the child shall not be prosecuted for the offense in the district  
32



1 court. The municipal court may also impose costs as authorized by  
2 law.

3 6. Any fines and costs properly assessed against any child and  
4 which remain unpaid after three (3) months may be assessed by the  
5 municipal judge against the child's parent, parents, legal guardian  
6 or legal custodian and collected and paid as provided for in  
7 Articles XXVII and XXVIII of Title 11 of the Oklahoma Statutes.  
8 Provided however, prior to such latter assessment, the court clerk  
9 shall give such child's parent, parents, legal guardian or legal  
10 custodian notice by certified mail to their place of residence or  
11 personal service of such action proposed to be taken.

12 7. All municipal arrest records, prosecution records, court  
13 records, and court proceedings for cases involving children less  
14 than eighteen (18) years of age charged with violating municipal  
15 ordinances shall be kept confidential and shall not be open to  
16 public inspection except by order of the municipal court or as  
17 otherwise provided by Article VII of this Code and Section 620.6 of  
18 this title. Municipal conviction records involving children less  
19 than eighteen (18) years of age convicted of violating municipal  
20 ordinances shall be open to public inspection.

21 F. Funds generated from fines paid pursuant to an interlocal  
22 cooperation agreement between a municipality and the district court  
23 pursuant to the provisions of subsection E of this section shall be  
24 earmarked and used by the municipality only for the following  
25 purposes:

26 1. To fund local programs which address problems of juvenile  
27 crime;

28 2. To fund the costs of prosecutions authorized pursuant to the  
29 provisions of subsection E of this section;

30 3. To fund the costs of detention authorized pursuant to the  
31 provisions of subsection E of this section;

1 4. To fund administrative costs related to local programs that  
2 address problems of juvenile crime or related to the prosecution,  
3 detention, or punishment authorized pursuant to the provisions of  
4 subsection E of this section; and

5 5. To fund the costs of community intervention centers  
6 authorized pursuant to Section 7302-3.5 of this title.

7 Such earmarked funds shall not be used by the municipality for  
8 any purpose other than the purposes set forth in paragraphs 1  
9 through 5 of this subsection.

10 SECTION 7. AMENDATORY Section 133, Chapter 352, O.S.L.  
11 1995 (10 O.S. Supp. 1998, Section 7303-5.4), is amended to read as  
12 follows:

13 Section 7303-5.4 A. 1. Every disposition order regarding a  
14 child adjudicated to be delinquent or in need of supervision shall  
15 be reviewed by the court at least once every six (6) months until  
16 such time as the conditions which caused the child to be adjudicated  
17 have been corrected or the parental rights of said parent or parents  
18 are terminated pursuant to the Oklahoma Children's Code.

19 2. A dispositional order removing a child from the custody of  
20 the parents of the child shall be reviewed at a hearing by the court  
21 at least once every six (6) months until such time as the child is  
22 returned to the custody of his parents. No later than ~~eighteen (18)~~  
23 twelve (12) months after placing a child in out-of-home care and  
24 every twelve (12) months thereafter, the court making the original  
25 order of adjudication shall conduct a dispositional hearing to  
26 consider in the best interests of the child whether:

27 a. the child should be returned to the parents of the  
28 child or other family member,

29 b. the child should be continued in out-of-home care for  
30 a specified period,

31 c. the rights of the parents of the child should be  
32 terminated and the child placed for adoption or legal

1 guardianship pursuant to the Oklahoma Children's Code,  
2 or

3 d. the child, because of exceptional circumstances,  
4 should remain in out-of-home care on a long-term basis  
5 as a permanent plan or with a goal of independent  
6 living.

7 3. The provisions of this section also shall apply to a child  
8 who has been removed from the home of the lawful parent or parents  
9 of the child after the child has been returned to that home until  
10 such time as the court orders the case closed.

11 B. 1. The agency having supervision of the case or, if the  
12 child has been removed from the custody of its parents, the legal  
13 custodian of such child shall cause to be prepared for each review  
14 hearing required herein a written report concerning each child who  
15 is the subject of such review.

