STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1161 By: Askins

COMMITTEE SUBSTITUTE

An Act relating to the Youthful Offender Act; amending Section 27, Chapter 290, O.S.L. 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 8, Chapter 373, O.S.L. 2000 (10 O.S. Supp. 2000, Section 7306-2.10), which relates to rehabilitation plans and annual court reviews; establishing minimum time period for providing services to certain persons; requiring transfer of custody to Department of Corrections under certain circumstances; stating legislative findings; providing for study by certain agencies; providing for report; providing for noncodification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 27, Chapter 290, O.S.L. 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 8, Chapter 373, O.S.L. 2000 (10 O.S. Supp. 2000, Section 7306-2.10), is amended to read as follows:

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

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

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

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

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

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

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

2. A change in the custody status of the youthful offender.

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

D. If the youthful offender has not been previously discharged, the court shall hold a review hearing within the thirty (30) days

immediately preceding the date the youthful offender becomes eighteen (18) years of age or nineteen (19) years of age, if extended by law.

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

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

1. Order the youthful offender discharged from the supervision or custody of the Department of Juvenile Justice without a court judgment of guilt, and order the verdict or plea of guilty or plea of nolo contendere expunged from the record as provided in paragraphs 1 through 5 of subsection C of Section 991c of Title 22 of the Oklahoma Statutes and dismiss the charge with prejudice to any further action if the court finds that the youthful offender has reasonably completed the rehabilitation plan and objectives and that such dismissal will not jeopardize public safety. If a youthful offender has been discharged without a court order judgment of guilt and the charge has been dismissed with prejudice as provided in this paragraph, upon the motion of the youthful offender and three (3) years after such discharge and dismissal, the court may, in addition, order any law enforcement agency to produce all files and records pertaining to the arrest and conviction of the youthful offender and shall order the clerk of the court to destroy the entire file and record of the case, including docket sheets, index entries, court records, summonses, warrants or records in the office of the clerk or which have been produced by a law enforcement agency in which the name of the youthful offender is mentioned. The court may order probation officers and counselors of the Office of Juvenile Affairs to destroy all records, reports, and social and

clinical studies relating to the youthful offender that are in the possession of the Office of Juvenile Affairs, except when the documents are necessary to maintain state or federal funding;

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

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

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

5. Proceed as provided in Section 991a of Title 22 of the Oklahoma Statutes and impose the remainder of the sentence as provided by law for an adult punishment of the offense committed subject to the authority of the court to suspend or delay sentence, defer judgment or otherwise structure, limit or modify a sentence as provided in Title 22 of the Oklahoma Statutes, including transfer of the youthful offender to the custody or supervision of the Department of Corrections for the remainder of the youthful offender sentence, if the court finds by clear and convincing evidence that the youthful offender has:

a. after conviction as a youthful offender, seriously injured or endangered the life or health of another person by his violent behavior,

b. escaped from a training school,

c. committed a felony crime while in the custody or under the supervision of the Department of Juvenile Justice as shown by a judgment entered following a verdict of guilty, a plea of guilty or nolo contendere, or as shown by clear and convincing evidence,

d. failed substantially to comply with the previously adopted written plan of rehabilitation,

e. except as provided by paragraph 6 of this subsection, been unable, due to the age of the youthful offender, to substantially comply with a written plan of rehabilitation, or

f. failed substantially to comply with a written plan of rehabilitation or failed substantially to achieve reasonable treatment objectives and is within thirty (30) days of his eighteenth birthday, or nineteenth birthday if custody has been extended, and is still placed in an institution or other long-term staff secure facility.

The court, in its decision to transfer custody of the youthful offender to the custody of the Department of Corrections shall detail findings of fact and conclusions of law addressing the grounds alleged in the motion of the state; or

6. Upon motion of the Department of Juvenile Justice and after notice to the youthful offender, extend jurisdiction and authorize the Department to retain custody or supervision of the youthful offender until the youthful offender reaches twenty (20) years of age, provided at the time of the hearing, the youthful offender:

a. is within the thirty (30) days immediately preceding the nineteenth birthday of the youthful offender,

b. is residing in an independent living arrangement, in the home of a relative or in a foster home, and

c. is demonstrating progress toward complying with the previously adopted plan of rehabilitation and needs additional time to complete the plan.

During this period of extended jurisdiction, the court may proceed as provided in paragraph 5 of ~~subsection F of~~ this ~~section~~

subsection or dismiss the charge as provided in paragraph 1 of this subsection ~~F of this section~~.

G. All persons sentenced as a youthful offender and placed in the custody or under the supervision of the Department of Juvenile Justice of the Office of Juvenile Affairs shall be discharged or transferred to the custody of the Department of Corrections, as provided in subsection D, when the youthful offender becomes eighteen (18) years of age unless the Office of Juvenile Affairs is authorized by the court to retain custody or supervision of the person until nineteen (19) years of age unless otherwise provided by law.

H. In all cases in which a child is adjudicated as a youthful offender, the Office of Juvenile Affairs shall provide a minimum of eighteen (18) months of services to the youthful offender, provided the youthful offender continues to substantially comply with a written plan of rehabilitation and does not violate any of the provisions of paragraph 6 of subsection F of this section. If the youthful offender becomes nineteen (19) years of age prior to receiving eighteen (18) months of services from the Office of Juvenile Affairs, the court shall conduct a review hearing in open court thirty (30) days immediately preceding the date in which the youthful offender will complete eighteen (18) months of services. At the conclusion of the review hearing and after consideration of all reports and other evidence properly submitted to the court, the court shall either discharge the youthful offender or transfer custody of the youthful offender to the Department of Corrections, as provided in subsection F of this section. If a youthful offender is nineteen (19) years of age or older and violates a provision of paragraph 6 of subsection F of this section while in the custody or under the supervision of the Office of Juvenile Affairs, custody shall be transferred to the Department of Corrections as provided in subsection F of this section.

I. An order transferring custody of a youthful offender to the Department of Corrections shall result in an adult conviction and shall be a final order, appealable when entered.

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

SECTION 2. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. The Oklahoma Legislature recognizes that certain youthful offenders will eventually be transferred from the custody or supervision of the Office of Juvenile Affairs to the custody or supervision of the Department of Corrections.

The Legislature further recognizes that providing appropriate services to this population will take significant cooperation and coordination between the involved state agencies.

B. The Office of Juvenile Affairs and the Department of Corrections shall conduct a study regarding how to provide appropriate services to youthful offenders transferred from the office of Juvenile Affairs to the Department of Corrections. The agencies shall submit a report of the findings of their study to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Governor by September 1, 2001.

SECTION 3. This act shall become effective July 1, 2001.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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