

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1395

By: Pettigrew

AS INTRODUCED

An Act relating to Children; abolishing the Board of Juvenile Affairs, Office of Juvenile Affairs and Department of Juvenile Justice; transferring the duties, powers and responsibilities of the Board of Juvenile Affairs to the State Board of Corrections; transferring all powers, duties, responsibilities, property, facilities, personnel, assets, liabilities, fund balances, encumbrances and obligations of the Office of Juvenile Affairs and Department of Juvenile Justice to the Department of Corrections; abolishing the offices of Executive Director of the Office of Juvenile Affairs and Deputy Director of the Department of Juvenile Justice; transferring duties, powers and responsibilities to the Director of the Department of Corrections; transferring custody, care and supervision of certain juveniles and any monies and funds received on their behalf from the Office of Juvenile Affairs to the Department of Corrections; transferring records in the custody of the Office of Juvenile Affairs to the Department of Corrections; providing for transferred employees; providing for coordination of transfer; providing for statutory references; amending 10 O.S. 2001, Sections 7301-1.3, 7302-1.1, as amended by Section 3, Chapter 375, O.S.L. 2002, 7302-2.1, 7302-2.2, 7302-2.3, 7302-2.4, 7302-2.5, 7302-3.1, 7302-3.2, 7302-3.3, 7302-3.4, 7302-3.5, Section 4, Chapter 4, O.S.L. 2002, 7302-3.7, 7302-3.8, 7302-3.9, 7302-3.10, 7302-3.11, 7302-4.1, 7302-4.2, 7302-5.1, 7302-5.2 and 7302-5.3, as amended by Sections 21 and 22, Chapter 327, O.S.L. 2002, 7302-5.4, 7302-6.1, as amended by Section 23, Chapter 327, O.S.L. 2002, 7302-6.2, 7302-6.3, 7302-6.4, 7302-6.5, 7302-6.6, 7302-6.7, 7302-6.8, 7302-6.9, 7302-6.10, 7302-7.2, 7302-7.3, as amended by Section 2, Chapter 413, O.S.L. 2002, 7302-7.4, 7302-7.5, 7302-8.1, 7302-9.2, 7302-9.3, 7302-9.4, 7302-9.6, 7303-1.1, as amended by Section 24, Chapter 327, O.S.L. 2002, 7303-1.2, 7303-1.3, as amended by Section 2, Chapter 473, O.S.L. 2002, 7303-1.6, 7303-1.7, as amended by Section 26, Chapter 327, O.S.L. 2002, 7303-3.1, 7303-4.6, 7303-5.3 and 7303-5.4, as amended by Sections 4, 5 and 6, Chapter 473, O.S.L. 2002, 7303-7.6, 7303-8.1, as amended by Section 28, Chapter 327, O.S.L. 2002, 7303-8.2, 7303-8.3, 7303-8.4 and 7303-8.5, as amended by Sections 29 and 30, Chapter 327, O.S.L. 2002, 7303-8.6, 7304-1.1, as amended by Section 7, Chapter 473, O.S.L. 2002, 7304-1.3, 7305-1.1, 7305-1.3, 7306-2.2, 7306-2.4, 7306-2.6, 7306-2.8, 7306-2.9, 7306-2.10, 7306-2.11, 7307-1.2, as amended by Section 1, Chapter 132, O.S.L. 2002, 7307-1.3, 7307-1.4, 7307-1.5, 7307-1.7, 7307-

1.8, 7307-1.9, 7308-1.3, 7308-1.4 and 7308-1.5, as amended by Sections 2, 3 and 4, Chapter 164, O.S.L. 2002, 7308-1.7, 7308-1.9, as amended by Section 5, Chapter 164, O.S.L. 2002 and 7308-1.13 (10 O.S. Supp. 2002, Sections 7302-1.1, 7302-3.6a, 7302-5.2, 7302-5.3, 7302-6.1, 7302-7.3, 7303-1.1, 7303-1.3, 7303-1.7, 7303-4.6, 7303-5.3, 7303-5.4, 7303-8.1, 7303-8.4, 7303-8.5, 7304-1.1, 7307-1.2, 7308-1.3, 7308-1.4, 7308-1.5 and 7308-1.9), which relate to the Oklahoma Juvenile Code; modifying definitions, duties, powers and responsibilities pursuant to the Oklahoma Juvenile Code to reflect the transfer of authority from the Board of Juvenile Affairs to the State Board of Corrections and the transfer of authority from the Office of Juvenile Affairs and Department of Juvenile Justice to the Department of Corrections; removing obsolete language; providing for continuation of rules until new rules are promulgated; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7301-1.2a of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Board of Juvenile Affairs is hereby abolished. All duties, powers and responsibilities of the Board of Juvenile Justice are hereby transferred to the State Board of Corrections.

B. The Office of Juvenile Affairs and the Department of Juvenile Justice are hereby abolished. All powers, duties, responsibilities, property, facilities, personnel, assets, liabilities, fund balances, encumbrances and obligations of the Office of Juvenile Affairs and the Department of Juvenile Justice are hereby transferred to the Department of Corrections.

C. The offices of Executive Director of the Office of Juvenile Affairs and the Deputy Director of the Department of Juvenile Justice are hereby abolished. The duties, powers and responsibilities of the Executive Director of the Office of Juvenile Affairs and the Deputy Director of the Department of Juvenile

Justice are hereby transferred to the Director of the Department of Corrections.

D. Custody, care and supervision of juveniles adjudicated to be delinquent or in need of supervision and any monies and funds received on behalf of such juveniles are hereby transferred from the Office of Juvenile Affairs to the Department of Corrections. Records in the custody of the Office of Juvenile Affairs on the transfer date relating to delinquent juveniles and juveniles in need of supervision shall be transferred to the Department of Corrections.

E. The classified and unclassified employees who are transferred pursuant to this section, shall be subject to the following provisions:

1. Classified employees shall remain subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act;

2. Unclassified employees shall remain in the unclassified service and shall serve at the pleasure of the Director;

3. All employees who are transferred to the Department of Corrections shall retain leave, sick and annual time earned and any retirement and longevity benefits which have accrued during their tenure with the agency from which transferred. The salaries of employees who are transferred shall not be reduced as a direct and immediate result of the transfer. The transfer of personnel among the state agencies shall be coordinated with the Office of Personnel Management; and

4. If the Department of Corrections should implement a reduction in force, all employees transferred from the Office of Juvenile Affairs on January 1, 2004, shall be credited for the time they were employed by the Office of Juvenile Affairs.

F. The Director of Public Affairs and the Director of State Finance shall coordinate the transfers made pursuant to this section.

G. Any references in the Oklahoma Statutes to the Board of Juvenile Affairs shall mean the State Board of Corrections and any references in the Oklahoma Statutes to the Office of Juvenile Affairs or the Department of Juvenile Justice shall mean the Department of Corrections.

SECTION 2. AMENDATORY 10 O.S. 2001, Section 7301-1.3, is amended to read as follows:

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

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

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

3. "Board" means the State Board of ~~Juvenile Affairs~~ Corrections;

4. "Child" or "juvenile" means any person under eighteen (18) years of age, except for any person sixteen (16) or seventeen (17) years of age who is charged with any crime specified in subsection A of Section 7306-1.1 of this title, or any person thirteen (13), fourteen (14) or fifteen (15) years of age who is charged with murder in the first degree pursuant to subsection B of Section 7306-1.1 of this title or Section 7306-2.5 of this title, or any

individual who has been certified as an adult pursuant to Section 7303-4.3 of this title, or any individual against whom the imposition of judgment and sentence has been deferred for any crime specified in subsection A or B of Section 7306-1.1 of this title, any individual against whom the imposition of judgment and sentence has been deferred after certification as an adult pursuant to Section 7303-4.3 of this title, or any person fifteen (15) years of age or older and charged or certified as a youthful offender pursuant to the Youthful Offender Act; provided that any person under eighteen (18) years of age who is not convicted after being charged with a crime pursuant to Section 7306-1.1 of this title, or any individual who is not convicted after certification as an adult pursuant to Section 7303-4.3 of this title, or any individual who is not convicted as a youthful offender pursuant to the Youthful Offender Act, shall continue to be subject to the jurisdiction of the juvenile court;

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

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

- a. has repeatedly disobeyed reasonable and lawful commands or directives of the parent, legal guardian, or other custodian,
- b. is willfully and voluntarily absent from his home without the consent of the parent, legal guardian, or other custodian for a substantial length of time or without intent to return,
- c. is willfully and voluntarily absent from school, as specified in Section 10-106 of Title 70 of the Oklahoma Statutes, if the juvenile is subject to compulsory school attendance, or

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

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

8. "Community intervention center" means a facility which serves as a short-term reception facility to receive and hold juveniles for an alleged violation of a municipal ordinance or state law, as provided for in subsection D of Section 7302-3.5 of this title;

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

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

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

a. has violated any federal or state law or municipal ordinance except a traffic statute or traffic ordinance or any provision of the Oklahoma Wildlife

Conservation Code, the Oklahoma Vessel and Motor Regulation Act or the Oklahoma Boating Safety Regulation Act, or has violated any lawful order of the court made pursuant to the provisions of the Oklahoma Juvenile Code, or

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

12. "Department" means the Department of ~~Juvenile Justice~~ Corrections;

13. "~~Deputy~~ Director" means the ~~Deputy~~ Director of the Department of ~~Juvenile Justice~~ Corrections;

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

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

~~16.~~ 15. "Facility" means a place, an institution, a building or part thereof, a set of buildings, or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles. A facility shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes;

~~17.~~ 16. "Graduated sanctions" means a calibrated system of sanctions designed to ensure that juvenile offenders face uniform, immediate, and consistent consequences that correspond to the seriousness of each offender's current offense, prior delinquent history, and compliance with prior interventions;

~~18.~~ 17. "Group home" means a residential facility housing no more than twelve juveniles with a program which emphasizes family-style living in a homelike environment. Said group home may also offer a program within the community to meet the specialized treatment needs of its residents. A group home shall not be

considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes;

