

EHB 2169

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THE STATE SENATE
Thursday, March 23, 2000

ENGROSSED

House Bill No. 2169

ENGROSSED HOUSE BILL NO. 2169 - By: BENSON of the House and FISHER of the Senate.

An Act relating to children; amending 10 O.S. 1991, Section 404.1, as last amended by Section 1, Chapter 2, O.S.L. 1999 (10 O.S. Supp. 1999, Section 404.1), which relates to certain criminal history records searches; correcting reference to juvenile agency; amending 10 O.S. 1991, Section 601.45, as last amended by Section 191, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1999, Section 601.45), which relates to the Interagency Coordinating Council for Special Services to Children and Youth; authorizing a designee for the Executive Director of the Office of Juvenile Affairs to the Council; amending Section 13, Chapter 389, O.S.L. 1997, as last amended by Section 13, Chapter 396, O.S.L. 1999 (10 O.S. Supp. 1999, Section 7206.1), which relates to foster parents' rights; correcting reference to juvenile agency; amending Section 95, Chapter 352, O.S.L. 1995, as last amended by Section 3, Chapter 244, O.S.L. 1998, Section 114, Chapter 352, O.S.L. 1995, as last amended by Section 5, Chapter 268, O.S.L. 1998, Section 142, Chapter 352, O.S.L. 1995, as last amended by Section 19, Chapter 293, O.S.L. 1997, Section 143, Chapter 352, O.S.L. 1995, as amended by Section 20, Chapter 293, O.S.L. 1997, Section 144, Chapter 352, O.S.L. 1995, 10 O.S. 1991, Section 1108, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 21, Chapter 293, O.S.L. 1997, Section 28, Chapter 290, O.S.L. 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 32, Chapter 293, O.S.L. 1997 and Section 181, Chapter 352, O.S.L. 1995, as last amended by Section 34, Chapter 293, O.S.L. 1997 (10 O.S. Supp. 1999, Sections 7302-6.3, 7303-1.1, 7303-7.6, 7303-8.1, 7303-8.2, 7304-1.3, 7306-2.11 and 7307-1.5), which relate to the Oklahoma Juvenile Code; clarifying and modifying circumstances under which the mail of a child in an Office of Juvenile Affairs facility may be inspected; authorizing video transmission for appearance by child at detention hearing; including reasonable monthly

1 expenses in care and maintenance payments that court may
2 assess against parents; modifying parties to whom court may
3 order direct payments for care and maintenance; creating
4 certain presumption; clarifying authority of the Office of
5 Juvenile Affairs to authorize and consent to medical care;
6 correcting reference to juvenile agency; providing for
7 disclosure of certain records to the United States Social
8 Security Administration; amending Section 3, Chapter 170,
9 O.S.L. 1994 (63 O.S. Supp. 1999, Section 1-237), which
10 relates to the Act for Coordination of Efforts for
11 Prevention of Adolescent Pregnancy and Sexually Transmitted
12 Diseases; correcting reference to juvenile agency and
13 director of agency; providing an effective date; and
14 declaring an emergency.

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

16 SECTION 1. AMENDATORY 10 O.S. 1991, Section 404.1, as
17 last amended by Section 1, Chapter 2, O.S.L. 1999 (10 O.S. Supp.
18 1999, Section 404.1), is amended to read as follows:

19 Section 404.1 A. 1. Except as otherwise provided by
20 subsection B of this section, the Department of Human Services shall
21 require a criminal history records search, conducted by the Oklahoma
22 State Bureau of Investigation, for any person making application to
23 establish or operate a child care facility prior to the issuance of
24 a license to operate such facility.

25 2. a. Every child care facility shall arrange, prior to
26 employment, for a criminal history records search to
27 be conducted by the Oklahoma State Bureau of
28 Investigation for any person to be employed by the
29 child care facility.

1 b. In addition, any child care facility, licensed or
2 approved pursuant to the Oklahoma Child Care
3 Facilities Licensing Act, and located in a private
4 residence, shall arrange for a criminal history
5 records search for any adult residing in the child
6 care facility. A criminal history records search
7 conducted by the Oklahoma State Bureau of
8 Investigation shall also be completed for any adult
9 who subsequently moves into the private residence.

10 3. If the adult has lived in Oklahoma for less than one (1)
11 year, a criminal history records search shall also be obtained from
12 the previous state of residence. If the applicant planning to
13 establish or operate a child care facility, or an employee or
14 contract employee of the child care facility, or the contractor of
15 the child care facility has resided in Oklahoma for less than one
16 (1) year, the criminal history records search shall also be obtained
17 from such person's previous state of residence.

18 B. 1. a. On and after September 1, 1998:

19 (1) any child-placing agency contracting with a
20 person for foster family home services or in any
21 manner for services for the care and supervision
22 of children shall also, prior to executing a
23 contract, complete:

- 1 (a) a foster parent eligibility assessment for
2 the foster care provider except as otherwise
3 provided by divisions 2 and 4 of this
4 paragraph, and
- 5 (b) a national criminal history records search
6 based upon submission of fingerprints for
7 any adult residing in the foster family home
8 through the Department of Human Services
9 pursuant to the provisions of the Oklahoma
10 Foster Care and Out-of-Home Placement Act,
11 except as otherwise provided by divisions 2
12 and 4 of this paragraph.
- 13 (2) The child-placing agency may place a child
14 pending completion of the national criminal
15 history records search if the foster care
16 provider and every adult residing in the foster
17 family home has resided in this state for at
18 least five (5) years immediately preceding such
19 placement,
- 20 (3) A national criminal history records search based
21 upon submission of fingerprints to the Oklahoma
22 State Bureau of Investigation shall also be

1 completed for any adult who subsequently moves
2 into the residence,

3 (4) Provided, however, the Director of Human Services
4 or the Department of Juvenile Justice or designee
5 may authorize an exception to the fingerprinting
6 requirement for a person residing in the home who
7 has a severe physical condition which precludes
8 such person's being fingerprinted, and

9 (5) any child care facility contracting with any
10 person for foster family home services shall
11 request the Office of Juvenile ~~Justice~~ Affairs to
12 conduct a juvenile justice information system
13 review, pursuant to the provisions of Sections
14 7302-9.6 and 7302-3.8 of this title, for any
15 child over the age of thirteen (13) years
16 residing in the foster family home, other than a
17 foster child, or who subsequently moves into the
18 private residence. As a condition of contract,
19 the child care facility shall obtain the consent
20 of the parent or legal guardian of the child for
21 such review.

22 b. The provisions of this paragraph shall not apply to
23 foster care providers having a contract or contracting

1 with a child-placing agency, the Department of Human
2 Services or the Department of Juvenile Justice prior
3 to September 1, 1998. Such existing foster care
4 providers shall comply with the provisions of 10 O.S.
5 Supp. 1997, Section 404.1, until otherwise provided by
6 rules of the Commission for Human Services or by law.

7 2. a. (1) On and after September 1, 1998, except as
8 otherwise provided in divisions 2 and 4 of this
9 paragraph, prior to contracting with a foster
10 family home for placement of any child who is in
11 the custody of the Department of Human Services or
12 the Department of Juvenile Justice, each
13 Department shall complete a foster parent
14 eligibility assessment, pursuant to the provisions
15 of the Oklahoma Child Care Facilities Licensing
16 Act, for such foster family applicant. In
17 addition, except as otherwise provided by
18 divisions 2 and 4 of this paragraph, the
19 Department shall complete a national criminal
20 history records search based upon submission of
21 fingerprints for any adult residing in such foster
22 family home.

1 (2) The Department of Human Services and Department
2 of Juvenile Justice may place a child pending
3 completion of the national criminal history
4 records search if the foster care provider and
5 every adult residing in the foster family home
6 has resided in this state for at least (5) years
7 immediately preceding such placement.

8 (3) A national criminal history records search based
9 upon submission of fingerprints conducted by the
10 Oklahoma State Bureau of Investigation shall also
11 be completed for any adult who subsequently moves
12 into the residence.