16 2. Said report shall include but not be limited to a summary of  
17 the physical, mental, and emotional condition of the child, the  
18 conditions existing in the home or institution where the child has  
19 been placed, and the child's adjustment thereto, a report on the  
20 child's progress in school and, if the child has been placed outside  
21 the home of the child, the visitation exercised by the parents of  
22 such child or other persons authorized by the court, and services  
23 being provided to a child sixteen (16) years of age or older to  
24 assist in the transition from out-of-home care or other community  
25 placement to independent living.

26 3. If the Office of Juvenile Affairs is the legal custodian of  
27 the child, the report also shall include any efforts on the part of  
28 the parent or parents to correct the conditions which caused the  
29 child to be adjudicated. The report shall specifically recommend,  
30 giving reasons therefor, whether or not the parental rights of the  
31 parent or parents of the child should be terminated and the child  
32 placed for adoption, whether or not the child should remain in the

1 home or if placed outside the home of the child's lawful parents,  
2 whether or not the child should remain outside the home or be  
3 returned to the home from which the child was removed.

4 C. At each such review hearing, the court shall specifically  
5 inquire as to the nature and extent of services being provided the  
6 child and parent or parents of the child and shall direct additional  
7 services be provided if necessary to protect the child from further  
8 physical, mental, or emotional harm or to correct the conditions  
9 that led to the adjudication.

10 In any review order, the court shall further make a  
11 determination:

12 1. As to whether reasonable efforts have been made to provide  
13 for the return of the child to the child's own home. If reasonable  
14 efforts have failed or are not feasible, the court shall make a  
15 finding that the efforts to reunite the family have failed, or are  
16 not feasible, and reasonable efforts are being made to secure an  
17 alternate permanent placement for the child; and

18 2. Where appropriate, when the child is age sixteen (16) or  
19 older, that services are being provided that will assist the child  
20 in making the transition from out-of-home care to independent  
21 living.

22 D. The attorney representing a child whose case is being  
23 reviewed may submit a report to the court for presentation at the  
24 review hearing to assist the court in reviewing the placement or  
25 status of the child. The legal custodian shall not deny to a child  
26 the right of access to counsel and shall facilitate such access.

27 E. The Department of Juvenile Justice shall notify the court  
28 having jurisdiction, the appropriate review board and the  
29 appropriate district attorney whenever the placement of a child in  
30 the custody of the Department is changed and shall inform said court  
31 and attorney regarding the location of the child unless placement  
32 modification results from an emergency situation, in which case the

1 notification required by this subsection shall be within one (1)  
2 business day after the change of placement. As used in this  
3 subsection, "emergency situation" means a placement change requested  
4 by a person having actual custody of a child, if the request is made  
5 at a time when the business offices of the parties to be notified  
6 are closed, or a placement for emergency medical treatment.

7 SECTION 8. AMENDATORY Section 25, Chapter 290, O.S.L.  
8 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as  
9 last amended by Section 29, Chapter 293, O.S.L. 1997 (10 O.S. Supp.  
10 1998, Section 7306-2.8), is amended to read as follows:

11 Section 7306-2.8 A. Whenever the district attorney believes  
12 that there is good cause to believe that a person charged as a  
13 youthful offender would not reasonably complete a plan of  
14 rehabilitation or the public would not be adequately protected if  
15 the person were to be sentenced as a youthful offender, and should  
16 receive an adult sentence, the district attorney shall file a motion  
17 for consideration of the imposition of the sentence as for an adult  
18 if the person is convicted:

- 19 1. Not less than ten (10) days prior to the trial; or
- 20 2. At the time of a guilty plea or plea of nolo contendere.

21 B. Upon the filing of such motion and prior to the trial or  
22 before the entry of the plea of guilty or nolo contendere the court  
23 shall hold a hearing to determine the matter.

24 C. 1. The court shall order an investigation to be conducted  
25 unless waived by the accused person with approval of the court. Any  
26 such investigation required shall be conducted by the Department of  
27 Juvenile Justice.