~~19.~~ 18. "Independent living program" means a program designed to assist a juvenile to enhance skills and abilities necessary for successful adult living and may include but shall not be limited to minimal direct staff supervision and supportive services in making the arrangements necessary for an appropriate place of residence, completing an education, vocational training, obtaining employment or other similar services;

~~20.~~ 19. "Institution" means a residential facility offering care and treatment for more than twenty residents. An institution shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes. Said institution may:

- a. have a program which includes community participation and community-based services, or
- b. be a secure facility with a program exclusively designed for a particular category of resident;

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

~~22.~~ 21. "Mental health facility" means a mental health facility as defined by the Inpatient Mental Health Treatment of Children Act;

~~23.~~ 22. "Municipal juvenile facility" means a facility other than a community intervention center that accepts a child under eighteen (18) years of age charged with violating a municipal ordinance and meets the requirements of Section 7303-1.2 of this title;

~~24.~~ ~~"Office" means the Office of Juvenile Affairs;~~

~~25.~~ 23. "Person responsible for a juvenile's health or welfare" includes a parent, a legal guardian, custodian, a foster parent, a person eighteen (18) years of age or older with whom the juvenile's parent cohabitates or any other adult residing in the home of the child, an agent or employee of a public or private residential home, institution or facility, or an owner, operator, or employee of a child care facility as defined by Section 402 of this title;

~~26.~~ 24. "Preliminary inquiry" or "intake" means a mandatory, preadjudicatory interview of the juvenile and, if available, the parents, legal guardian, or other custodian of the juvenile, which is performed by a duly authorized individual to determine whether a juvenile comes within the purview of the Oklahoma Juvenile Code, whether nonadjudicatory alternatives are available and appropriate, and if the filing of a petition is necessary;

~~27.~~ 25. "Probation" means a legal status created by court order whereby a delinquent juvenile is permitted to remain outside a Department of ~~Juvenile Justice~~ Corrections facility directly or by contract under prescribed conditions and under supervision by the Department, subject to return to the court for violation of any of the conditions prescribed;

~~28.~~ 26. "Rehabilitative facility" means a facility maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of juveniles in need of supervision;

~~29.~~ 27. "Secure detention" means the temporary care of juveniles who require secure custody in physically restricting facilities:

- a. while under the continuing jurisdiction of the court pending court disposition, or
- b. pending placement by the Department of ~~Juvenile Justice~~ Corrections after adjudication;

~~30.~~ 28. "Training school" or "secure facility" means a facility, maintained by the state exclusively for the care,

education, training, treatment, and rehabilitation of delinquent juveniles or youthful offenders which relies on locked rooms and buildings, and fences for physical restraint in order to control behavior of its residents. A training school or secure facility shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes; and

~~31.~~ 29. "Transitional living program" means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting juveniles to develop the skills and abilities necessary for successful adult living. Said program may include but shall not be limited to reduced staff supervision, vocational training, educational services, employment and employment training, and other appropriate independent living skills training as a part of the transitional living program.

SECTION 3. AMENDATORY 10 O.S. 2001, Section 7302-1.1, as amended by Section 3, Chapter 375, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7302-1.1), is amended to read as follows:

Section 7302-1.1 A. ~~There is hereby created, effective February 1, 1995, the Board of Juvenile Affairs which shall consist of seven (7) members who shall be appointed by the Governor with the advice and consent of the Senate.~~

~~B. One member shall be appointed from each congressional district and any remaining members shall be appointed from the state at large. However, when congressional districts are redrawn each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year in which such modification becomes effective shall be from any redrawn districts which are not represented by a board member until such time as each of the modified congressional districts are represented by a board~~

~~member. No appointments may be made after July 1 of the year in which such modification becomes effective if such appointment would result in more than two members serving from the same modified district. The terms of office of two members shall expire on March 15, 1997, and each six (6) years thereafter; the terms of three members shall expire on March 15, 1999, and each six (6) years thereafter; the terms of two members shall expire on March 15, 2000, and each six (6) years thereafter.~~

~~C. 1. The Governor shall appoint the first Board on February 1, 1995.~~

~~2. Thereafter an appointment shall be made by the Governor within ninety (90) days after a vacancy has occurred due to resignation, death, or any cause resulting in an unexpired term. In the event of a vacancy on the Board due to resignation, death, or for any cause resulting in an unexpired term, if not filled within ninety (90) days following such vacancy, the Board may appoint a provisional member to serve in the interim until the Governor makes an appointment.~~

~~3. A member may be reappointed to succeed himself for one additional term.~~

~~D. To be eligible for appointment to the Board a person shall:~~

~~1. Be a citizen of the United States;~~

~~2. Be a resident of this state;~~

~~3. Be a qualified elector of this state; and~~

~~4. Not have been convicted of a felony pursuant to the laws of this state, the laws of any other state, or the laws of the United States.~~

~~E. The Board shall be composed of:~~

~~1. One member who shall have training or experience in social work;~~

~~2. One member who shall have training or experience in juvenile or criminal justice or related behavior sciences;~~

~~3. One member who shall be an attorney licensed by this state who shall be selected from lists submitted by the Indigent Defense System and each of the two offices of county indigent defender;~~

~~4. One member who shall be selected from a list submitted by the Oklahoma Commission on Children and Youth;~~

~~5. One member who shall be an attorney licensed by this state who shall be selected from a list submitted by the District Attorneys Council from the state at large;~~

~~6. One member who shall be an educator within a public school system of this state; and~~

~~7. One member who shall be from the public.~~

~~F. Any member of the Board may be removed from office in the manner provided by law for the removal of officers not subject to impeachment.~~

~~G. 1. The Board shall hold meetings as necessary at a place and time to be fixed by the Board. The Board shall elect, at its first meeting, one of its members to serve as chair and another of its members to serve as vice-chair. At the first meeting in each calendar year thereafter, the chair and vice-chair for the ensuing year shall be elected. Special meetings may be called by the chair or by five members of the Board by delivery of written notice to each member of the Board. A majority of members serving on the Board shall constitute a quorum of the Board.~~

~~2. Members of the Board shall receive necessary travel expenses according to the provisions of the State Travel Reimbursement Act, but shall receive no other compensation. Travel expenses shall be paid from funds available to the Office of Juvenile Affairs.~~

~~H. The State Board of Corrections shall:~~

~~1. Adopt and promulgate rules for its government and may adopt an official seal for the Office of Juvenile Affairs the Department of Corrections for matters pertaining to the duties of the Department pursuant to the Oklahoma Juvenile Code;~~

~~2. Appoint and fix the compensation of the Executive Director of the Office of Juvenile Affairs;~~

~~3. Be the rulemaking body for the Office of Juvenile Affairs Department for juvenile matters;~~

~~4. 3. Review and approve the budget request for responsibilities pursuant to the Oklahoma Juvenile Code of the Office of Juvenile Affairs Department to the Governor;~~

~~5. 4. Assist the Office of Juvenile Affairs Department in conducting periodic reviews and planning activities related to the goals, objectives, priorities, and policies of the Office Department pursuant to the Oklahoma Juvenile Code;~~

~~6. 5. Provide a public forum for receiving comments and disseminating information to the public and the regulated community regarding goals, objectives, priorities, and policies of the Office of Juvenile Affairs Department on matters pertaining to juveniles at least quarterly. The Board shall have the authority to adopt nonbinding resolutions requesting action by the Office of Juvenile Affairs Department in response to comments received or upon the Board's own initiative; and~~

~~7. 6. Establish contracting procedures for the Office of Juvenile Affairs Department for services pursuant to the Oklahoma Juvenile Code and guidelines for rates of payment for services provided by contract; provided, the Board shall not increase any rates of payment at any time the Legislature is not in session.~~

~~I. B. 1. As the rulemaking body of the Office of Juvenile Affairs Department, the Board is specifically charged with the duty of promulgating rules which will implement the duties and responsibilities of the Office Department pursuant to the Oklahoma Juvenile Code.~~

~~2. Effective July 1, 1995 January 1, 2004, any administrative policies adopted by the Commission for Human Services Board of Juvenile Affairs or the Office of Juvenile Affairs related to~~

personnel and other administrative issues and any rules promulgated relating to the custody, care and supervision of children adjudicated to be delinquent or in need of supervision shall be and remain in effect until amended or new rules are promulgated by the State Board of Juvenile Affairs Corrections.

3. Any rules adopted by the ~~Commission for Human Services Board~~ of Juvenile Affairs or the Office of Juvenile Affairs related to personnel and other administrative issues and the custody, care and supervision of children adjudicated to be delinquent or in need of supervision and subject to review by the Legislature during the 1st Session of the ~~45th~~ 49th Oklahoma Legislature may be finally adopted and promulgated by the State Board of Juvenile Affairs Corrections pursuant to the Administrative Procedures Act.

~~4. Starting April 1, 1995, the Board of Juvenile Affairs shall conduct an internal review of current permanent and emergency rules relating to the custody, care and supervision of children adjudicated to be delinquent or in need of supervision to determine whether such rules need to be amended, or repealed, reinstated, or recodified. By January 1, 1997, the Board shall have adopted permanent rules to implement the programs and functions within its jurisdiction and shall submit such rules for legislative review pursuant to Article I of the Administrative Procedures Act.~~

5. The State Board of Juvenile Affairs Corrections shall develop performance standards for programs implemented, either directly or pursuant to contract, by the Department ~~of Juvenile Justice~~.