13 (4) The Director of Human Services or the Director of
14 the Department of Juvenile Justice or designee
15 may authorize an exception to the fingerprinting
16 requirement for any person residing in the home
17 who has a severe physical condition which
18 precludes such person's being fingerprinted.

19 b. The provisions of this paragraph shall not apply to
20 foster care providers having a contract or contracting
21 with a child-placing agency, the Department of Human
22 Services or the Department of Juvenile Justice prior
23 to September 1, 1998. Such existing foster care

1 providers shall comply with the provisions of 10 O.S.
2 Supp. 1997, Section 404.1, until otherwise provided by
3 rules of the Commission for Human Services or by law.

4 3. Each Department shall provide for a juvenile justice
5 information system review pursuant to Section 7302-3.8 of this title
6 for any child over the age of thirteen (13) years residing in a
7 foster family home, other than the foster child, or who subsequently
8 moves into the private residence.

9 C. The Commission for Human Services or the Board of Juvenile
10 Affairs shall promulgate rules to identify circumstances when a
11 criminal history records search or foster parent eligibility
12 assessment for an applicant or contractor, or any person over the
13 age of thirteen (13) years residing in a private residence in which
14 a child care facility is located, shall be expanded beyond the
15 records search conducted by the Oklahoma State Bureau of
16 Investigation or as otherwise provided pursuant to this section.

17 D. 1. The following persons shall not be required to obtain a
18 criminal history records search or a national criminal history
19 records search based upon submission of fingerprints to the Federal
20 Bureau of Investigation pursuant to this section:

21 a. a parent volunteer who transports children on an
22 irregular basis, and

1 b. a child of a child care center or family child care
2 home operator who became an adult during continuous
3 residence at the licensed or approved facility.

4 2. These exemptions shall not preclude the Department from
5 requesting a criminal history records search or requesting a
6 national criminal history records search based upon submission of
7 fingerprints or investigating criminal, abusive or harmful behavior
8 of such persons, if warranted.

9 E. Except as otherwise provided by the Oklahoma Children's Code
10 and subsection G of this section, a conviction for a crime shall not
11 be an absolute bar to employment, but shall be considered in
12 relation to specific employment duties and responsibilities.

13 F. 1. Information received pursuant to this section by an
14 owner or administrator of a child care facility shall be maintained
15 in a confidential manner in a file that is separate from employment
16 records. The information may be transmitted to the Department for
17 child care facility licensing purposes.

18 2. Whenever an applicant is subsequently employed by or
19 contracts with a child care facility, the information received
20 pursuant to a criminal history records search, foster parent
21 eligibility assessment, or a national criminal history records
22 search based upon submission of fingerprints shall not be made a
23 part of that individual's personnel or contract records but shall be

1 maintained pursuant to this subsection. The information, along with
2 any other information relevant to the individual's ability to
3 perform tasks that require direct contact with children, may be
4 released to another child care facility in response to a request
5 from the child care facility that is considering employing or
6 contracting with the individual.

7 3. Requirements for confidentiality and record keeping with
8 regard to the information shall be the same for the child care
9 facility receiving the information in response to a request as those
10 provided for in paragraph 1 of this subsection for the child care
11 facility releasing such information.

12 G. 1. A criminal history investigation or national criminal
13 history records search based upon submission of fingerprints
14 conducted by the Oklahoma State Bureau of Investigation shall
15 include a search of Department of Corrections' files maintained
16 pursuant to the Sex Offenders Registration Act.

17 2. a. It shall be unlawful for any person who is required to
18 register pursuant to the Sex Offenders Registration
19 Act to work with or provide services to children or to
20 reside in a child care facility and for any employer
21 who offers or provides services to children to
22 knowingly and willfully employ or contract with, or
23 allow continued employment of or contracting with any

1 person who is required to register pursuant to the Sex
2 Offenders Registration Act. Any person required to
3 register pursuant to the Sex Offenders Registration
4 Act who violates any provision of this act shall, upon
5 conviction, be guilty of a felony punishable by
6 incarceration in a correctional facility for a period
7 of not more than five (5) years and a fine of not more
8 than Five Thousand Dollars (\$5,000.00) or both such
9 fine and imprisonment.

10 b. Upon a determination by the Department of any
11 violation of the provisions of this section, the
12 violator shall be subject to and the Department may
13 pursue:

- 14 (1) an emergency order,
- 15 (2) license revocation, denial or nonrenewal,
- 16 (3) injunctive proceedings,
- 17 (4) an administrative penalty not to exceed Ten
18 Thousand Dollars (\$10,000.00), and
- 19 (5) referral for criminal proceedings.

20 c. In addition to the penalties specified by this
21 section, the violator may be liable for civil damages.

1 SECTION 2. AMENDATORY 10 O.S. 1991, Section 601.45, as
2 last amended by Section 191, Chapter 352, O.S.L. 1995 (10 O.S. Supp.
3 1999, Section 601.45), is amended to read as follows:

4 Section 601.45 A. The Governor shall appoint an Interagency
5 Coordinating Council for Special Services to Children and Youth
6 which shall be composed of twenty-one (21) members as follows:

- 7 1. One superintendent of an independent school district;
- 8 2. One principal of alternative education programs;
- 9 3. One special education director employed by a public school;
- 10 4. One special education teacher employed by a public school;
- 11 5. Five parents of children who are or have been members of the
12 eligible population or the special services population;
- 13 6. The chief executive officers or their designees of the:
 - 14 a. Commission on Children and Youth,
 - 15 b. State Department of Education,
 - 16 c. State Department of Vocational and Technical
17 Education,
 - 18 d. Department of Human Services,
 - 19 e. Department of Mental Health and Substance Abuse
20 Services,
 - 21 f. State Department of Health,
 - 22 g. State Department of Rehabilitation Services, and
 - 23 h. Oklahoma Health Care Authority;

1 7. The Executive Director of the Office of Juvenile Affairs or
2 ~~the Deputy Director for the Department of Juvenile Justice a~~
3 designee, as determined by the Executive Director;

4 8. Two persons who represent organizations of private providers
5 of services to the eligible or special services populations; and

6 9. The Governor or the Governor's designee, who shall chair the
7 Coordinating Council. Legal assistance shall be provided by the
8 Office of the Attorney General. Other staff support and assistance
9 shall be provided by the Commission on Children and Youth.

10 B. The Coordinating Council shall:

11 1. On or before July 1, 1993, complete the State Plan pursuant
12 to the provisions of Section 601.46 of this title;

13 2. Prior to completion of the State Plan and approval of it by
14 the Committee, make progress reports to the Committee at least once
15 each quarter regarding development of the State Plan; and

16 3. After approval of the State Plan, monitor implementation of
17 the plan, evaluate the plan, meet with the Committee concerning
18 revisions whenever requested to do so, and on or before November 1,
19 1994, and November 1 of each subsequent year, submit a report on the
20 implementation and evaluation of the State Plan to the Governor, the
21 President Pro Tempore of the Senate and the Speaker of the House of
22 Representatives.

