

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 SENATE BILL NO. 390

By: Helton of the Senate

and

6 Smith (Hopper) of the House

7  
8  
9 COMMITTEE SUBSTITUTE

10 An Act relating to Oklahoma Military Department;  
11 amending Section 132, Chapter 352, O.S.L. 1995, as  
12 last amended by Section 8, Chapter 5, O.S.L. 1998 (10  
13 O.S. Supp. 1998, Section 7303-5.3), which relates to  
14 military mentor programs; providing for civilian  
15 staffing; clarifying language; amending 44 O.S. 1991,  
16 Sections 227 and 230, as amended by Section 1,  
17 Chapter 14, O.S.L. 1996 (44 O.S. Supp. 1998, Section  
18 230), which relates to the Adjutant General of the  
19 State of Oklahoma; creating Architect Selection Board  
20 to replace former construction board; changing  
21 membership of Architect Selection Board from former  
22 construction board; providing for appointment to  
23 Board; providing duties of Adjutant General;  
24 providing for federal construction contracting  
25 procedures; deleting language; providing for  
26 promulgation of rules; providing an effective date;  
27 and declaring an emergency.

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

31 SECTION 1. AMENDATORY Section 132, Chapter 352, O.S.L.  
32 1995, as last amended by Section 8, Chapter 5, O.S.L. 1998 (10 O.S.  
33 Supp. 1998, Section 7303-5.3), is amended to read as follows:

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

37 1. The court may place the child on probation or under  
38 supervision in the home of the child, or in the custody of a  
39 suitable person, upon such conditions as the court shall determine.  
40 The court may require the parent or other person to give security by  
41 bond, with surety or sureties approved by the court, for compliance

1 with such order. If the child is placed on probation, the court may  
2 impose a probation supervision fee of not more than Twenty-five  
3 Dollars (\$25.00) per month, if the court finds that the child or  
4 parent or legal guardian of the child has the ability to pay the  
5 fee. In counties having a juvenile bureau, the fee shall be paid to  
6 the juvenile bureau; in all other counties, the fee shall be paid to  
7 the Office of Juvenile Affairs.

8 2. If it is consistent with the welfare of the child, the child  
9 shall be placed with the parent or legal guardian of the child, but  
10 if it appears to the court that the conduct of such parent,  
11 guardian, legal guardian, stepparent or other adult person living in  
12 the home has contributed to the child becoming delinquent or in need  
13 of supervision, the court may issue a written order specifying  
14 conduct to be followed by such parent, guardian, legal custodian,  
15 stepparent or other adult person living in the home with respect to  
16 such child. The conduct specified shall be such as would reasonably  
17 prevent the child from continuing to be delinquent or in need of  
18 supervision. Such order shall remain in effect for a period of not  
19 more than one (1) year to be specified by the court, and the order  
20 may be extended or renewed by the court.

21 a. If it is consistent with the welfare of the child, in  
22 cases where the child has been adjudicated to be in need  
23 of supervision due to repeated absence from school, the  
24 court may order counseling and treatment for the child  
25 and the parents of the child to be provided by the local  
26 school district, the county, the Department or a private  
27 individual or entity. Prior to final disposition, the  
28 court shall require that it be shown by the appropriate  
29 school district that a child found to be truant has been  
30 evaluated for learning disabilities, hearing and visual  
31 impairments and other impediments which could constitute  
32 an educational handicap or has been evaluated to

1 determine whether the child has a disability if it is  
2 suspected that the child may require special education  
3 services in accordance with the Individuals with  
4 Disabilities Education Act (IDEA). The results of such  
5 tests shall be made available to the court for use by  
6 the court in determining the disposition of the case.

7 b. In issuing orders to a parent, guardian, legal guardian,  
8 stepparent or other adult person living in the home of a  
9 child adjudicated to be a delinquent child or in making  
10 other disposition of said delinquent child, the court  
11 may consider the testimony of said parent, guardian,  
12 legal guardian, stepparent or other adult person  
13 concerning the behavior of the juvenile and the ability  
14 of such person to exercise parental control over the  
15 behavior of the juvenile.