SECTION 4. AMENDATORY 10 O.S. 2001, Section 7302-2.1, is amended to read as follows:

Section 7302-2.1 A. ~~The Board of Juvenile Affairs shall appoint the Executive Director of the Office of Juvenile Affairs. The Executive Director shall serve at the pleasure of the Board.~~

~~B. The Executive Director of the Office of Juvenile Affairs shall be qualified for such position by character, ability, education, training, and successful administrative experience in the corrections or juvenile justice field; shall have earned a master's degree or other advanced degree from an accredited college or university with a major field of study in at least one of the following: Corrections, juvenile justice, juvenile delinquency, criminal justice, law, police science, criminology, psychology, sociology, administration, education, or a related social science, and three (3) years' work experience in corrections or juvenile justice, or a bachelor's degree in the degree areas specified in this subsection and four (4) years' progressively responsible work experience in corrections or juvenile justice.~~

C. The ~~Executive~~ Director of Corrections shall provide for the administration pursuant to the Oklahoma Juvenile Code of the ~~Office of Juvenile Affairs~~ Department of Corrections and shall:

1. Be the executive officer and supervise the activities pursuant to the Oklahoma Juvenile Code of the ~~Office of Juvenile Affairs~~ Department;

2. Pursuant to legislative authorization employ, discharge, appoint or contract with, and fix the duties and compensation of such assistants, attorneys, law enforcement officers, probation officers, psychologists, social workers, medical professionals, administrative, clerical and technical, investigators, aides and such other personnel, either on a full-time, part-time, fee or contractual basis, as in the judgment and discretion of the ~~Executive~~ Director shall be deemed necessary in the performance or carrying out of any of the purposes, objectives, responsibilities, or statutory provisions relating to the ~~Office of Juvenile Affairs~~ or ~~Department of~~ Oklahoma Juvenile Justice Code, or to assist the ~~Executive~~ Director of the ~~Office of Juvenile Affairs~~ or ~~Deputy Director of the Department of Juvenile Justice~~ in the performance of

official duties and functions relating to the Oklahoma Juvenile Code;

3. Establish internal policies and procedures for the proper and efficient administration of the ~~Office of~~ Oklahoma Juvenile Affairs Code; and

4. ~~Exercise any and all duties of the Deputy Director of the Department of Juvenile Justice in addition to duties as Executive Director; and~~

~~5. Exercise all incidental powers which are necessary and proper to implement the purposes of the Office of Juvenile Affairs Department pursuant to the Oklahoma Juvenile Code.~~

D. B. The ~~Executive Director shall employ an attorney to be designated the "General Counsel" who~~ Legal Division of the Department of Corrections shall be the legal advisor for the ~~Office of Juvenile Affairs and the Department of~~ in matters pertaining to the Oklahoma Juvenile Justice Code. Except as provided in this subsection, the ~~General Counsel~~ Legal Division is authorized to appear for and represent the Board, ~~Office~~ and Department in any litigation that may arise in the discharge of the duties of the Board, ~~Office~~ or Department.

It shall continue to be the duty of the Attorney General to give an official opinion to the ~~Executive Director of the Office of Juvenile Affairs, the Deputy Director of the Department of Juvenile Justice, the Office of Juvenile Affairs and the Department of~~ for matters pertaining to the Oklahoma Juvenile Justice Code, and to prosecute and defend actions therefor, if requested to do so. The Attorney General may levy and collect costs, expenses of litigation and a reasonable attorney's fee for such legal services from the ~~Office or~~ Department. ~~Neither the Office nor~~ The Department shall not contract for representation by private legal counsel for matters pertaining to the Oklahoma Juvenile Code unless approved by the Attorney General. Such contract for private legal counsel shall be

in the best interests of the state. The Attorney General shall be notified by the ~~Office of Juvenile Affairs~~ Department or its counsel of all lawsuits against ~~the Office of Juvenile Affairs~~ or the ~~Department of Juvenile Justice~~ or officers or employees thereof for matters pertaining to the administration of the Oklahoma Juvenile Code, that seek injunctive relief which would impose obligations requiring the expenditure of funds in excess of unencumbered monies in the agency's appropriations or beyond the current fiscal year. The Attorney General shall review any such cases and may represent the interests of the state, if the Attorney General considers it to be in the best interest of the state to do so, in which case the Attorney General shall be paid as provided in this subsection. Representation of multiple defendants in such actions may, at the discretion of the Attorney General, be divided with counsel for the ~~Office and~~ Department as necessary to avoid conflicts of interest.

E. C. In the event of the ~~Executive~~ Director's temporary absence, the ~~Executive~~ Director may delegate the exercise of such powers and duties to a designee during the ~~Executive~~ Director's absence. ~~In the event of a vacancy in the position of Executive Director, the Board of Juvenile Affairs shall appoint a new Executive Director. The Board may designate an interim or acting Executive Director who is authorized to exercise such powers and duties until a permanent Executive Director is employed. The Board may authorize the Deputy Director of the Department of Juvenile Justice to assume the duties of the Executive Director, in the event of a vacancy in the position of Executive Director, in addition to the person's duties as Deputy Director.~~

SECTION 5. AMENDATORY 10 O.S. 2001, Section 7302-2.2, is amended to read as follows:

Section 7302-2.2 A. ~~Effective July 1, 1994, there is hereby created the Office of Juvenile Affairs. Within the Office of Juvenile Affairs there is hereby created:~~

~~1. The Department of Juvenile Justice which shall be responsible for programs and services for juveniles alleged or adjudicated to be delinquent or in need of supervision. The Executive Director of the Office of Juvenile Affairs shall appoint a Deputy Director of the Department of Juvenile Justice to serve as the administrative head of the Department; and~~

~~2. Such other Departments specifically established by law.~~

~~B. Suitable office space shall be provided by the Department of Central Services to the Office of Juvenile Affairs, to the extent necessary for the Office to implement its jurisdictional duties provided by the Oklahoma Juvenile Code, and the Office may incur necessary expenses for office rent.~~

~~C. Effective July 1, 1995, the Office of Juvenile Affairs shall be a Merit System agency and all employees of the Office of Juvenile Affairs shall be classified employees who are subject to the Oklahoma Personnel Act and the Merit System of Personnel Administration, except as otherwise provided by law.~~

~~D. Effective July 1, 1995~~ January 1, 2004, within its jurisdictional areas of responsibility pertaining to the Oklahoma Juvenile Code, the ~~Office of Juvenile Affairs~~ Department of Corrections, acting through the ~~Executive Director of Corrections~~, or persons authorized by law, rule or designated by the ~~Executive Director~~ to perform such acts, shall have the power and duty to:

1. Advise, consult, cooperate and enter into agreements with agencies of the state, municipalities and counties, other states and the federal government, and other persons;

2. Enter into agreements for, accept, administer and use, disburse and administer grants of money, personnel and property from the federal government or any department or agency thereof, or from any state or state agency, or from any other source, to promote and carry on in this state any program within its jurisdictional area of responsibility;

3. Require the establishment and maintenance of records and reports;

4. Establish a system of training for personnel in order to assure uniform statewide application of law and rules;

5. Enforce the provisions of the Oklahoma Juvenile Code and rules promulgated thereunder and orders issued pursuant thereto;

6. Charge and receive fees pursuant to fee schedules promulgated by the State Board of Juvenile Affairs Corrections;

7. Conduct studies, research and planning of programs and functions, pursuant to the authority granted by the Oklahoma Juvenile Code;

8. Enter into interagency agreements;

9. Provide administrative and support services to the Board ~~of Juvenile Affairs~~ as necessary to assist the Board in the performance of ~~their~~ its duties pursuant to the Oklahoma Juvenile Code;

10. Establish and maintain such facilities and institutions as are necessary or convenient for the operation of programs for children under the jurisdiction of the ~~Office of Juvenile Affairs~~ Department;

11. Lease, from time to time, any real property which the Board ~~of Juvenile Affairs~~ shall determine advisable to more fully carry into effect the operation of the ~~Office of Juvenile Affairs~~ Department in accordance with applicable ~~state statutes~~ sections of the Oklahoma Juvenile Code. All such leases for real property shall be subject to the provisions of Section 63 of Title 74 of the Oklahoma Statutes;

12. Purchase or lease any equipment, supplies or materials pursuant to the Oklahoma Central Purchasing Act;

13. Contract for professional services;

14. Acquire, construct, extend, and operate any and all facilities of all kinds which in the judgment of the ~~Executive~~ Director and the approval of the Legislature shall be necessary or

convenient to carry out the duties of the ~~Office of Juvenile Affairs~~ Department in matters pertaining to juveniles, as authorized by law; and

15. Exercise all incidental powers which are necessary and proper to implement and administer the purposes of the Oklahoma Juvenile Code.

~~E. B.~~ The ~~Office of Juvenile Affairs~~ Department shall maintain a fair, simple and expeditious system for resolution of grievances of all persons committed to the ~~Office of~~ Department pursuant to the Oklahoma Juvenile Affairs Code regarding the substance or application of any written or unwritten policy, rule of the Board ~~of Juvenile Affairs~~ or of an agent or contractor of the ~~Office of Juvenile Affairs~~ Department or any decision, behavior or action by an employee, agent or contractor or by any other person committed to the ~~Office of~~ Department pursuant to the Oklahoma Juvenile Affairs Code.

SECTION 6. AMENDATORY 10 O.S. 2001, Section 7302-2.3, is amended to read as follows:

Section 7302-2.3 The ~~Office of Juvenile Affairs~~ Department of Corrections and the Department of Human Services shall enter into an agreement with the State Supreme Court acceptable to that Court in its capacity as the constitutional manager of the State Court System:

1. To develop and recommend educational programs for judges whose docket responsibilities include cases involving the care, custody, guardianship, or support of children, for persons who provide services to children within the jurisdiction of the courts, and for attorneys who practice before courts with such jurisdiction;

2. To identify areas in which improvements may be made in the administration and procedures of the courts and to make appropriate recommendations; and

3. To identify areas in which improvements may be made in the services subject to oversight by the courts and to make appropriate recommendations.

SECTION 7. AMENDATORY 10 O.S. 2001, Section 7302-2.4, is amended to read as follows:

Section 7302-2.4 ~~The Office of Juvenile Affairs~~ Department of Corrections is authorized to repair or replace the personal property of an employee if the personal property is damaged or destroyed by a juvenile who is in the custody of the ~~Office of Juvenile Affairs~~ Department while the employee is engaged in the performance of official duties pursuant to the Oklahoma Juvenile Code for the ~~Office of Juvenile Affairs~~ Department. Any personal property repaired or replaced shall be comparable in kind, quality and cost to the original property. Reimbursement shall not duplicate insurance coverage carried by the employee.