1 SECTION 3. AMENDATORY Section 13, Chapter 389, O.S.L.
2 1997, as last amended by Section 13, Chapter 396, O.S.L. 1999 (10
3 O.S. Supp. 1999, Section 7206.1), is amended to read as follows:

4 Section 7206.1 A. A statement of foster parent's rights shall
5 include, but not be limited to, the right to:

6 1. Be treated with dignity, respect, and consideration as a
7 professional member of the child welfare team;

8 2. Be notified of and be given appropriate, ongoing education
9 and continuing education and training to develop and enhance foster
10 parenting skills;

11 3. Be informed about ways to contact the state agency or the
12 child-placing agency in order to receive information and assistance
13 to access supportive services for any child in the foster parent's
14 care;

15 4. Receive timely financial reimbursement for providing foster
16 care services;

17 5. Be notified of any costs or expenses for which the foster
18 parent may be eligible for reimbursement;

19 6. Be provided a clear, written explanation of the individual
20 treatment and service plan concerning the child in the foster
21 parent's home, listing components of the plan pursuant to the
22 provisions of the Oklahoma Children's Code and the Oklahoma Foster
23 Care and Out-of-Home Placement Act;

1 7. Receive, at any time during which a child is placed with the
2 foster parent, additional or necessary information that is relevant
3 to the care of the child;

4 8. Be notified of scheduled review meetings, permanency
5 planning meetings and special staffing concerning the foster child
6 in order to actively participate in the case planning and decision-
7 making process regarding the child;

8 9. Provide input concerning the plan of services for the child
9 and to have that input be given full consideration in the same
10 manner as information presented by any other professional on the
11 team;

12 10. Communicate with other foster parents in order to share
13 information regarding the foster child. In particular, receive any
14 information concerning the number of times a foster child has been
15 moved and the reasons why, and the names and telephone numbers of
16 the previous foster parent if the previous foster parent has
17 authorized such release;

18 11. Communicate with other professionals who work with the
19 foster child within the context of the team including, but not
20 limited to, therapists, physicians, and teachers;

21 12. Be given, in a timely and consistent manner, any
22 information regarding the child and the child's family which is
23 pertinent to the care and needs of the child and to the making of a

1 permanency plan for the child. Disclosure of information shall be
2 limited to that information which is authorized by the provisions of
3 Article V of the Oklahoma Children's Code for foster parents and
4 Article VII of the Oklahoma Juvenile Code;

5 13. Be given reasonable notice of any change in or addition to
6 the services provided to the child pursuant to the child's
7 individual treatment and service plan;

8 14. a. Be given written notice of:

9 (1) plans to terminate the placement of the child
10 with the foster parent pursuant to Section 7208
11 of this title, and

12 (2) the reasons for the changes or termination in
13 placement, and

14 b. The notice shall be waived only in emergency cases
15 pursuant to Section 7208 of this title;

16 15. Be notified by the applicable state agency in a timely and
17 complete manner of all court hearings, including notice of the date
18 and time of any court hearing, the name of the judge or hearing
19 officer hearing the case, the location of the hearing, and the court
20 docket number of the case;

21 16. Be informed of decisions made by the court, the state
22 agency or the child-placing agency concerning the child;

1 17. Be considered as a preferred placement option when a foster
2 child who was formerly placed with the foster parent is to reenter
3 foster care at the same level and type of care, if that placement is
4 consistent with the best interest of the child and other children in
5 the foster parent's home;

6 18. Be provided a fair, timely, and impartial investigation of
7 complaints concerning the foster parent's certification;

8 19. Be provided the opportunity to request and receive a fair
9 and impartial hearing regarding decisions that affect certification
10 retention or placement of children in the home;

11 20. Be allowed the right to exercise parental substitute
12 authority;

13 21. Have timely access to the state agency's and child
14 placement agency's appeals process and the right to be free from
15 acts of harassment and retaliation by any other party when
16 exercising the right to appeal;

17 22. Be given the number of the statewide toll-free Foster
18 Parent Hotline established in Section 7204 of this title; and

19 23. File a grievance and be informed of the process for filing
20 a grievance.

21 B. The Department of Human Services, the Office of Juvenile
22 Justice, and a child-placing agency under contract with the
23 Department shall be responsible for implementing this section.

1 C. Nothing in this section shall be construed to create a
2 private right of action or claim on the part of any individual, the
3 Department of Human Services, the Office of Juvenile ~~Justice~~ Affairs
4 or any child-placing agency.

5 SECTION 4. AMENDATORY Section 95, Chapter 352, O.S.L.
6 1995, as last amended by Section 3, Chapter 244, O.S.L. 1998 (10
7 O.S. Supp. 1999, Section 7302-6.3), is amended to read as follows:

8 Section 7302-6.3 A. The Board of Juvenile Affairs shall
9 promulgate written rules, outline policies and procedures governing
10 the operation of those facilities operated by or through contract
11 with the Department of Juvenile Justice wherein juveniles may be
12 housed. Said policies and procedures shall include, but not be
13 limited to, standards of cleanliness, temperature and lighting,
14 availability of medical and dental care, provision of food,
15 furnishings, clothing and toilet articles, supervision, appropriate
16 and permissible use of restriction and confinement, procedures for
17 enforcing rules of conduct consistent with due process of law and
18 visitation privileges.

19 B. The policies prescribed shall, at a minimum, ensure that:

20 1. A child shall not be punished by physical force, deprivation
21 of nutritious meals, deprivation of family visits or solitary
22 confinement;

1 2. A child shall have the opportunity to participate in
2 physical exercise each day;

3 3. A child shall be allowed daily access to showers and the
4 child's own clothing or individualized clothing which is clean.
5 When a child is participating in an outdoor adventure program that
6 takes the child away from the permanent facility, the child shall be
7 provided with the opportunity to wash with soap and water daily;

8 4. A child shall have constant access to writing materials and
9 may send mail without limitation, censorship or prior reading, and
10 may receive mail without prior reading, except that mail may be
11 opened in the presence of the child, without being read, to inspect
12 for contraband, as defined by Section 21 of Title 57 of the Oklahoma
13 Statutes or as otherwise defined by rules promulgated by the Board
14 of Juvenile Affairs, or to inspect for material harmful to minors,
15 as defined by Section 1040.75 of Title 21 of the Oklahoma Statutes;

16 5. A child shall have reasonable opportunity to communicate and
17 to visit with the child's family on a regular basis and to
18 communicate with persons in the community;

19 6. A child shall have immediate access to medical care as
20 needed and shall receive necessary psychological and psychiatric
21 services;

22 7. A child in the custody or care of the Department shall be
23 provided access to education including teaching, educational

1 materials and books, provided, that such policies shall provide
2 emphasis upon basic literacy skills, including but not limited to
3 curricula requirements stressing reading, writing, mathematics,
4 science, vocational-technical education, and other courses of
5 instruction designed to assure that such children will be capable of
6 being assimilated into society as productive adults capable of self-
7 support and full participation;

8 8. A child shall have reasonable access to an attorney upon
9 request;

10 9. A child shall be afforded a grievance procedure, including
11 an appeal procedure;

12 10. A child's mental health needs and mental well-being will be
13 met, protected and served through provision of guidance, counseling
14 and treatment programs, staffed by competent, professionally
15 qualified persons, serving under the supervision of licensed
16 psychologists, psychiatrists or licensed clinical social workers as
17 defined by the regulations of the State Board of Licensed Social
18 Workers; and

19 11. Upon leaving the custody of the Department, a child shall
20 be afforded a copy of the literacy progress section of the
21 individualized service plan developed for the child for continued
22 use at the next school placement of the child.

1 C. Any contract or agreement between the Department of Juvenile
2 Justice and the Department of Mental Health and Substance Abuse
3 Services for the care and treatment of children in the custody of
4 the Department of Juvenile Justice shall provide that the Department
5 of Mental Health and Substance Abuse Services shall comply with the
6 provisions of subsections A and B of this section and the provisions
7 of Section 7302-6.4 of this title.