16 c. In any dispositional order involving a child age sixteen  
17 (16) or older, the court shall make a determination,  
18 where appropriate, of the services needed to assist the  
19 child to make the transition to independent living.

20 No child who has been adjudicated in need of supervision only  
21 upon the basis of truancy or noncompliance with the mandatory school  
22 attendance law shall be placed in a public or private institutional  
23 facility or be removed from the custody of the lawful parent,  
24 guardian or custodian of the child.

25 3. The court may commit the child to the custody of a private  
26 institution or agency, including any institution established and  
27 operated by the county, authorized to care for children or to place  
28 them in family homes. In committing a child to a private  
29 institution or agency, the court shall select one that is licensed  
30 by any state department supervising or licensing private  
31 institutions and agencies; or, if such institution or agency is in  
32 another state, by the analogous department of that state. Whenever

1 the court shall commit a child to any institution or agency, it  
2 shall transmit with the order of commitment a summary of its  
3 information concerning the child, and such institution or agency  
4 shall give to the court such information concerning the child as the  
5 court may at any time require.

6 4. The court may order the child to receive counseling or other  
7 community-based services as necessary.

8 5. The court may order the child to participate in a military  
9 mentor program administered by the Oklahoma Military Department, if  
10 such program:

11 a. is staffed by National Guard or qualified civilian  
12 personnel who are trained by the Oklahoma Military  
13 Department pursuant to training standards established by  
14 the Department of Juvenile Justice and meets screening  
15 requirements established by the Department of Juvenile  
16 Justice,

17 b. provides for adequate supervision of the child, and

18 c. is designed to develop useful skills and abilities of  
19 the child and/or integrate the child into community  
20 service activities or public works projects.

21 The Office of Juvenile Affairs through its Department of Juvenile  
22 Justice and the Oklahoma Military Department are hereby authorized  
23 to enter into an agreement to provide for the effective development  
24 and implementation of this paragraph.

25 6. The court may commit the child to the custody of the Office  
26 of Juvenile Affairs under the supervision of the Department of  
27 Juvenile Justice. Any order adjudicating the child to be delinquent  
28 and committing the child to the Department of Juvenile Justice shall  
29 be for an indeterminate period of time. If the adjudication is for  
30 distribution of a controlled dangerous substance or possession with  
31 intent to distribute a controlled dangerous substance, the court may  
32 require that the offender be placed in a residential facility

1 operated or contracted for by the Office of Juvenile Affairs. Said  
2 placement must occur within sixty (60) days of disposition unless  
3 extended by the court for an additional sixty (60) days.

4 7. If the child has been placed outside the home, and it  
5 appears to the court that the parent, guardian, legal custodian, or  
6 stepparent, or other adult person living in the home has contributed  
7 to the child becoming delinquent or in need of supervision, the  
8 court may order that the parent, guardian, legal custodian,  
9 stepparent, or other adult living in the home be made subject to any  
10 treatment or placement plan prescribed by the Department or other  
11 person or agency receiving custody of the child.

12 8. With respect to a child adjudicated a delinquent child, the  
13 court may:

- 14 a. for acts involving criminally injurious conduct as  
15 defined in Section 142.3 of Title 21 of the Oklahoma  
16 Statutes, order the child to pay a victim compensation  
17 assessment in an amount not to exceed that amount  
18 specified in Section 142.18 of Title 21 of the Oklahoma  
19 Statutes. The court shall forward a copy of the  
20 adjudication order to the Crime Victims Compensation  
21 Board for purposes of Section 142.11 of Title 21 of the  
22 Oklahoma Statutes. Except as otherwise provided by law,  
23 such adjudication order shall be kept confidential by  
24 the Board,
- 25 b. order the child to engage in a term of community service  
26 without compensation. The state or any political  
27 subdivision shall not be liable if a loss or claim  
28 results from any acts or omission of a child ordered to  
29 engage in a term of community service pursuant to the  
30 provisions of this paragraph,
- 31 c. if it is consistent with the welfare of the child,  
32 require community service or restitution or both