SECTION 8. AMENDATORY 10 O.S. 2001, Section 7302-2.5, is amended to read as follows:

Section 7302-2.5 On or before June ~~1st~~ 1 of each year the ~~Office of Juvenile Affairs~~ Department of Corrections shall annually report to the State Department of Education the number of individual students who have been referred to a county juvenile service unit, a county juvenile bureau or who have been committed to the custody of the ~~Office of Juvenile Affairs~~ Department of Corrections. The number of students shall be reported by school district.

SECTION 9. AMENDATORY 10 O.S. 2001, Section 7302-3.1, is amended to read as follows:

Section 7302-3.1 A. Effective ~~July 1, 1995~~ January 1, 2004, in addition to other responsibilities specified by law, the Department of ~~Juvenile Justice~~ Corrections shall:

1. Be the state planning and coordinating agency for statewide juvenile justice and delinquency prevention services;

2. Provide court intake, probation and parole for delinquent children; and

3. Collect and disseminate information and engage in juvenile justice or delinquency prevention activities relating to the provisions of the Oklahoma Juvenile Code.

B. The Department of Juvenile Justice shall include the following divisions for matters relating to juvenile justice and the Oklahoma Juvenile Code:

1. The Division of Advocate Defender;

2. The Division of the Parole Board ~~which shall consist of the Parole Review and Hearing Board transferred to the Department of Juvenile Justice pursuant to subsection E of this section~~; and

3. Such other divisions prescribed by the ~~Executive~~ Director of ~~the Office of Juvenile Affairs~~ Corrections or by law.

C. 1. Effective ~~July 1, 1995~~ January 1, 2004, the following programs are established within the Department ~~of Juvenile Justice~~:

a. programs for community intervention and diversion projects to prevent juvenile delinquency,

b. state programs for children who are potentially delinquent and/or who are adjudicated delinquent,

c. programs for community disciplinary projects,

d. programs of juvenile crime restitution,

e. the Serious and Habitual Juvenile Offender Program,

f. regimented juvenile training programs,

g. the Delinquency and Youth Gang Intervention and Deterrence Act~~7~~, and

h. such other programs prescribed by the ~~Executive~~ Director ~~of the Office of Juvenile Justice~~ or by law.

2. Beginning ~~July 1, 1995~~ January 1, 2004, the ~~Office of Juvenile Affairs~~ Department, in cooperation with the courts, shall develop programs which can be used directly by the Department ~~of Juvenile Justice~~ or can be used in communities with the assistance

of the Department of ~~Juvenile Justice~~ to divert juveniles at risk of becoming delinquent from the formal court process. The Department may adopt the programs developed by the Office of Juvenile Affairs or may develop new programs. Such programs shall be implemented by the Department of ~~Juvenile Justice~~ beginning ~~July 1, 1995~~ January 1, 2004. Such programs shall include, but not be limited to:

- a. alternative diversion programs for first-time offenders as defined by Section 7303-4.6 of this title,
- b. teen court programs, subject to the requirements and procedures provided in Section 7303-4.6 of this title, and
- c. teen substance abuse schools. A teen substance abuse school shall include any program approved by the court that provides educational, motivational and behavior modification instruction for juveniles who have chemical dependency problems.

D. Beginning ~~July 1, 1995~~ January 1, 2004, the Department of ~~Juvenile Justice~~, in its role as coordinator for delinquency prevention services, shall:

1. Establish guidelines for juvenile delinquency prevention and diversion programs for use in local communities, including but not limited to:

- a. counseling programs,
- b. recreational programs,
- c. job skills workshops,
- d. community public improvement projects,
- e. mediation programs,
- f. programs to improve relationships between juveniles and law enforcement personnel,
- g. diagnostic evaluation services,
- h. substance abuse prevention programs, and

- i. independent living skills and self-sufficiency planning programs; and

2. Provide that personnel shall be available in each county of the state to assist local communities in developing and implementing community programs to prevent delinquency and to divert juveniles who have committed delinquent acts from committing further delinquent or criminal acts. The Department ~~of Juvenile Justice~~ shall provide this service in each county either directly or by contract.

~~E. 1. On July 1, 1995, the following programs or divisions shall be transferred, along with funding allocations, from the Department of Human Services to the Department of Juvenile Justice within the Office of Juvenile Affairs:~~

- ~~a. the Residential Services Unit of the Office of Juvenile Justice and all staff for the Unit,~~
- ~~b. the Quality Assurance Monitoring Unit of the Office of Juvenile Justice and all staff for the Unit,~~
- ~~c. the Contract Management/Youth Services Unit of the Office of Juvenile Justice and all staff for the Unit,~~
- ~~d. the Psychological Unit of the Office of Juvenile Justice and all staff for the Unit,~~
- ~~e. the Juvenile Services Unit and all field and supervisory staff for the Unit,~~
- ~~f. all institutional staff for institutions transferred from the Department of Human Services to the Office of Juvenile Affairs,~~
- ~~g. all staff assigned to the community residential programs of the Office of Juvenile Justice,~~
- ~~h. the Management Services Unit of the Office of Juvenile Justice,~~
- ~~i. the Programs Unit of the Office of Juvenile Justice,~~

- ~~j. all staff of the business office of the Office of Juvenile Justice,~~
- ~~k. the Planning and Information Unit of the Office of Juvenile Justice,~~
- ~~l. all staff of the Office of Juvenile Justice assigned to serve as the liaison to the Federal Court Monitor of the Office of Juvenile Justice,~~
- ~~m. the Parole Review and Hearing Board within the Office of the General Counsel of the Department of Human Services and all members of the Board and support staff for the Board, and~~
- ~~n. the Division Administrator for the Office of Juvenile Justice and administrative staff for the Division Administrator.~~

~~2. The Office of Juvenile Affairs and the Department of Human Services may enter into an agreement for the transfer of personnel on July 1, 1995, from the Department of Human Services to the Office of Juvenile Affairs. No selected employee shall be transferred to the Office of Juvenile Affairs, except on the freely given written consent of the employee.~~

~~3. The classified and unclassified employees who are transferred pursuant to paragraph 1 or 2 of this subsection from the Department of Human Services to the Office of Juvenile Affairs on July 1, 1995, shall be subject to the following provisions:~~

- ~~a. classified employees shall remain subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act except that such employees shall be exempt from the provisions of the Merit System pertaining to classification until October 1, 1995. Effective October 1, 1995, such employees shall be given status in the class to which the position occupied by the~~

~~employee on October 1, 1995, is allocated by the Office of Personnel Management. The salary of such an employee shall not be reduced as a result of such position allocation, and if the employee's salary is below the minimum rate of pay for the class to which the position occupied by the employee on October 1, 1995, is allocated, the employee's salary shall be adjusted up to the minimum rate of pay; provided, if such allocation is a promotion, the minimum rate shall be determined as provided in 530:10-7-14 of the Oklahoma Administrative Code,~~

- ~~b. unclassified employees shall remain in the unclassified service and shall serve at the pleasure of the Executive Director. Effective October 1, 1995, such employees who occupy positions that are subject to the Merit System of Personnel Administration shall become classified and subject to the provisions of the Merit System of Personnel Administration pursuant to Section 840-4.1 of Title 74 of the Oklahoma Statutes. Unclassified employees who, on October 1, 1995, occupy positions that remain in the unclassified service pursuant to law, shall remain in the unclassified service and shall continue to serve at the pleasure of the Executive Director,~~
- ~~e. all employees who are transferred to the Office of Juvenile Affairs shall retain leave, sick and annual time earned and any retirement and longevity benefits which have accrued during their tenure with the agency from which transferred. The salaries of employees who are transferred shall not be reduced as a direct and immediate result of the transfer. The transfer of~~

~~personnel among the state agencies shall be coordinated with the Office of Personnel Management,~~

d. ~~if the Office of Juvenile Affairs should implement a reduction in force, all employees transferred from the Department of Human Services to the Office of Juvenile Affairs on July 1, 1995, shall be credited for the time they were employed by the Department of Human Services.~~

F. ~~Effective July 1, 1995, custody, care and supervision of juveniles adjudicated to be delinquent or in need of supervision and any monies and funds received on behalf of such juveniles are hereby transferred from the Department of Human Services to the Office of Juvenile Affairs. Records in the custody of the Department of Human Services on the transfer date relating to delinquent juveniles and juveniles in need of supervision shall be transferred to the Department of Juvenile Justice.~~

G. ~~Effective July 1, 1995, all powers, duties, records, property, assets, monies and funds of the Office of Juvenile Justice shall be transferred to the Office of Juvenile Affairs. Effective July 1, 1995, liabilities of the Office of Juvenile Justice shall be transferred to the Office of Juvenile Affairs as provided for in the appropriation process of the Legislature. Any additional administrative support or costs incurred by the Office of Juvenile Affairs as a result of the transfer required by this section shall be borne by the Office of Juvenile Affairs.~~

H. ~~The Office of Juvenile Justice shall be abolished by the Commission for Human Services after such transfer has been completed.~~

I. ~~The Director of State Finance is hereby directed to coordinate the transfer of assets, funds, allotments, purchase orders, liabilities, outstanding financial obligations or encumbrances provided for in this section. The Department of~~

~~Central Services is hereby directed to coordinate the transfer of property and records provided for in this section.~~

SECTION 10. AMENDATORY 10 O.S. 2001, Section 7302-3.2, is amended to read as follows:

Section 7302-3.2 A. Effective ~~July 1, 1995~~ January 1, 2004, there is hereby established within the Department of ~~Juvenile Justice~~ Corrections the Division of Advocate Defender which will be separate and apart from the ~~Office of General Counsel~~ Legal Division of the Department. The administrative officer of the Division of Advocate Defender shall be the Advocate General, who shall be an attorney with a minimum of three (3) years' experience as an attorney. The ~~Executive Director of the Office of Juvenile Affairs~~ Director of the Department of Corrections shall employ such other personnel as may be necessary to carry out the purposes of this section. Such personnel may be dismissed only for cause.