8 SECTION 5. AMENDATORY Section 114, Chapter 352, O.S.L.
9 1995, as last amended by Section 5, Chapter 268, O.S.L. 1998 (10
10 O.S. Supp. 1999, Section 7303-1.1), is amended to read as follows:

11 Section 7303-1.1 A. A child may be taken into custody prior to
12 the filing of a petition alleging that the child is delinquent or in
13 need of supervision:

14 1. By a peace officer, without a court order for any criminal
15 offense for which the officer is authorized to arrest an adult
16 without a warrant, or if the child is willfully and voluntarily
17 absent from the home of the child without the consent of the parent,
18 legal guardian, legal custodian or other person having custody and
19 control of the child for a substantial length of time or without
20 intent to return, or if the child's surroundings are such as to
21 endanger the welfare of the child;

22 2. By an employee of the court without a court order, if the
23 child is willfully and voluntarily absent from the home of the child

1 without the consent of the parent, legal guardian, legal custodian
2 or other person having custody and control of the child for a
3 substantial length of time or without intent to return, or if the
4 child's surroundings are such as to endanger the welfare of the
5 child;

6 3. Pursuant to an order of the district court issued on the
7 application of the office of the district attorney. The application
8 presented by the district attorney shall be supported by a sworn
9 affidavit which may be based upon information and belief. The
10 application shall state facts sufficient to demonstrate to the court
11 that there is probable cause to believe the child has committed a
12 crime or is in violation of the terms of probation, parole or order
13 of the court;

14 4. By order of the district court pursuant to subsection E of
15 this section when the child is in need of medical or mental health
16 treatment or other action in order to protect the child's health or
17 welfare and the parent, legal guardian, legal custodian or other
18 person having custody or control of the child is unwilling or
19 unavailable to consent to such medical or mental health treatment or
20 other action; and

21 5. Pursuant to an emergency ex parte or a final protective
22 order of the district court issued pursuant to the Protection from
23 Domestic Abuse Act.

1 Any child referred to in this subsection shall not be considered
2 to be in the custody of the Office of Juvenile Affairs.

3 B. Whenever a child is taken into custody as a delinquent child
4 or a child in need of supervision pursuant to subsection A of this
5 section, the child shall be detained, held temporarily in the
6 custodial care of a peace officer or other person employed by a
7 police department, or be released to the custody of the child's
8 parent, legal guardian, legal custodian, attorney or other
9 responsible adult, upon the written promise of such person to bring
10 the child to the court at the time fixed if a petition is to be
11 filed and to assume responsibility for costs for damages caused by
12 the child if the child commits any delinquent acts after being
13 released regardless of whether or not a petition is to be filed. It
14 shall be a misdemeanor for any person to sign the written promise
15 and then fail to comply with the terms of the promise. Any person
16 convicted of violating the terms of the written promise shall be
17 subject to imprisonment in the county jail for not more than six (6)
18 months or a fine of not more than Five Hundred Dollars (\$500.00) or
19 both such fine and imprisonment. In addition, if a parent, legal
20 guardian, legal custodian, attorney or other responsible adult is
21 notified that the child has been taken into custody, it shall be a
22 misdemeanor for such person to refuse to assume custody of the child
23 within a timely manner. If detained, the child shall be taken

1 immediately before a judge of the district court in the county in
2 which the child is sought to be detained, or to the place of
3 detention or shelter designated by the court. If no judge be
4 available locally, the person having the child in custody shall
5 immediately report the detention of the child to the presiding judge
6 of the judicial administrative district, provided that the child
7 shall not be detained in custody beyond the next judicial day or for
8 good cause shown due to problems of arranging for and transporting
9 the child to and from a secure juvenile detention center, beyond the
10 next two (2) judicial days unless the court shall so order after a
11 detention hearing to determine if there exists probable cause to
12 detain the child. The child shall be present at the detention
13 hearing or the image of the child may be broadcast to the judge by
14 closed-circuit television or any other electronic means that
15 provides for a two-way communication of image and sound between the
16 child and the judge. If the latter judge cannot be reached, such
17 detention shall be reported immediately to any judge regularly
18 serving within the judicial administrative district. If detained, a
19 reasonable bond for release shall be set. Pending further
20 disposition of the case, a child whose custody has been assumed by
21 the court may be released to the custody of a parent, legal
22 guardian, legal custodian, or other responsible adult or to any
23 other person appointed by the court, or be detained pursuant to

1 Article IV of the Oklahoma Juvenile Code in such place as shall be
2 designated by the court, subject to further order.

3 C. When any child is taken into custody pursuant to this title
4 and it reasonably appears to the peace officer, employee of the
5 court or person acting pursuant to court order that the child is in
6 need of medical treatment to preserve the health of the child, any
7 peace officer, any employee of the court or person acting pursuant
8 to court order shall have the authority to authorize medical
9 examination and medical treatment for any child found to be in need
10 of medical treatment as diagnosed by a competent medical authority
11 in the absence of the child's parent, legal guardian, legal
12 custodian, or other person having custody and control of the child
13 who is competent to authorize medical treatment. The officer or the
14 employee of the court or person acting pursuant to court order shall
15 authorize said medical treatment only after exercising due diligence
16 to locate the child's parent, legal guardian, legal custodian, or
17 other person legally competent to authorize said medical treatment.
18 The child's parent, legal guardian, legal custodian, or other person
19 having custody and control shall be responsible for such medical
20 expenses as ordered by the court. No peace officer, any employee of
21 the court or person acting pursuant to court order authorizing such
22 treatment in accordance with the provisions of this section for any

1 child found in need of such medical treatment shall have any
2 liability, civil or criminal, for giving such authorization.

3 D. A child who has been taken into custody as otherwise
4 provided by this Code who appears to be a child in need of mental
5 health treatment may be admitted to a mental health facility on an
6 emergency psychiatric basis or for an inpatient mental health
7 evaluation or inpatient mental health treatment only in accordance
8 with the provisions of the Inpatient Mental Health Treatment of
9 Children Act. The child's parent, legal guardian, legal custodian,
10 or other person having custody and control shall be responsible for
11 such mental health expenses as ordered by the court. No peace
12 officer, any employee of the court or person acting pursuant to
13 court order authorizing such treatment in accordance with the
14 provisions of this section for any child found in need of such
15 mental health evaluation or treatment shall have any liability,
16 civil or criminal, for giving such authorization.

17 E. 1. A child may be taken into custody pursuant to an order
18 of the court specifying that the child is in need of medical
19 treatment or other action to protect the child's health or welfare
20 and the parent, legal guardian, legal custodian, or other
21 responsible adult having custody or control of a child is unwilling
22 or unavailable to consent to such medical treatment or other action.

1 2. If the child is in need of immediate medical treatment or
2 other action to protect the child's health or welfare, the court may
3 issue an emergency ex parte order upon application of the district
4 attorney of the county in which the child is located. The
5 application for an ex parte order may be verbal or in writing and
6 shall be supported by facts sufficient to demonstrate to the court
7 that there is reasonable cause to believe that the child is in need
8 of immediate medical treatment or other action to protect the
9 child's health or welfare. The emergency ex parte order shall be in
10 effect until a full hearing is conducted. A copy of the
11 application, notice for full hearing and a copy of any ex parte
12 order issued by the court shall be served upon such parent, legal
13 guardian, legal custodian, or other responsible adult having custody
14 or control of the child. Within twenty-four (24) hours of the
15 filing of the application the court shall schedule a full hearing on
16 the application, regardless of whether an emergency ex parte order
17 had been issued or denied.

18 3. Except as otherwise provided by paragraph 2 of this section,
19 whenever a child is in need of medical treatment to protect the
20 child's health or welfare, or whenever any other action is necessary
21 to protect the child's health or welfare, and the child's parent,
22 legal guardian, legal custodian, or other person having custody or
23 control of the child is unwilling or unavailable to consent to such

1 medical treatment or other action, the court, upon application of
2 the district attorney of the county in which the child is located,
3 shall hold a full hearing within five (5) days of filing the
4 application. Notice of the hearing and a copy of the application
5 shall be served upon the parent, legal guardian, legal custodian, or
6 other person having custody or control of the child.

7 4. At any hearing held pursuant to this subsection, the court
8 may grant any order or require such medical treatment or other
9 action as is necessary to protect the health or welfare of the
10 child.

11 5. a. The parent, legal guardian, legal custodian, or other
12 person having custody or control of the child shall be
13 responsible for such medical expenses as ordered by
14 the court.

15 b. No peace officer, any employee of the court or person
16 acting pursuant to court order authorizing such
17 treatment in accordance with the provisions of this
18 subsection for any child found in need of such medical
19 treatment shall have any liability, civil or criminal.