1 community service and restitution for acts of  
2 delinquency. The immunities provided by Sections 227  
3 and 228 of Title 57 of the Oklahoma Statutes shall apply  
4 to community services directed pursuant to this section.  
5 The court may order the parents or custodial parent of  
6 any child living with the parents or custodial parent to  
7 supervise the performance of community service by the  
8 child. The court may order the parents or custodial  
9 parent of any child living with the parents or custodial  
10 parent at the time of the criminal or delinquent act of  
11 the child to remit the amount of restitution ordered by  
12 the court. The court may consider any hardship of such  
13 order on the parents or custodial parent of the child.  
14 The parents or custodial parent may be represented by an  
15 attorney in the matter of the order for remittance of  
16 the restitution by the parents or custodial parent.  
17 Provided however, if the court orders the parents or  
18 custodial parent to remit the amount of restitution as  
19 provided for in this paragraph, in addition to any other  
20 dispositional orders of the court, the court shall order  
21 the child to perform community service for the number of  
22 hours commensurate with the number of hours it would  
23 require under federal or state minimum wage to earn the  
24 amount paid by such child's parents or custodial parent  
25 under the order to remit restitution,

- 26 d. order the child to pay the fine which would have been  
27 imposed had such child been convicted of such crime as  
28 an adult. Any such fine collected pursuant to this  
29 paragraph shall be deposited in a special Work  
30 Restitution Fund to be established by the court to allow  
31 children otherwise unable to pay restitution to work in  
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1 community service projects in the private or public  
2 sector to earn money to compensate their victims,

3 e. order the cancellation or denial of driving privileges  
4 as provided by Sections 6-107.1 and 6-107.2 of Title 47  
5 of the Oklahoma Statutes,

6 f. in accordance with the guidelines approved and adopted  
7 by the Oklahoma Supreme Court for the implementation of  
8 the Serious and Habitual Juvenile Offender Program, make  
9 the following orders: sanction detention in the  
10 residence of the child or facility designated by the  
11 Department of Juvenile Justice or the juvenile bureau  
12 for such purpose for up to five (5) days; weekend  
13 detention in a place other than a juvenile detention  
14 facility or shelter; tracking; or house arrest with  
15 electronic monitoring. On and after the adoption of  
16 guidelines by the Oklahoma Supreme Court for the  
17 implementation of the Serious and Habitual Juvenile  
18 Offender Program, the provisions of subparagraphs a  
19 through e of this paragraph shall be subject to said  
20 guidelines,

21 g. in accordance with the guidelines approved and adopted  
22 by the Oklahoma Supreme Court for the implementation of  
23 the Serious and Habitual Juvenile Offender Program,  
24 impose sanctions for the violation of preadjudicatory or  
25 postadjudicatory violations of probation.

26 9. The court may dismiss the petition or otherwise terminate  
27 its jurisdiction at any time for good cause shown.

28 10. In any dispositional order removing a child from the home of  
29 the child, the court shall make a determination that, in accordance  
30 with the best interests of the child and the protection of the  
31 public, reasonable efforts have been made to provide for the return  
32 of the child to the child's own home, or that efforts to reunite the

1 family are not feasible, and reasonable efforts are being made to  
2 secure an alternate permanent placement for the child.

3 B. Prior to adjudication or as directed by a law enforcement  
4 subpoena or court order, a school district may disclose ~~education~~  
5 educational records to the court or juvenile justice system for  
6 purposes of determining the ability of the juvenile justice system  
7 to effectively serve a child. Any disclosure of educational records  
8 shall be in accordance with the requirements of the Family  
9 Educational Rights and Privacy Act of 1974 (FERPA).

10 C. With respect to a child adjudicated a delinquent child for a  
11 violent offense, within thirty (30) days of the date of the  
12 adjudication either the juvenile bureau in counties which have a  
13 juvenile bureau or the Office of Juvenile Affairs in all other  
14 counties shall notify the superintendent of the school district in  
15 which the child is enrolled or intends to enroll of the delinquency  
16 adjudication and the offense for which the child was adjudicated.