B. Effective ~~July 1, 1995~~ January 1, 2004, the duties and responsibilities of the Advocate General are as follows:

1. Supervise personnel assigned to children's institutions and facilities as student defender/representatives;
2. Monitor and review grievance procedures and hearings;
3. Investigate grievances of juveniles and staff grievances related to juveniles which are not resolved at the facility level;
4. Report to the Department of Human Services allegations of abuse or neglect of juveniles who are in the custody of the ~~Office of Juvenile Affairs~~ Department and placed in private facilities or facilities operated by the ~~Office of Juvenile Affairs~~ Department; ~~or~~
5. Coordinate any hearings or meetings of administrative review committees conducted as a result of unresolved grievances or as a result of investigations;
6. Make recommendations to the ~~Deputy Director of the Department of Juvenile Justice~~ Director, and provide regular or special reports regarding grievance procedures, hearings and

investigations to the ~~Executive Director of the Office of Juvenile Affairs, the Office of Juvenile System Oversight~~ Director and other appropriate persons as necessary;

7. Forward to the ~~Office of Juvenile Systems Oversight, for the information of the Executive Director of the Office of Juvenile Systems Oversight~~ Director, a copy of the final report of a complaint which is not resolved, through the system for resolution of grievances established by the ~~Office of Juvenile Affairs Department~~, in the favor of the complainant; and

8. Perform such other duties as required by the ~~Executive Director of the Office of Juvenile Affairs~~ Director.

SECTION 11. AMENDATORY 10 O.S. 2001, Section 7302-3.3, is amended to read as follows:

Section 7302-3.3 The Department of ~~Juvenile Justice~~ Corrections, in its role as planner and coordinator for juvenile justice and delinquency prevention services, is hereby authorized to and shall enter into agreements for the establishment and maintenance of community-based prevention and diversionary youth services programs which may include, but are not limited to: Emergency shelter, diagnosis, crisis intervention, counseling, group work, case supervision, job placement, alternative diversion programs for first-time offenders and for youth alleged or adjudicated to be in need of supervision, recruitment and training of volunteers, consultation, brokerage of services, agency coordination with emphasis on keeping youth with a high potential for delinquency out of the traditional juvenile justice process and community intervention centers. The Department shall enter into agreements based on need as indicated in the State Plan for Services to Children and Youth.

SECTION 12. AMENDATORY 10 O.S. 2001, Section 7302-3.4, is amended to read as follows:

Section 7302-3.4 The Department of ~~Juvenile Justice~~
Corrections, in its role as planner and coordinator for juvenile
justice and delinquency prevention services, is hereby authorized to
enter into financial agreements with federal, state and local
agencies or entities of government, or with any private agency, for
juvenile delinquency prevention programs and juvenile treatment
programs.

SECTION 13. AMENDATORY 10 O.S. 2001, Section 7302-3.5,
is amended to read as follows:

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

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

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

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

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

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

2. The community intervention center shall serve as a short-term reception facility to receive and hold juveniles who have been taken into custody by law enforcement agencies for the alleged violation of a municipal ordinance or state law and for whom detention is inappropriate or unavailable. The community intervention center may be a secure facility. Juveniles held in the community intervention facility shall not be isolated from common areas other than for short-term protective holding for combative or self-destructive behavior, as defined by the ~~Office of Juvenile Affairs~~ Department.

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

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

- a. enter demographic information into the management information system provided for in Section 7302-3.8 of this title,
- b. immediately notify the parents or parent, guardian, or other person legally responsible for the juvenile's care, or if such legally responsible person is unavailable the adult with whom the juvenile resides, that the juvenile has been taken into custody and to pick up the juvenile, and
- c. hold juveniles until they can be released to a parent, guardian, or other responsible adult or until a temporary placement can be secured, but in no event for longer than twenty-four (24) hours.

5. The community intervention center may perform the following functions:

- a. gather information to determine if the juvenile is in need of immediate medical attention,
- b. conduct an initial assessment pursuant to rules promulgated by the ~~Office of Juvenile Affairs~~ Department. Such initial assessment may be given without parental consent if the juvenile agrees to participate in the assessment, and
- c. conduct an assessment pursuant to a Problem Behavior Inventory or a Mental Status Checklist or an equivalent assessment instrument authorized by rules promulgated by the ~~Office of Juvenile Affairs~~ Department, if written permission to do so is obtained from the parent, guardian or other person legally responsible for the juvenile's care. Such person and the juvenile may review the assessment instrument

prior to the assessment process, must be informed that participation in the assessment is voluntary and that refusal to participate shall not result in any penalty, and must sign a written acknowledgment that they were given an opportunity to review the assessment instrument. The assessment shall be used to develop recommendations to correct the behavior of the juvenile, to divert the progression of the juvenile into the juvenile justice system, to determine if the juvenile is in need of nonemergency medical treatment, and to determine if the juvenile is the victim of violence. Information derived from the assessment shall not be used in any phase of prosecution but may be used by the court following adjudication for the dispositional order and may be used for referrals to social services.

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

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

SECTION 14. AMENDATORY Section 4, Chapter 4, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7302-3.6a), is amended to read as follows:

Section 7302-3.6a A. Funds specifically appropriated to the ~~Office of Juvenile Affairs~~ Department of Corrections for designated Youth Services Agency programs for both the Department of Juvenile Justice and the Department of Human Services shall be made available through contracts negotiated by the Department of ~~Juvenile Justice~~ Corrections, to organizations designated by the Department of

~~Juvenile Justice~~ Corrections as "Youth Services Agencies". Such designations shall be granted based on need, as indicated in the State Plan for Services to Children and Youth, and in accordance with criteria approved by the State Board of ~~Juvenile Affairs~~ Corrections after full consideration of any recommendations of the Department of Human Services and the Oklahoma Association of Youth Services. Until the criteria is established by the State Board of Corrections, the criteria established by the ~~Commission for Human Services~~ Board of Juvenile Affairs shall remain in effect. The criteria for designation of Youth Services Agencies shall include but shall not be limited to:

1. Capability to deliver all or part of the compensable services enumerated in Section 7302-3.3 of ~~Title 10 of the Oklahoma Statutes~~ this title, if the Youth Services Agency is to provide such services;

2. Capability to deliver all or part of the compensable children's services that the Department of Human Services is authorized to provide for by contract with a private agency, if the Youth Services Agency is to provide such services;

3. Adequate and qualified staff who are available as needed, within a reasonable time after being contacted for services in each county served by the agency;

4. Adequate services in each county served by the agency;

5. Financial viability; and

6. A documented need for the local services to be offered.

B. The criteria for designation of Youth Services Agencies also may include:

1. Successful completion of peer review processes by the Oklahoma Association of Youth Services; and

2. Such other criteria as the State Board of ~~Juvenile Affairs~~ Corrections determines appropriate.

C. Each Youth Services Agency receiving, by grant or contract from the Department of Human Services on June 30, 1995, state funds specifically appropriated for community-based youth services programs, is hereby automatically designated a "Youth Services Agency".

D. The Department of ~~Juvenile Justice~~ Corrections, after the opportunity for an administrative hearing, may terminate the designation of a Youth Services Agency that:

1. Is seriously deficient in the administration of its program;
2. Loses financial viability; or
3. Fails to successfully complete the peer review process by the Oklahoma Association of Youth Services.

Any applicant organization denied designation as a Youth Services Agency may request an administrative hearing from the Department of Corrections. The State Board of ~~Juvenile Affairs~~ Corrections shall establish an administrative hearing and appeal process. Until the administrative hearing and appeal process is established, the hearing and appeal process established for this section by the ~~Commission for Human Services~~ Board of Juvenile Affairs shall remain in effect.

E. The Department of ~~Juvenile Justice~~ Corrections shall be the sole administrator of Youth Services Agency contracts. Any contracting procedure shall include a procedure for converting all contracts to a system of payment which will be structured in a manner that will allow for the receipt of all available federal funds.

F. The Department of ~~Juvenile Justice~~ Corrections and the Department of Human Services shall enter into a cooperative agreement that establishes procedures to ensure the continuation of services provided for in paragraph 2 of subsection A of this section by Youth Services Agencies. The Department of ~~Juvenile Justice~~ Corrections shall consult with the Department of Human Services when

assessing the capability of a Youth Services Agency to deliver services pursuant to paragraph 2 of subsection A of this section.

G. ~~The Office of Juvenile Affairs~~ Department of Corrections is authorized to contract with the Oklahoma Association of Youth Services for evaluation, training and materials for the First Time Offender Program and for statewide office support, including rental of office space and general technical assistance for Youth Services Agencies with which the ~~Office of Juvenile Affairs~~ Department has contracts.

SECTION 15. AMENDATORY 10 O.S. 2001, Section 7302-3.7, is amended to read as follows:

Section 7302-3.7 ~~The Office of Juvenile Affairs through the Department of Juvenile Justice~~ Department of Corrections is hereby authorized to, and shall, enter into cooperative agreements with the Department of Human Services for the use by both Departments of existing community-based programs, management information and client tracking systems, facility certification systems, community intervention centers and other shared resources as deemed necessary or appropriate by both Departments.

SECTION 16. AMENDATORY 10 O.S. 2001, Section 7302-3.8, is amended to read as follows:

Section 7302-3.8 A. ~~On or before October 1, 1996, the Department of Juvenile Justice~~ The Department of Corrections shall implement an agency-wide management information system for all programs and services of the Department related to children, youth and families.

B. The management information system shall:

1. To the maximum extent possible, be based upon the integration, utilization and modification, as necessary, of existing information systems within the Department;

2. Provide for the security of and limited access to the information;

3. Include case specific information, including outcomes, and have the ability to monitor the status of children and youth receiving services through the Department;

4. Be capable of providing management reports and information regarding the various children and youth programs of the Department, and of providing aggregate information necessary for planning, monitoring and evaluation of said programs and services; and

5. Be designed so that management and analytical reports can be readily generated for those who require them.

C. 1. The management information system implemented by the Department of ~~Juvenile Justice~~ Corrections shall be integrated with the child welfare management information system implemented by the Department of Human Services and to the extent possible with the Juvenile Justice Information System ~~by October 1, 1996.~~

2. The management information system shall be available to persons authorized to obtain confidential records and reports of the Department of ~~Juvenile Justice~~ Corrections pursuant to Article VII of the Oklahoma Juvenile Code.