20 SECTION 6. AMENDATORY Section 142, Chapter 352, O.S.L.
21 1995, as last amended by Section 19, Chapter 293, O.S.L. 1997 (10
22 O.S. Supp. 1999, Section 7303-7.6), is amended to read as follows:

1 Section 7303-7.6 A. In any hearing concerning the status of a
2 child, the court, if the court determines the parent is able to pay,
3 shall have authority to adjudge the parent, who has been served with
4 notice of the hearing, liable and accountable for the care and
5 maintenance of any child or children, and to:

6 1. Reimburse the court fund, in whole or in part, for any
7 disbursements made from the court fund in conjunction with the case,
8 including, but not limited to, court-appointed attorney fees, expert
9 witness fees, sheriff's fees, witness fees, transcripts and postage;

10 2. Pay for the care and maintenance of the child, including,
11 but not limited to, all or some part of placement services, medical
12 care and mental health services, and reasonable monthly expenses, as
13 authorized by law;

14 3. Assign the benefits of medical insurance coverage for the
15 child to the Department of Juvenile Justice for the period of time
16 the child is in the custody of the Department of Juvenile Justice;

17 4. Reimburse the Department of Juvenile Justice, in whole or in
18 part, for any costs and expenses incurred by the Department in
19 providing any services or authorized actions taken pursuant to the
20 Juvenile Justice Code for the child; and

21 5. Reimburse any law enforcement agency, in whole or in part,
22 for any costs or expenses incurred by the law enforcement agency for

1 custodial services or other authorized actions taken pursuant to the
2 Juvenile Justice Code.

3 B. 1. The court shall use the child support guidelines
4 provided for in Section 118 of Title 43 of the Oklahoma Statutes in
5 determining the amount a parent is to pay for care and maintenance
6 of a child. If any parent is financially able but has willfully
7 failed to pay any costs or reimbursements as ordered by the court
8 pursuant to this section, the parent may be held in contempt of
9 court and, upon conviction, shall be punished pursuant to Section
10 566 of Title 21 of the Oklahoma Statutes.

11 2. After a judicial determination that the child, the parent of
12 the child, or both such child or parent, are able to pay the costs
13 and reimbursements, in whole or in part, specified by this section,
14 the court shall order the costs and reimbursements. The court may
15 order such payments and reimbursements to be paid in installments
16 and shall set the amount and due date of each installment.

17 3. Even though the court has previously found the parent
18 indigent, if a parent is subsequently found to be financially able
19 to pay costs and reimbursements, the court may order such payments
20 and reimbursements paid in installments.

21 C. The court shall have all powers incident to such orders
22 necessary for their enforcement, including the power and authority
23 to require bond or other security for the payment of such order; and

1 may resort to execution and the power of punishment for contempt for
2 noncompliance with such order.

3 D. 1. The court shall have the right to increase, decrease, or
4 otherwise modify its orders for care and maintenance, as the
5 conditions or needs of the child or children may require and the
6 ability of the person or persons held to pay may afford. The court
7 may order support payments to be made direct to the person,
8 organization or institution having the care and custody of the child
9 or children, or ~~directly to the clerk of the court,~~ pursuant to
10 Section 413 of Title 43 of the Oklahoma Statutes, to the Department
11 of Human Services Centralized Support Registry.

12 2. All such funds ordered and paid to the clerk shall be
13 accounted for; provided, that when payments are made in advance for
14 any child, and custody of the court is terminated before the end of
15 the period, then the clerk may refund, by proper voucher, the unused
16 or unaccrued portion of such payment; or the refund may be
17 authorized and paid on claim properly verified and approved by the
18 judge.

19 E. 1. The Department may effectuate the order for payment of
20 any costs and expenses authorized pursuant to the provisions of this
21 section against any asset of the parent. Any assignment,
22 attachment, garnishment, or lien against such assets shall be served
23 upon the person in possession of the assets or shall be recorded in

1 the office of the county clerk in the county in which the parent
2 resides or in which the asset is located.

3 2. Pursuant to Section 7302-2.1 of this title, the Department
4 may contract on a contingency fee basis with private attorneys for
5 the collection and enforcement of orders against such assets. Any
6 such third-party payment shall be paid directly to the Department.

7 F. When there is an existing order which provides for payment
8 of child support, and the Department of Juvenile Justice places
9 physical custody of the child with any person or facility without
10 obtaining a modification of the child support order, the change in
11 placement, by operation of law, shall create a presumption that such
12 person or entity with whom the child was placed has legal physical
13 custody of the child for the purposes of the payment of child
14 support, unless the person or entity is receiving foster care
15 payments or payments for care of the child pursuant to contract with
16 the Office of Juvenile Affairs.

17 SECTION 7. AMENDATORY Section 143, Chapter 352, O.S.L.
18 1995, as amended by Section 20, Chapter 293, O.S.L. 1997 (10 O.S.
19 Supp. 1999, Section 7303-8.1), is amended to read as follows:

20 Section 7303-8.1 A. 1. Whenever the court transfers custody
21 of a child as provided in this article, the person, institution,
22 agency, or department receiving custody shall have the right to, and
23 shall be responsible for, the care and control of the child, and

1 shall have the duty and authority to provide food, clothing,
2 shelter, medical care, education, and discipline for the child, and
3 to authorize and consent to medical care for the child provided by a
4 qualified health care professional. Except for an emergency
5 psychiatric admission pursuant to the Inpatient Mental Health
6 Treatment of Children Act, said person, institution, agency or
7 department may provide or arrange for the provision of an inpatient
8 mental health evaluation or inpatient mental health treatment of
9 such child only pursuant to a court order as provided by the
10 Inpatient Mental Health Treatment of Children Act. Nothing in this
11 subsection shall be interpreted to prohibit or preclude the
12 provision of outpatient mental health services, including an
13 outpatient mental health examination, counseling, educational,
14 rehabilitative or other similar services to said child, as necessary
15 and appropriate, in the absence of a specific court order for such
16 services.

17 2. The medical care, surgery and extraordinary care shall be
18 charged to the appropriate agency where the child qualifies for the
19 care under law, rule or administrative order or decision.

20 3. Nothing in this subsection shall be interpreted to:

21 a. relieve a parent of the obligation to provide for the
22 support of the child as otherwise provided by law, or

- 1 b. limit the authority of the court to order a parent to
2 make support payments or to make payments or
3 reimbursements for medical care or treatment,
4 including mental health care or treatment, to the
5 person, institution, agency or Department having
6 custody of the child, or
- 7 c. abrogate the right of the child to any benefits
8 provided through public funds for which the child is
9 otherwise eligible.

10 4. No person, agency or institution shall be liable in a civil
11 suit for damages for authorizing or not authorizing surgery or
12 extraordinary care in an emergency, as determined by competent
13 medical authority. No state employee shall be liable for the costs
14 of any medical care or mental health services provided to any child
15 in the custody of the Office of Juvenile ~~Justice~~ Affairs.

16 B. The person, institution, agency, or department having legal
17 custody of a child pursuant to an order of the court shall receive
18 notice of court proceedings regarding the child as provided in
19 Sections 7303-2.1 and 7303-5.1 of ~~Title 10 of the Oklahoma Statutes~~
20 this title and shall be allowed to intervene upon application as a
21 party to all court proceedings pertaining to the care and custody of
22 the child including, but not limited to: adjudication, disposition,
23 review of disposition, termination of parental rights and

1 proceedings pursuant to the Inpatient Mental Health Treatment of
2 Children Act.

3 SECTION 8. AMENDATORY Section 144, Chapter 352, O.S.L.
4 1995 (10 O.S. Supp. 1999, Section 7303-8.2), is amended to read as
5 follows:

6 Section 7303-8.2 A. The finding that a child is delinquent or
7 in need of supervision shall not deprive the parents of the child of
8 their parental rights, but a court may terminate the rights of a
9 parent to a child for any reason authorized in the Oklahoma
10 Children's Code. The provision of the Oklahoma Children's Code
11 shall govern termination of parental rights.