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

19 E. No child charged in a state or municipal court with a  
20 violation of state or municipal traffic laws or ordinances, or  
21 convicted therefor, may be incarcerated in jail for any said  
22 violation unless the charge for which the arrest was made would  
23 constitute a felony if the child were an adult. Nothing contained  
24 in this subsection shall prohibit the detention of a juvenile for  
25 traffic-related offenses prior to the filing of a petition in the  
26 district court alleging delinquency as a result of said acts and  
27 nothing contained in this section shall prohibit detaining a  
28 juvenile pursuant to Section 7303-1.2 of this title.

29 F. The court may revoke or modify a disposition order and may  
30 order redisposition. The child whose disposition is being  
31 considered for revocation or modification at said hearing shall have  
32 the right to be represented by counsel, to present evidence in the

1 child's behalf and to be confronted by witnesses against the child.  
2 Any revocation, modification or redispotion of the court in whole  
3 or in part shall be subject to review on appeal, as in other appeals  
4 of criminal cases. Bail may be allowed pending appeal.

5 SECTION 2. AMENDATORY 44 O.S. 1991, Section 227, is  
6 amended to read as follows:

7 Section 227. The architect for the construction of the armory  
8 building for the housing, occupancy, or quartering of the officers,  
9 personnel, and equipment of the National Guard of the State of  
10 Oklahoma shall be ~~chosen and employed~~ selected by a board ~~composed~~  
11 ~~of~~ appointed by the Adjutant General of the State of Oklahoma, ~~the~~  
12 ~~Commanding General of the 45th Division, and the Attorney General of~~  
13 ~~the State of Oklahoma. The Director of Public Affairs~~ and to be  
14 named the Architect Selection Board. The Architect Selection Board  
15 shall be comprised of three (3) members from the Oklahoma National  
16 Guard Directorate of Engineering Office. The Adjutant General shall  
17 enter into contracts in the name of the State of Oklahoma for the  
18 construction of such armory building. The Oklahoma Military  
19 Department may use federal contracting procedures for construction  
20 of such armory building.

21 SECTION 3. AMENDATORY 44 O.S. 1991, Section 230, as  
22 amended by Section 1, Chapter 14, O.S.L. 1996 (44 O.S. Supp. 1998,  
23 Section 230), is amended to read as follows:

24 Section 230. A. The Adjutant General of the State of Oklahoma  
25 is hereby authorized to appoint such officers as are necessary to be  
26 designated as police officers (OMD), for the purpose of protecting  
27 all properties of, owned by or under the control of the Oklahoma  
28 National Guard wherever located in the State of Oklahoma. The  
29 Adjutant General shall ~~prescribe the duties for the officers thus~~  
30 ~~appointed, designate their uniforms and fix their compensation upon~~  
31 ~~appointment~~ promulgate rules which prescribe the duties for the  
32 officers thus appointed, designate their uniforms, fix their

1 compensation upon appointment and provide for removal from their  
2 appointment. Each such police officer (OMD) shall be given a  
3 written commission evidencing his or her appointment and authority,  
4 together with a detailed description of his or her person in order  
5 to properly identify his or her official capacity; the form of such  
6 commission shall be prescribed by the Adjutant General.

7 B. Any police officer (OMD) appointed pursuant to the  
8 provisions of this section shall have, with the sole exception of  
9 the serving or execution of civil process, all the powers vested by  
10 law in peace officers in the protection and guarding of the grounds,  
11 buildings and equipment of, owned by or under the control of the  
12 Oklahoma National Guard. The police officer (OMD) shall:

13 1. Direct his or her attention to the prevention of improper  
14 conduct, interference with, or trespassing upon the property of,  
15 owned by or under the control of the Oklahoma National Guard; and

16 2. If required, make arrests and take into custody persons  
17 guilty of improper conduct or trespassing.

18 C. It shall be the duty of the district attorney of the  
19 district wherein the improper conduct, interference or trespassing  
20 is alleged to have taken place to prosecute such offense upon a  
21 complaint filed by such police officer (OMD).

22 SECTION 4. This act shall become effective July 1, 1999.

23 SECTION 5. It being immediately necessary for the preservation  
24 of the public peace, health and safety, an emergency is hereby  
25 declared to exist, by reason whereof this act shall take effect and  
26 be in full force from and after its passage and approval.

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28 47-1-6636 MCD 3/15/99

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