28 2. At the hearing the court shall consider:

- 29 a. the seriousness of the alleged offense to the  
30 community, and whether the offense was committed in an  
31 aggressive, violent, premeditated or willful manner,

32

- 1           b. whether the offense was against persons or property,  
2           greater weight being given for offenses against  
3           persons and, if personal injury resulted, the degree  
4           of injury,
- 5           c. the sophistication and maturity of the accused person  
6           and his capability of distinguishing right from wrong  
7           as determined by consideration of his psychological  
8           evaluation, home, environmental situation, emotional  
9           attitude and pattern of living,
- 10          d. the record of the person including previous  
11          involvements with law enforcement agencies or courts,  
12          or prior periods of probation or prior commitments to  
13          institutions for delinquent behavior, and the previous  
14          history of the person with community agencies and  
15          schools,
- 16          e. the prospects for adequate protection of the public,  
17          f. the likelihood of reasonable rehabilitation of the  
18          youthful offender if he is found to have committed the  
19          alleged offense, by the use of procedures and  
20          facilities currently available to the court if the  
21          accused person is processed through the youthful  
22          offender system, and
- 23          g. whether the offense occurred while the person was  
24          escaping from a secure facility for youthful offenders  
25          or delinquent children.

26          D. After the hearing and consideration of the report of the  
27          investigation, the court shall certify the person as eligible for  
28          the imposition of an adult sentence only if it finds by clear and  
29          convincing evidence that there is good cause to believe that the  
30          accused person would not reasonably complete a plan of  
31          rehabilitation or that the public would not be adequately protected  
32          if the person were to be sentenced as a youthful offender.

1 E. If the person has been certified as eligible to be sentenced  
2 as an adult, the court shall, upon a verdict of guilty or the entry  
3 of a plea of guilty or nolo contendere, impose sentence as provided  
4 by law for an adult for punishment of the offense committed, subject  
5 to the power and authority of the court to suspend or delay  
6 sentence, defer judgment, or otherwise structure, limit, or modify  
7 sentence as provided in Title 22 of the Oklahoma Statutes or the  
8 Youthful Offender Act. When sentence is imposed pursuant to this  
9 subsection, the person shall be treated as an adult for purposes of  
10 supervision, incarceration and in all subsequent criminal  
11 proceedings.

12 F. Upon a verdict of guilty or a plea of guilty or nolo  
13 contendere, the court may order the person to pay a fee to the  
14 Department of Juvenile Justice of not less than Five Dollars  
15 (\$5.00), nor more than Two Hundred Fifty Dollars (\$250.00), for the  
16 presentence investigation. In hardship cases, the court may waive  
17 the fee or set the amount of the fee and establish a payment  
18 schedule.

19 SECTION 9. AMENDATORY 70 O.S. 1991, Section 10-109, as  
20 amended by Section 3, Chapter 270, O.S.L. 1995 (70 O.S. Supp. 1998,  
21 Section 10-109), is amended to read as follows:

22 Section 10-109. A. An attendance officer, any school  
23 administrator, or designee of the school administrator who is  
24 employed by the school, or any peace officer may, except for  
25 children being home schooled pursuant to Section 10-105 of the  
26 Oklahoma Statutes, temporarily detain and assume temporary custody  
27 of any child subject to compulsory full-time education, during hours  
28 in which school is actually in session, who is found away from the  
29 home of such child and who is absent from school without lawful  
30 excuse within the school district that such attendance officer,  
31 peace officer or school official serves, if said school district has  
32

1 previously approved the temporary detention and custody pursuant to  
2 this section.

3 B. Any person temporarily detaining and assuming temporary  
4 custody of a child pursuant to this section shall immediately  
5 deliver the child either to the parent, guardian, or other person  
6 having control or custody of the child, or to the school from which  
7 the child is absent without valid excuse, or to a nonsecure youth  
8 service or community center servicing the school district, or to a  
9 community intervention center, as defined by Section 7301-1.3 of  
10 Title 10 of the Oklahoma Statutes.

11 C. The temporary custody or detention provided by this section  
12 shall be utilized as a means of reforming and returning the truant  
13 students to school and shall not be used as a pretext for  
14 investigating criminal matters. The temporary custody or detention  
15 herein provided is a severely limited type of detention and is not  
16 justified unless there are specific facts causing an attendance  
17 officer or other authorized person to reasonably suspect that a  
18 truancy violation is occurring and that the person the officer  
19 intends to detain is a truant.

20 SECTION 10. This act shall become effective November 1, 1999.

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22 47-1-7357 SD 6/11/15  
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