12 B. Whenever parental rights of the parents of a child have been
13 terminated and the child is committed to the Department of Juvenile
14 Justice, the Executive Director of the Office of Juvenile ~~Justice~~
15 Affairs shall serve as the legal guardian of the estate of the
16 child, until another guardian is legally appointed, for the purpose
17 of preserving the child's property rights, securing for the child
18 any benefits to which he may be entitled under social security
19 programs, insurance, claims against third parties, and otherwise,
20 and receiving and administering such funds or property for the care
21 and education of the child.

22 SECTION 9. AMENDATORY 10 O.S. 1991, Section 1108, as
23 renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last

1 amended by Section 21, Chapter 293, O.S.L. 1997 (10 O.S. Supp. 1999,
2 Section 7304-1.3), is amended to read as follows:

3 Section 7304-1.3 A. Provision shall be made for the temporary
4 detention of children in a juvenile detention facility or the court
5 may arrange for the care and custody of such children temporarily in
6 private homes, subject to the supervision of the court, or the court
7 may provide shelter or may enter into a contract with any
8 institution or agency to receive, for temporary care and custody,
9 children within the jurisdiction of the court. The Department of
10 Juvenile Justice shall not be ordered to provide detention unless
11 said Department has designated and is operating detention services
12 or facilities.

13 B. County sheriffs, their designee, private contractors under
14 contract with the Department of Juvenile Justice for transportation
15 services, or juvenile court officers shall provide for the
16 transportation of juveniles to and from secure detention for
17 purposes of admission, interfacility transfer, discharge, medical or
18 dental attention, court appearance, or placement designated by the
19 Department. No private contract for transportation services shall
20 be entered into by the Department unless the private contractor
21 demonstrates to the satisfaction of the Department that such
22 contractor is able to obtain insurance or provide self-insurance to
23 indemnify the Department against possible lawsuits and meets the

1 requirements of subparagraphs a, b and d of paragraph 4 of
2 subsection C of this section. The Department of Juvenile Justice
3 shall not be ordered to provide transportation for a juvenile who is
4 detained in or is destined for secure detention. The Department of
5 Juvenile Justice shall provide reimbursement to the entity
6 transporting juveniles for necessary and actual expenses for
7 transporting juveniles who are detained in or destined for a secure
8 detention center as follows:

9 1. A fee for the cost of personal services at the rate of
10 Twelve Dollars (\$12.00) per hour;

11 2. Mileage reimbursement for each mile actually traveled at the
12 rate established in the State Travel Reimbursement Act;

13 3. Meals for transporting personnel, not to exceed Six Dollars
14 (\$6.00) per meal; and

15 4. Meals for juveniles being transported, not to exceed Six
16 Dollars (\$6.00) per meal.

17 The Department of Juvenile Justice shall process and mail
18 reimbursement claims within sixty (60) days of receipt. Payments
19 for services provided by a county sheriff's office shall be paid to
20 the county and deposited in the sheriff service fee account.

21 C. 1. All juvenile detention facilities shall be certified by
22 the Office of Juvenile Affairs. To be certified, a juvenile
23 detention facility shall be required to meet standards for

1 certification promulgated by the Board of Juvenile Affairs. Until
2 such standards are promulgated, the standards promulgated by the
3 Oklahoma Commission for Human Services shall remain in effect.

4 2. The board of county commissioners of every county shall
5 provide for the temporary detention of a child who is or who may be
6 subject to secure detention and may construct a building or rent
7 space for such purpose. The boards of county commissioners shall
8 provide for temporary detention services and facilities in
9 accordance with the provisions of the State Plan for the
10 Establishment of Juvenile Detention Services adopted pursuant to
11 subsection D of this section and in accordance with Section 7302-6.8
12 of this title. The boards of county commissioners are hereby
13 authorized to create multi-county trust authorities for the purpose
14 of operating juvenile detention facilities.

15 3. In order to operate the juvenile detention facilities
16 designated in the State Plan for the Establishment of Juvenile
17 Detention Services and in Section 7302-6.8 of this title, the boards
18 of county commissioners in the designated host counties shall:

- 19 a. operate the juvenile detention facility through a
20 statutorily constituted juvenile bureau subject to the
21 supervision of the district court, or
22 b. operate the juvenile detention facility by employing a
23 manager who may employ personnel and incur other

1 expenses as may be necessary for its operation and
2 maintenance, or
3 c. contract with a public agency, private agency,
4 federally recognized tribe, or single or multi-county
5 trust authority for the operation of the juvenile
6 detention facility. In the event any board of county
7 commissioners contracts with a public or private
8 agency or a federally recognized tribe, pursuant to
9 the provisions of this section, the Department is
10 authorized to directly contract with and pay such
11 public or private agency or federally recognized tribe
12 for provision of detention services. Any contract
13 with a federally recognized tribe shall become
14 effective upon approval by the board of county
15 commissioners.

16 4. Management contracts for privately operated detention
17 facilities shall be negotiated with the firm found most qualified by
18 the board of county commissioners. However, no private management
19 contract shall be entered into by the board unless the private
20 contractor demonstrates to the satisfaction of the board:

21 a. that the contractor has the qualifications,
22 experience, and personnel necessary to implement the
23 terms of the contract,

- 1 b. that the financial condition of the contractor is such
2 that the term of the contract can be fulfilled,
- 3 c. that the ability of the contractor to obtain insurance
4 or provide self-insurance to indemnify the county
5 against possible lawsuits and to compensate the county
6 for any property damage or expenses incurred due to
7 the private operation of the juvenile detention
8 facility, and
- 9 d. that the contractor has the ability to comply with
10 applicable court orders and rules of the Department of
11 Juvenile Justice.

12 5. All counties to be served by a secure juvenile detention
13 facility may, upon the opening of such facility, contract with the
14 operators for the use of the facility for the temporary detention of
15 children who are subject to secure detention; provided, however, a
16 jail, adult lockup, or other adult detention facility may be used
17 for the secure detention of a child as provided for in Section 7304-
18 1.1 of this title.

19 6. Expenses incurred in carrying out the provisions of this
20 section shall be paid from the general fund of the county or from
21 other public funds lawfully appropriated for such purposes or from
22 private funds that are available for such purposes. A county may
23 also issue bonds for the construction of detention facilities.

1 7. The operation of a juvenile detention facility by a county
2 shall constitute a quasi-judicial function and is also hereby
3 declared to be a function of the State of Oklahoma for purposes of
4 the Eleventh Amendment to the United States Constitution. In
5 addition, no contract authorized by the provisions of this section
6 for the providing of transportation services or for the operation of
7 a juvenile detention facility shall be awarded until the contractor
8 demonstrates to the satisfaction of the county that the contractor
9 has obtained liability insurance with the limits specified by the
10 Governmental Tort Claims Act against lawsuits arising from the
11 operation of the juvenile detention facility by the contractor, or
12 if the contract is for the providing of transportation services, the
13 contractor has obtained liability insurance with the limits
14 specified by the Governmental Tort Claims Act against lawsuits
15 arising from the transportation of juveniles as authorized by
16 subsection A of this section.

17 D. The Board of Juvenile Affairs, from monies appropriated for
18 that purpose, shall develop, adopt, and implement a plan for secure
19 juvenile detention services and alternatives to secure detention, to
20 be known as the State Plan for the Establishment of Juvenile
21 Detention Services, which shall provide for the establishment of
22 juvenile detention facilities and services with due regard for
23 appropriate geographical distribution and existing juvenile

1 detention programs operated by statutorily constituted juvenile
2 bureaus. Said plan may be amended or modified by the Board as
3 necessary and appropriate. Until said plan is adopted by the Board,
4 the plan adopted by the Oklahoma Commission for Human Services shall
5 remain in effect.