D. The Department of Corrections shall implement the management information system implemented by the Department of Juvenile Justice until such time as the Department of Corrections implements a new system.

SECTION 17. AMENDATORY 10 O.S. 2001, Section 7302-3.9, is amended to read as follows:

Section 7302-3.9 A. The Department of ~~Juvenile Justice~~ Corrections shall establish a planning process for the Department that provides for collaborative ongoing planning for the development of divisional and agency goals and priorities for services to children and youth. Said planning process ~~of the Department shall be developed with the assistance of the Policy Analysis Division or equivalent division within the Department and the division directors~~ and shall provide for identification and assessment of needs,

establishment of goals and priorities, and program implementation and monitoring, in a manner that actively involves all divisions and units within divisions.

~~1.~~ B. The Department shall develop a three- to five-year plan for children and youth services provided by the agency. The plan should be regularly reviewed and modified as necessary.

~~2.~~ ~~The Deputy Director of the Department shall hold each division director accountable for the performance of the division in engaging collaboratively in the agency and in interagency planning for programs and services for children and youth.~~

~~3.~~ ~~The administrator of each division of the Department shall actively participate and require the collaborative participation of division workers in interagency planning and coordination for children and youth services.~~

~~4.~~ ~~The administrator for each division shall hold the administrator of each unit within the division responsible for the collaborative development and implementation of agency and division goals and priorities related to children and youth.~~

~~B.~~ C. The ~~unit, division and agency~~ budget recommendations of the Department for services to children and youth shall be based upon documented needs, and the development of budget recommendations and priorities shall be closely integrated with agency and interagency program planning and management.

~~C.~~ D. As a part of the Department's program planning and monitoring processes, the Department shall examine its programs and services to children and youth to ensure that the practices within them do not operate to the detriment of minority children and youth.

SECTION 18. AMENDATORY 10 O.S. 2001, Section 7302-3.10, is amended to read as follows:

Section 7302-3.10 The Department of ~~Juvenile Justice~~ Corrections shall carefully define the services and programs of the Department as to their purpose, the population served and

performance expectations. Planning for new programs and services and major modifications to existing ones shall include evaluation of their effect on other programs and services and communication and coordination with other public and private children and youth service providers in order to assure successful and cost-effective implementation of the program. An evaluation component that includes monitoring and evaluation of client outcomes shall be incorporated into all of the Department's programs and services to children and youth, whether provided directly by the agency or through a contract.

1. All programs and services shall be designed to ensure the accessibility of the program to the persons served. Provision for transportation, child care and similar services necessary in order to assist persons to access the services shall be made. If the service is provided in an office setting, the service shall be available during the evening.

2. Programs and services shall be targeted to the areas of the state having the greatest need for them. The programs and services shall be designed to meet the needs of the area in which they are located. Programs and services intended for statewide implementation shall be implemented first in those areas that have the greatest need for them.

3. Requests for proposals developed by the Department shall be based upon documented service needs and identified priorities. The request for proposals shall clearly identify the program or service requirements, the population to be served, and performance expectations. The ~~agency~~ Department shall adopt clear, written guidelines to ensure uniformity in the management, monitoring and enforcement of contracts for services. If in-state private providers are unable or unwilling to respond to the proposal, then out-of-state providers should be encouraged to respond.

SECTION 19. AMENDATORY 10 O.S. 2001, Section 7302-3.11,
is amended to read as follows:

Section 7302-3.11 A. The Department of ~~Juvenile Justice~~
Corrections shall from time to time, but not less often than
annually, review its programs and services and submit a report to
the Governor, the Speaker of the House of Representatives, the
President Pro Tempore of the Senate, the Supreme Court of the State
of Oklahoma, the State Board of ~~Juvenile Affairs~~ Corrections, and
the Oklahoma Commission on Children and Youth analyzing and
evaluating the effectiveness of the programs and services being
carried out by the Department of ~~Juvenile Justice~~. Such report
shall include, but not be limited to:

1. An analysis and evaluation of programs and services
continued, established and discontinued during the period covered by
the report;

2. A description of programs and services which should be
implemented;

3. Relevant information concerning the number of children
comprising the population of any facility ~~of the Office of Juvenile~~
~~Affairs~~ operated by the Department of ~~Juvenile Justice~~ during the
period covered by the report;

4. An analysis and evaluation, by age, of the number of
children assessed for literacy skills, the number who failed to
demonstrate age-appropriate reading skills, and the number who were
required to participate in a literacy skills improvement program;
and

5. Such other information as will enable a user of the report
to ascertain the effectiveness of the programs, services and
facilities.

B. Beginning ~~July 1, 1998~~ January 1, 2005, and at least
annually thereafter, the Department of ~~Juvenile Justice~~ shall
analyze and evaluate the implementation of the Youthful Offender

Act, the effectiveness of the Youthful Offender Act and any problems which have occurred which have limited the effectiveness of the Youthful Offender Act. The annual analysis and evaluation shall be incorporated in the report required by subsection A of this section.

SECTION 20. AMENDATORY 10 O.S. 2001, Section 7302-4.1, is amended to read as follows:

Section 7302-4.1 A. There is hereby created in the State Treasury a revolving fund for the Department of ~~Juvenile Justice~~ Corrections to be designated the "Juvenile Detention Improvement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies appropriated to the Juvenile Detention Improvement Revolving Fund, all monies in the Juvenile Detention Improvement Revolving Fund for the Department of Juvenile Justice, and monies which may otherwise be available to the Department of ~~Juvenile Justice~~ Corrections for use as provided for in this section.

B. All monies appropriated to the fund shall be budgeted and expended by the Department of ~~Juvenile Justice~~ for the purpose of providing funds to counties to renovate existing juvenile detention facilities, to construct new juvenile detention facilities, to operate juvenile detention facilities and otherwise provide for secure juvenile detention services and alternatives to secure detention as necessary and appropriate, in accordance with state-approved juvenile detention standards and the State Plan for the Establishment of Juvenile Detention Services provided for in Section 7304-1.3 of this title. The participation of local resources shall be a requirement for the receipt by counties of said funds and the Department shall establish a system of rates for the reimbursement of secure detention costs to counties. The methodology for the establishment of said rates may include, but not be limited to, consideration of detention costs, the size of the facility, services provided and geographic location. Expenditures from said fund shall

be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

1. ~~Beginning July 1, 1995, the rate of reimbursement of approved operating cost shall be eighty-five percent (85%) for the Department of Juvenile Justice and fifteen percent (15%) for the county.~~

2. ~~Beginning July 15, 1998, the~~ The rate of reimbursement of approved operating cost shall be fifty percent (50%) for the Department ~~of Juvenile Justice~~ and fifty percent (50%) for any county that has failed to establish the beds required by the provisions of subsection A of Section 7302-6.8 of this title.

3. 2. The Department ~~of Juvenile Justice~~ shall approve only those applications for funds to renovate an existing juvenile detention facility or any other existing facility or to construct a new juvenile detention facility which contain proposed plans that are in compliance with state-approved juvenile detention standards.

4. 3. The Department ~~of Juvenile Justice~~ shall approve only those applications or contracts for funds to operate juvenile detention facilities or otherwise provide for secure juvenile detention services and alternatives to secure detention which are in compliance with or which are designed to achieve compliance with the State Plan for the Establishment of Juvenile Detention Services provided for in Section 7304-1.3 of this title.

5. 4. The Department ~~of Juvenile Justice~~ shall, from appropriated state monies or from available federal grants, provide for payment pursuant to contract for transportation personnel and vehicle-related costs and reimburse for eligible travel costs for counties utilizing the juvenile detention facilities identified in the "State Plan for the Establishment of Juvenile Detention Services" in accordance with the provisions of the State Travel

Reimbursement Act and in accordance with Section 7304-1.3 of this title.

C. The Juvenile Detention Improvement Revolving Fund established for the Department of Juvenile Justice is hereby abolished and all monies in the Fund are to be transferred to the Juvenile Detention Improvement Revolving Fund established for the Department of Corrections.

SECTION 21. AMENDATORY 10 O.S. 2001, Section 7302-4.2, is amended to read as follows:

Section 7302-4.2 A. There is hereby created in the State Treasury a special agency account for court and hearing costs ~~of the Office of Juvenile Affairs~~ associated with implementation of the Oklahoma Juvenile Code by the Department of Corrections. The money in the account shall be used only for court costs, court filing fees, witness fees, fees for court transcripts, audio tape duplication charges for Merit Protection hearings, service of process, costs for mailing legal documents, and expenses related to any case or proceeding within the official responsibility of the ~~Office of General Counsel of the Office of Juvenile Affairs~~ Legal Division of the Department.

B. The special agency account for court and hearing costs of the Office of Juvenile Affairs is abolished. All funds in the account shall be transferred to the special agency account established by subsection A of this section.

SECTION 22. AMENDATORY 10 O.S. 2001, Section 7302-5.1, is amended to read as follows:

Section 7302-5.1 A. The Department of ~~Juvenile Justice~~ Corrections shall provide intake, probation and parole services for juveniles and may enter into agreements to supplement probationary services to juveniles in any county. The Department may participate in federal programs for juvenile probation officers, and may apply for, receive, use and administer federal funds for such purpose.

B. A pre-adjudicatory substance abuse assessment of a child may be conducted in conjunction with a court intake or preliminary inquiry pursuant to an alleged delinquent act or upon admission to a juvenile detention facility through the use of diagnostic tools including, but not limited to, urinalysis, structured interviews or substance abuse projective testing instruments.

1. Information gained from the substance abuse assessment pursuant to this subsection shall be used only for substance abuse treatment and for no other purpose. The results shall not be used in any evidentiary or fact-finding hearing in a juvenile proceeding or as the sole basis for the revocation of a community-based placement or participation in a community-based program.

2. The results of the substance abuse assessment may be given to the child's intake, probation or parole counselor, the parent or guardian of the child or to the child's attorney. In accordance with the guidelines established pursuant to the Serious and Habitual Juvenile Offender Program and Section 620.6 of this title, the counselor may also provide the results of the substance abuse assessment to medical personnel, therapists, school personnel or others for use in the treatment and rehabilitation of the child.