6 1. The Board of Juvenile Affairs shall establish procedures for
7 the letting of contracts or grants, including grants to existing
8 juvenile detention programs operated by statutorily constituted
9 juvenile bureaus, and the conditions and requirements for the
10 receipt of said grants or contracts for juvenile detention services
11 and facilities as provided in this section and Section 7302-4.1 of
12 this title. A copy of such procedures shall be made available to
13 any member of the general public upon request. All such grants or
14 contracts shall require the participation of local resources in the
15 funding of juvenile detention facilities. A contract for services
16 shall be based upon a formula approved by the Board which shall set
17 the contract amount in accordance with the services offered and the
18 degree of compliance with standards for certification. Until the
19 procedures are established by the Board, the procedures established
20 by the Commission for Human Services shall remain in effect.

21 2. The Board of Juvenile Affairs shall establish standards for
22 the certification of detention services and juvenile detention
23 facilities. Such standards may include, but not be limited to:

1 Screening for detention; education and recreation opportunities for
2 juveniles in secure detention; and accreditation by the American
3 Correctional Association. As a condition of continuing eligibility
4 for grants or contracts, secure juvenile detention services and
5 facilities shall be certified by the Board within two (2) years of
6 the date of the initial grant or contract.

7 E. The State Department of Health, with the assistance of the
8 Office of Juvenile ~~Justice~~ Affairs, shall establish standards for
9 the certification of jails, adult lockups, and adult detention
10 facilities used to detain juveniles. Such standards shall include
11 but not be limited to: Separation of juveniles from adults;
12 supervision of juveniles; and health and safety measures for
13 juveniles. The Department of Health is authorized to inspect any
14 jail, adult lockup, or adult detention facility for the purpose of
15 determining compliance with such standards. No jail, adult lockup,
16 or other adult detention facility shall be used to detain juveniles
17 unless such jail, adult lockup, or other adult detention facility
18 complies with the standards established by the Department of Health
19 and is designated as a place for the detention of juveniles by the
20 judge having juvenile docket responsibility in the county from a
21 list of eligible facilities supplied by the Department of Health.

1 The development and approval of the standards provided for in
2 this paragraph shall comply with the provisions of the
3 Administrative Procedures Act.

4 F. The State Board of Health shall promulgate rules providing
5 for the routine recording and reporting of the use of any adult
6 jail, lockup or other adult facility for the detention of any person
7 under the age of eighteen (18).

8 1. For the purpose of ensuring the uniformity and compatibility
9 of information related to the detention of persons under age
10 eighteen (18), said rules shall be reviewed and approved by the
11 Oklahoma Commission on Children and Youth prior to their adoption by
12 the Board; and

13 2. Said records of detention shall be reviewed during each
14 routine inspection of adult jails, lockups or other adult detention
15 facilities inspected by the State Department of Health and a
16 statistical report of said detentions shall be submitted to the
17 Office of Juvenile Affairs at least every six (6) months in a form
18 approved by the Board of Juvenile Affairs.

19 SECTION 10. AMENDATORY Section 28, Chapter 290, O.S.L.
20 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as
21 last amended by Section 32, Chapter 293, O.S.L. 1997 (10 O.S. Supp.
22 1999, Section 7306-2.11), is amended to read as follows:

1 Section 7306-2.11 A. Whenever a youthful offender is committed
2 to the custody of the Office of Juvenile Affairs, the Department of
3 Juvenile Justice may:

4 1. Place the youthful offender in a state training school or
5 other institution or facility maintained by the state for youthful
6 offenders;

7 2. Place the youthful offender in a group home or community
8 residential facility for youthful offenders;

9 3. Place the youthful offender under community supervision
10 prior to or after a period of placement in one or more of the
11 facilities referred to in paragraphs 1 and 2 of this subsection.
12 The Department of Juvenile Justice may place a youthful offender in
13 his own home, or an independent living or other similar living
14 arrangement within the community of the residence of the youthful
15 offender only upon the approval of the court; provided the court
16 shall not prohibit the reintegration of the youthful offender into
17 the community except upon finding that the youthful offender has not
18 reasonably completed the rehabilitation plan objectives established
19 as preconditions for reintegration into the community or that the
20 public would not be adequately protected if the youthful offender is
21 reintegrated into the community; or

22 4. Place the youthful offender in a sanction program if the
23 youthful offender fails to comply with a written plan of

1 rehabilitation or fails substantially to achieve reasonable
2 treatment objectives while in community or other nonsecure programs.

3 B. The Department of Juvenile Justice shall be responsible for
4 the care and control of a youthful offender placed in the custody of
5 the Office of Juvenile Affairs, and shall have the duty and the
6 authority to provide food, clothing, shelter, ordinary medical care,
7 education, discipline and in an emergency to authorize surgery or
8 other extraordinary care. Said medical care, surgery and
9 extraordinary care shall be charged to the appropriate agency where
10 the youthful offender qualifies for said care under law, rule,
11 regulation or administrative order or decision. Nothing in this
12 section shall abrogate the right of a youthful offender to any
13 benefits provided through public funds nor the parent's statutory
14 duty or responsibility to provide said necessities; further, no
15 person, agency or institution shall be liable in a civil suit for
16 damages for authorizing or not authorizing surgery or extraordinary
17 care in an emergency, as determined by competent medical authority.
18 No state employee shall be liable for the costs of any medical care
19 or mental health services provided to any child in the custody of
20 the Office of Juvenile ~~Justice~~ Affairs.

21 C. A youthful offender in the custody of the Office of Juvenile
22 Affairs shall:

1 1. Be entitled to all the rights afforded juvenile delinquents
2 pertaining to the conditions and restrictions in facilities where
3 delinquents may be placed, including any due process afforded
4 delinquents in regard to movement from a nonsecure to a secure
5 placement;

6 2. Have access to the same or comparable programs and services
7 available to a delinquent in the custody of or under the supervision
8 of the Office of Juvenile Affairs; and

9 3. As appropriate to the age and circumstances of the youthful
10 offender, be provided education, employment, and employment skills
11 and vocational and technical or higher education services,
12 apprenticeship programs and similar opportunities.

13 SECTION 11. AMENDATORY Section 181, Chapter 352, O.S.L.
14 1995, as last amended by Section 34, Chapter 293, O.S.L. 1997 (10
15 O.S. Supp. 1999, Section 7307-1.5), is amended to read as follows:

16 Section 7307-1.5 A. Department of Juvenile Justice agency
17 records pertaining to a child which are confidential may be
18 inspected and their contents disclosed without a court order to the
19 following persons upon showing of proper credentials:

20 1. The judge having the child currently before the court in any
21 proceeding pursuant to this title, any judge of the district court
22 or tribal court to which any proceedings may be transferred;

1 2. Employees and officers of the court in the performance of
2 their duties, including but not limited to guardians ad litem
3 appointed by the court, and members of review boards established
4 pursuant to the Oklahoma Children's Code;

5 3. A district attorney and the employees of an office of a
6 district attorney in the course of their official duties pursuant to
7 this title or the prosecution of crimes against children;

8 4. The attorney representing a child who is the subject of a
9 juvenile proceeding pursuant to the provisions of this title. The
10 attorney representing a child or an attorney considering
11 representing a child in a juvenile proceeding may access other
12 confidential records listed in subsection A of Section 7307-1.2 of
13 this title for use in the legal representation of the child;

14 5. Employees of juvenile bureaus in the course of their
15 official duties;

16 6. Employees of a law enforcement agency of this or another
17 state and employees of a child protective service of another state
18 or any federally recognized Indian tribe member in the course of
19 their official duties pertaining to investigations of a report of
20 known or suspected child abuse or neglect or crimes against children
21 or for the purpose of determining whether to place a child in
22 protective custody;

1 7. Employees of a law enforcement agency in the course of their
2 official duties pertaining to the investigation of a crime committed
3 or alleged to have been committed by a person under eighteen (18)
4 years of age. Records or information disclosed pursuant to this
5 subparagraph may consist of summaries or may be limited to the
6 information or records necessary for the purpose of the
7 investigation;