C. In accordance with the guidelines adopted pursuant to the Serious and Habitual Juvenile Offender Program, the Department of ~~Juvenile Justice~~ and the juvenile bureaus shall implement:

1. Court intake risk-assessment for children alleged or adjudicated to be delinquent;

2. The imposition of administrative sanctions for the violation of a condition of probation or parole;

3. A case management system for ensuring appropriate:

- a. diversion of youth from the juvenile justice system,
- b. services for and supervision of all youth on pre-adjudicatory or postadjudicatory probation or on

parole, and for juvenile offenders in the custody of the Department ~~of Juvenile Justice~~, and

- c. intensive supervision of serious and habitual offenders and communication between law enforcement and juvenile court personnel and others regarding such offenders; and

4. Guidelines for juvenile court personnel recommendations to district attorneys regarding the disposition of individual cases by district attorneys.

D. 1. The Department ~~of Juvenile Justice~~ shall establish directly and by contract, the services necessary to implement the Serious and Habitual Juvenile Offender Program including, but not limited to:

- a. misdemeanor and non-serious first-time offender programs,
- b. tracking and mentor services,
- c. weekend detention,
- d. five-day out-of-home sanction placements,
- e. short-term thirty-day intensive, highly structured placements,
- f. transitional programs,
- g. substance abuse treatment and diagnostic and evaluation programs, and
- h. day treatment programs.

2. In implementing these services, the Department shall give priority to those areas of the state having the highest incidences of juvenile crime and delinquency.

E. 1. The following entities shall conduct, upon adjudication of a child as a delinquent or in need of supervision unless such child has been previously assessed within the six (6) months prior to such intake, a literacy skills assessment:

- a. the Department ~~of Juvenile Justice~~,

- b. a first-time offender program within a designated youth services agency,
- c. any metropolitan county juvenile bureau, or
- d. any county operating a juvenile bureau.

2. Such assessment shall be conducted through the use of diagnostic tools which include, but are not limited to:

- a. structured interviews,
- b. standardized literacy testing instruments which measure the educational proficiency of the child, and
- c. any other measure used to determine:
 - (1) whether a child is reading at an age-appropriate level, and
 - (2) the child's capacity to read at such level.

3. The results of the literacy skills assessment required pursuant to this subsection shall be made available to the court by the district attorney for use in the disposition phase; provided, however, the results shall not be used in any evidentiary or fact-finding hearing in a juvenile proceeding to determine whether a juvenile should be adjudicated. Provided, further, such results shall not be used as the sole basis for the revocation of a community-based placement or participation in a community-based program.

4. a. Upon request, the results of the literacy skills assessment shall be given to the following:

- (1) the child's intake, probation or parole counselor,
- (2) the parent or guardian of the child, or
- (3) the child's attorney.

b. In accordance with the guidelines established pursuant to the Serious and Habitual Juvenile Offender Program and Section 620.6 of this title, the counselor may also provide the results of the literacy skills

assessment to therapists, school personnel or others for use in the training and rehabilitation of the child.

5. a. If the child is a juvenile placed in an institution or facility operated by the Department, the child shall be assessed and a literacy improvement program shall be implemented in accordance with Sections 7302-6.1 and 7302-6.3 of this title.
- b. If the child is adjudicated delinquent or in need of supervision or is being detained as part of a deferral of prosecution agreement, deferral to file agreement or a deferral sentence agreement, and the results of the literacy skills assessment show that the child is not reading at an age-appropriate level but has the capacity to improve his or her reading skills, the child shall be required to actively participate in a literacy skills improvement program which may include, but not be limited to, a program of instruction through a public or private school, including any technology center school, of this state or any other state. The child shall provide documentation of substantial quantifiable literacy improvement, sufficient to demonstrate reading proficiency at an age-appropriate or developmentally appropriate level; provided, however, failure to demonstrate substantial quantifiable literacy improvement shall not be the sole basis for not dismissing a case against a child.

SECTION 23. AMENDATORY 10 O.S. 2001, Section 7302-5.2, as amended by Section 21, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7302-5.2), is amended to read as follows:

Section 7302-5.2 A. Whenever a child who has been adjudicated by the court as a child in need of supervision has been committed to

the Department of ~~Juvenile Justice~~ Corrections, the Department may place the child in the home of the child, the home of a relative of the child, foster home, group home, transitional living program, independent living program, community-based setting, rehabilitative facility or child care facility under the operation of or licensure of the state, or in a state school for the mentally retarded if eligible for admission thereto. No child in need of supervision shall be placed in a Department-operated institution, other than a rehabilitative facility.

B. The Department of ~~Juvenile Justice~~ may establish and maintain one or more rehabilitative facilities to be used exclusively for the custody of children in need of supervision. Each such facility shall be, primarily, a nonsecure facility having as its primary purpose the rehabilitation of children adjudicated to be in need of supervision. Such facility shall have a bed capacity for no more than twenty children, and shall minimize the institutional atmosphere and prepare the child for reintegration into the community. Provided however, that such facility may be designed and operated as a secure facility used exclusively for children in need of supervision whom the court has specifically found to be so unmanageable, ungovernable and antisocial that no other reasonable alternative exists for treatment or restraint other than placement in such a secure facility. Such facility shall not rely on locked rooms, fences, or physical restraints.

C. A child in need of supervision who has been found by a court to be a minor in need of treatment shall be placed as provided by Section 7303-8.4 of this title and the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

SECTION 24. AMENDATORY 10 O.S. 2001, Section 7302-5.3, as amended by Section 22, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7302-5.3), is amended to read as follows:

Section 7302-5.3 A. It is the intent of the Legislature of this state to provide for the creation of all reasonable means and methods that can be established by a state for:

1. The prevention of delinquency;
2. The care and rehabilitation of delinquent children; and
3. The protection of the public.

It is further the intent of the Legislature that this state, through the Department of ~~Juvenile Justice~~ Corrections, establish, maintain and continuously refine and develop a balanced and comprehensive state program for children who are potentially delinquent or are delinquent.

B. Except as provided in subsection C of this section, whenever a child who has been adjudicated by the court as a delinquent child has been committed to the Department of ~~Juvenile Justice~~, the Department shall provide for placement pursuant to any option authorized by paragraphs 1 through 7 of this subsection; provided, nothing in this subsection shall be construed to establish a priority in regard to the selection of an option or to mandate the exclusive use of one particular option:

1. Place the child in a state training school or other institution or facility maintained by the state for delinquent children if the child has:
 - a. exhibited seriously violent, aggressive or assaultive behavior,
 - b. committed a serious felony constituting violent, aggressive and assaultive behavior,
 - c. habitually committed delinquent acts if such acts would constitute felonies if committed by an adult,
 - d. committed multiple serious delinquent acts, or
 - e. violated any condition of probation or parole,

to the extent that it is necessary for the protection of the public. For purposes of placement, all deferred prosecutions for serious,

habitual, violent, aggressive or assaultive crimes shall count toward placement decisions;

2. Place the child in a facility maintained by the state for children, or in a foster home, group home, transitional living program or community residential center;

3. Allow the child his liberty, under supervision, in an independent living program;

4. Allow the child his liberty, under supervision, either immediately or after a period in one of the facilities referred to in paragraphs 1 and 2 of this subsection;

5. Place the child in a state school for mentally retarded, if the child is eligible for admission thereto;

6. Place the child in any licensed private facility deemed by the Department ~~of Juvenile Justice~~ to be in the best interest of the child; or

7. Place the child as provided by Section 7303-8.4 of this title and the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, if the delinquent child has been found by a court to be in need of mental health or substance abuse treatment.

C. The Department shall place priority on the placement of delinquent youth held in secure juvenile detention facilities.

D. Placement of a juvenile pursuant to this section or any other provision of law shall be the responsibility of the Department ~~of Juvenile Justice~~ and shall occur as soon as reasonably possible after adjudication and after the selected placement option becomes available.

The court shall not have authority to require specific placement of a juvenile in a time frame which would require the removal of any other juvenile from such placement.

SECTION 25. AMENDATORY 10 O.S. 2001, Section 7302-5.4, is amended to read as follows:

Section 7302-5.4 A. Except as otherwise provided by law, all children adjudicated delinquent and committed to the Department of ~~Juvenile Justice~~ Corrections shall be discharged at such time as the Department determines there is a reasonable probability that it is no longer necessary, either for the rehabilitation and treatment of the child, or for the protection of the public, that the Department retain legal custody. Following a hearing, the court may also order that a child adjudged delinquent and committed to the Department shall be discharged by the Department provided the child is on parole status and the court deems the discharge in the best interest of the child and public. The Department shall give a fifteen-day notice to the court and the district attorney before discharging from legal custody any child committed and confined in a secure facility.

B. Except as otherwise provided by law, all children adjudged delinquent and committed to the Department ~~of Justice~~ and not discharged under subsection A of this section shall be discharged when the child becomes eighteen (18) years of age, unless the Department is authorized by the court to retain custody of the child until nineteen (19) years of age. Upon the court's own motion or motion of the Department or the district attorney, the court, after notice to the delinquent child and to the parents and attorney of said child, may authorize the Department to retain custody of the child until he reaches nineteen (19) years of age. If the court sustains a motion to retain custody, the delinquent child during the extended period shall be considered as a child for purposes of receiving services from the Department. If a criminal offense is committed by the individual during the extended period, said offense shall be considered as having been committed by an adult. Except to the extent necessary to effectuate the purposes of this section, an individual after age eighteen (18) years is considered an adult for purposes of other applicable law.

C. The Department ~~of Juvenile Justice~~ shall not place a child under ten (10) years of age in an institution maintained for delinquent children.

D. The court may retain jurisdiction over a child adjudged delinquent beyond the age of seventeen (17) years to the extent necessary for the child to complete payment of restitution or court costs. The court may institute contempt proceedings pursuant to Sections 565 through 567 of Title 21 of the Oklahoma Statutes against any person adjudged delinquent and ordered to pay restitution or court costs who neglects or refuses to pay such restitution or court costs.