8 8. The Oklahoma Commission on Children and Youth;

9 9. The Department of Human Services;

10 10. Any public or private agency or person authorized by the
11 Department of Juvenile Justice to diagnose, or provide care,
12 treatment, supervision or other services to a child who is the
13 subject of a report or record of delinquency, child abuse or
14 neglect, or other adjudicatory category, provided the Department may
15 limit the disclosure to summaries or to information directly
16 necessary for the purpose of the disclosure;

17 11. Any federally recognized Indian tribe or state or county
18 child protective services or child welfare agency providing for or
19 supervising the diagnosis, care, treatment, supervision or other
20 services provided such child;

21 12. The parents of the child who is the subject of any records;

22 13. Any person or agency for research purposes, if all of the
23 following conditions are met:

- 1 a. the person or agency conducting the research is
2 employed by the State of Oklahoma or is under contract
3 with this state and is authorized by the Office of
4 Juvenile Affairs to conduct the research, and
- 5 b. the person or agency conducting the research ensures
6 that all documents containing identifying information
7 are maintained in secure locations and access to any
8 documents by unauthorized persons is prohibited; that
9 no identifying information is included in documents
10 generated from the research conducted; and that all
11 identifying information is deleted from documents used
12 in the research when the research is completed;

13 14. The Governor or to any person the Governor designates, in
14 writing;

15 15. Any federal official of the United States Department of
16 Health and Human Services, the United States Social Security
17 Administration, or the United States Department of Justice;

18 16. Any member of the Legislature, upon the written approval of
19 the Speaker of the House of Representatives or the President Pro
20 Tempore of the Senate; and

21 17. Employees of the Department of Corrections in the course of
22 their official duties.

1 B. Records and their contents disclosed without an order of the
2 court as provided by the provisions of this section shall remain
3 confidential. The use of any information shall be limited to the
4 purposes for which disclosure is authorized. It shall be unlawful
5 for any person to furnish any confidential record or disclose any
6 confidential information contained in any juvenile record for
7 commercial, political or any other unauthorized purpose. Any person
8 violating the provisions of this section shall, upon conviction, be
9 guilty of a misdemeanor.

10 SECTION 12. AMENDATORY Section 3, Chapter 170, O.S.L.
11 1994 (63 O.S. Supp. 1999, Section 1-237), is amended to read as
12 follows:

13 Section 1-237. A. 1. There is hereby created the Joint
14 Legislative Committee for Review of Coordination of Efforts for
15 Prevention of Adolescent Pregnancy and Sexually Transmitted Diseases
16 which shall:

17 a. meet with the Coordinating Council and with other
18 state officials and employees responsible for
19 providing services related to the prevention of
20 adolescent pregnancy and sexually transmitted diseases
21 at regular intervals as established by the Committee
22 and whenever otherwise necessary to ensure that the
23 purposes of ~~this act~~ the Act for Coordination of

1 Efforts for Prevention of Adolescent Pregnancy and
2 Sexually Transmitted Diseases are accomplished,
3 b. evaluate programs throughout the nation that have been
4 successful in substantially reducing teen pregnancy.
5 This will include programs that are abstinence only,
6 c. recommend changes in proposed interagency agreements
7 and the State Plan as deemed advisable,
8 d. review interagency agreements and the State Plan and
9 subsequent revisions of the agreements and State Plan,
10 e. hold hearings regarding any matters related to ~~this~~
11 ~~act~~ the Act for Coordination of Efforts for Prevention
12 of Adolescent Pregnancy and Sexually Transmitted
13 Diseases,
14 f. monitor the implementation of ~~this act~~ the Act for
15 Coordination of Efforts for Prevention of Adolescent
16 Pregnancy and Sexually Transmitted Diseases, and
17 g. recommend legislation to correct statutory provisions
18 that interfere with interagency agreements or
19 coordination or delivery of services, or that are
20 otherwise necessary for the implementation of ~~this act~~
21 the Act for Coordination of Efforts for Prevention of
22 Adolescent Pregnancy and Sexually Transmitted
23 Diseases.

1 2. The Joint Legislative Committee for Review of Coordination
2 of Efforts for Prevention of Adolescent Pregnancy and Sexually
3 Transmitted Diseases shall have twelve (12) members, all of whom
4 shall be legislators, who shall serve at the pleasure of the
5 appointing authority. Six members shall be appointed by the
6 President Pro Tempore of the Senate and six members shall be
7 appointed by the Speaker of the House of Representatives. The
8 appointments made by the Speaker of the House of Representatives and
9 by the President Pro Tempore of the Senate shall consist of at least
10 one-third (1/3) membership from the two major political parties of
11 Oklahoma. The chair shall be appointed by the President Pro Tempore
12 for odd-numbered years and by the Speaker for even-numbered years.
13 The vice-chair shall be appointed by the Speaker for odd-numbered
14 years and by the President Pro Tempore for even-numbered years.
15 Staff support services shall be provided by the State Senate and the
16 House of Representatives.

17 B. 1. The Governor shall appoint an Interagency Coordinating
18 Council for Coordination of Efforts for Prevention of Adolescent
19 Pregnancy and Sexually Transmitted Diseases which shall be composed
20 of thirty-one (31) members as follows:

21 a. the chief executive officers or their designees of
22 the:

23 (1) Commission on Children and Youth,

- 1 (2) State Department of Education,
- 2 (3) State Department of Vocational and Technical
- 3 Education,
- 4 (4) Department of Human Services,
- 5 (5) Department of Mental Health and Substance Abuse
- 6 Services,
- 7 (6) Office of Volunteerism,
- 8 (7) State Department of Health, and
- 9 (8) College of Public Health,
- 10 b. ~~the Administrator of Juvenile Justice for the Office~~
- 11 ~~of Juvenile Justice of the Department of Human~~
- 12 ~~Services~~ Executive Director of the Office of Juvenile
- 13 Affairs or designee,
- 14 c. two representatives from the Maternal and Infant
- 15 Health Division, two representatives from the HIV/STD
- 16 Division, two representatives from the Child Health
- 17 and Guidance Division of the State Department of
- 18 Health,
- 19 d. a superintendent of an independent school district,
- 20 e. a representative of a statewide association of medical
- 21 doctors,
- 22 f. a representative of a statewide association of
- 23 osteopathic physicians,

- 1 g. a representative of a statewide association of parents
2 and teachers,
3 h. a representative of a statewide association of
4 classroom teachers,
5 i. a representative of a statewide association of school
6 counselors,
7 j. a principal of an alternative education program,
8 k. a representative of business or industry,
9 l. a representative of a statewide association formed for
10 the purpose of developing leadership skills,
11 m. a representative of an ecumenical association,
12 n. two parents of ten- to twenty-year-old children,
13 o. a teenage girl,
14 p. a representative of a nonprofit statewide child
15 advocacy organization,
16 q. the Governor or the Governor's designee, who shall
17 chair the Coordinating Council.

18 Legal assistance shall be provided by the Office of the Attorney
19 General. Staff support and assistance shall be provided by the
20 State Department of Health as the legal agency.

21 2. The Coordinating Council shall:

- 22 a. on or before December 1, 1994, complete the State Plan
23 pursuant to the provisions of Section 4 1-238 of this

1 ~~act~~ title and present it to the Committee for
2 approval, and
3 b. after approval of the State Plan, monitor
4 implementation of the plan, evaluate the plan, meet
5 with the Committee concerning revisions whenever
6 requested to do so, and on or before November 1, 1995,
7 and November 1 of each subsequent year, submit a
8 report on the implementation and evaluation of the
9 State Plan to the Governor, the President Pro Tempore
10 of the Senate and the Speaker of the House of
11 Representatives.

12 SECTION 13. This act shall become effective July 1, 2000.

13 SECTION 14. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

17 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-21-00 - DO
18 PASS.