E. Following a hearing, the court may order that any child shall be discharged by the Department ~~of Juvenile Justice of the Office of Juvenile Affairs~~ provided the child is on parole status and the court deems the discharge in the best interest of the child and public. The Department ~~of Juvenile Justice~~ shall give a fifteen-day notice to the district attorney before discharging from legal custody any child committed and confined in a secure facility.

SECTION 26. AMENDATORY 10 O.S. 2001, Section 7302-6.1, as amended by Section 23, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7302-6.1), is amended to read as follows:

Section 7302-6.1 A. In addition to the other powers and duties prescribed by law, the Department of ~~Juvenile Justice~~ Corrections shall have the following duties and powers with regard to juveniles placed in Department-operated institutions and facilities:

1. Provide for the care, education, training, treatment and rehabilitation of juveniles who are placed in the institutions and facilities. The Department shall provide for a uniform system of assessment of the reading ability of each juvenile upon initial placement in a Department-operated institution or facility. The assessment shall include, but not be limited to, the following skills:

- a. the level of word decoding skills of the juvenile,
- b. the level of vocabulary and spelling ability of the juvenile, and
- c. the comprehension level of the juvenile.

The Department may give assistance to local school districts in providing an education to such juveniles, may supplement such education, and may provide facilities for such purposes. It shall be the duty of the Department to assure that juveniles in the aforesaid institutions and facilities receive educational services which provide each juvenile with a balanced and comprehensive reading program, which includes as its primary and foundational components:

- (1) an organized, systematic, explicit skills program that may include phonics, word recognition strategies and other word decoding skills to address the needs of the individual juvenile as determined by the entry level needs assessment,
- (2) a strong language arts and comprehension program that includes a balance of oral and written language, an ongoing individualized evaluation and diagnosis that informs the teacher and an assessment that assures accountability, and
- (3) writing, mathematics, science and vocational-technical education;

2. Transfer from a juvenile institution to another facility under the jurisdiction of the Department, a juvenile who has been adjudicated delinquent, if the Department believes it advisable to do so; transfer from a facility for juveniles in need of supervision to another such facility, a juvenile who has been adjudicated in need of supervision, provided that such transfer is consistent with the treatment needs of the juvenile; transfer from a juvenile institution or facility to a state school for the mentally retarded,

any juvenile eligible for admission thereto, if the juvenile appears to be in need of the care and treatment provided at such school; transfer from a facility for delinquent or in need of supervision juveniles to an appropriate facility or to the Department of Mental Health and Substance Abuse Services any juvenile found by the court to be a minor in need of treatment pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act and committed to inpatient mental health or substance abuse treatment as provided by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act. If a transfer is made pursuant to this paragraph, the Department shall comply with the notification requirements of Section 7303-5.4 of this title;

3. Release on parole a juvenile previously adjudicated to be delinquent, subject to terms and conditions specified by the Department, whenever the Department determines that such release will not be detrimental to society and that the juvenile is ready to be returned to the community and revoke said parole for violation of the specified terms or conditions of parole pursuant to the provisions of this section and the rules and procedures established by the Department for such revocation;

4. Release any juvenile from a juvenile institution for placement in a group home, transitional living program, independent living program, other community-based facility or program or out-of-home care subject to terms and conditions specified by the Department; and

5. Provide parole services for juveniles released on parole from juvenile institutions, and aftercare services for juveniles discharged from juvenile institutions or facilities. Persons designated as Juvenile Parole Officers by the Department shall have the power to serve process and to apprehend and detain juveniles and make arrests in accordance with the laws of the state.

B. The transfer of a juvenile from a nonsecure placement to a secure placement shall be subject to an administrative transfer hearing and any revocation of parole shall be subject to a parole revocation hearing.

1. In any administrative transfer or parole revocation proceeding, the following minimum standards shall apply:

- a. the juvenile shall have the right to notice of the proposed transfer or parole revocation hearing and the alleged violation of administrative or parole rules on which the proposed transfer or parole revocation is based,
- b. the juvenile shall have the right to representation by an attorney,
- c. the juvenile shall have the right to present evidence on behalf of the juvenile, and
- d. the juvenile shall have a right to bail, except that said right to bail shall not be construed to require that a juvenile who is in residence in a Department-operated institution or other facility at the time of an alleged violation leading to an administrative transfer proceeding be released from such institution or facility.

2. The situs of said hearings shall be the county in which the alleged violation of administrative or parole rules occurs. The judge having juvenile docket jurisdiction in said county shall aid the administrative transfer or parole revocation process of the Department by:

- a. determining eligibility for and amount of bail;
- b. deciding any intermediate custody or placement issue; and
- c. if legal counsel for the juvenile has not otherwise been obtained, appointing legal counsel for the

juvenile and fixing the amount of compensation for the legal counsel. Said judge shall also determine if the juvenile is eligible for free legal services. If the juvenile is not eligible for free legal services, the court shall order the parents or legal guardian of the juvenile to pay for such services.

3. If legal counsel for the juvenile has not otherwise been obtained, the appointment of legal counsel for the juvenile, the setting of the amount of compensation for such counsel, and the determination of whether or not the juvenile is eligible for free legal services shall be provided for pursuant to the Indigent Defense Act; provided, however, in those counties subject to the provisions of Section 138.1 of Title 19 of the Oklahoma Statutes, the legal services shall be provided by the county indigent defender as provided by law. If the juvenile is not eligible for free legal services, the court shall order the parents or legal guardian of the juvenile to pay for such services.

C. The Department may participate in federal programs relating to delinquent juveniles, or juveniles in need of supervision, or institutions and services for such juveniles and apply for, receive, use and administer federal funds for such purposes.

D. The Department shall receive interest earnings on the investment by the State Treasurer of monies, to be credited to an agency special account, for the benefit of and held in trust for persons placed in the custody of the Department or in residence at institutions or facilities maintained by the Department.

SECTION 27. AMENDATORY 10 O.S. 2001, Section 7302-6.2, is amended to read as follows:

Section 7302-6.2 A. The ~~Office~~ Department of ~~Juvenile Affairs~~ Corrections shall establish and maintain such methods of administration, including those necessary to establish and maintain a merit system of personnel administration, and shall promulgate

such rules as it deems necessary for the efficient and effective operation of the juvenile institutions and facilities operated by the Department.

B. The ~~Executive~~ Director of the ~~Office~~ Department of ~~Juvenile Affairs~~ Corrections shall employ and fix the duties and compensation of a superintendent, and such other personnel as the ~~Executive~~ Director deems necessary, for each of the juvenile institutions and facilities operated by the Department ~~of Juvenile Justice~~. The ~~Office~~ Department shall promulgate, and in its hiring and employment practices, the Office shall adhere to, written minimum qualifications by position for personnel working with or around juveniles in said institutions and facilities. Such minimum qualifications shall be designed to assure that such personnel possess sufficient education, training, experience and background to provide adequate and safe professional care and services to said juveniles; and that the juveniles will not be exposed to abuse, deprivation, criminal conduct, or other unwholesome conditions attributable to employee incompetence or misconduct.

C. The superintendent of a juvenile institution or facility shall be the guardian of the person of each juvenile in the institution or facility for the limited purpose of providing care and protection for any life-threatening situation that may arise.

SECTION 28. AMENDATORY 10 O.S. 2001, Section 7302-6.3, is amended to read as follows:

Section 7302-6.3 A. The State Board of ~~Juvenile Affairs~~ Corrections shall promulgate written rules, outline policies and procedures governing the operation of those facilities operated by or through contract with the Department of ~~Juvenile Justice~~ Corrections wherein juveniles may be housed. Said policies and procedures shall include, but not be limited to, standards of cleanliness, temperature and lighting, availability of medical and dental care, provision of food, furnishings, clothing and toilet

articles, supervision, appropriate and permissible use of restriction and confinement, procedures for enforcing rules of conduct consistent with due process of law and visitation privileges.

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

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

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

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

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

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

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

7. A child in the custody or care of the Department shall be provided access to education including teaching, educational materials and books, provided, that such policies shall provide

emphasis upon basic literacy skills, including but not limited to curricula requirements stressing reading, writing, mathematics, science, vocational-technical education, and other courses of instruction designed to assure that such children will be capable of being assimilated into society as productive adults capable of self-support and full participation;

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

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

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

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

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

SECTION 29. AMENDATORY 10 O.S. 2001, Section 7302-6.4, is amended to read as follows:

Section 7302-6.4 A. Use of physical force in institutions and other facilities operated by or through contract with the Department

of ~~Juvenile Justice~~ Corrections wherein children are housed shall be permitted only under the following circumstances:

1. For self-protection;
2. To separate juveniles who are fighting; or
3. To restrain juveniles in danger of inflicting harm to themselves or others; or
4. To restrain juveniles who have escaped or who are in the process of escaping.

B. When use of physical force is authorized, the least force necessary under the circumstances shall be employed.

C. Staff members of residential and nonresidential programs who are assigned to work with juveniles shall receive written guidelines on the use of physical force, and that, in accordance with staff disciplinary procedures, loss of employment may result if unauthorized use of physical force is proven.

D. Use of mechanical restraints in institutions and other facilities operated by or through contract with the Department of ~~Juvenile Justice~~ Corrections or the Department of Mental Health and Substance Abuse Services wherein children are housed shall be minimal and shall be prohibited except as specifically provided for in the rules of each of the Departments.

SECTION 30. AMENDATORY 10 O.S. 2001, Section 7302-6.5, is amended to read as follows:

Section 7302-6.5 Upon discovery that a child has escaped or run away from an institutional placement, the Department of ~~Juvenile Justice~~ Corrections may notify any law enforcement officer or agency in this state who shall use any reasonable method to notify law enforcement agencies and personnel. Upon receiving notification that a child has escaped or run away from an institutional placement, all law enforcement agencies and personnel shall be authorized to apprehend and detain said child. Escaping or running away by an adjudicated delinquent child from institutional placement

shall be considered by the court of juvenile jurisdiction as a delinquent act.

SECTION 31. AMENDATORY 10 O.S. 2001, Section 7302-6.6, is amended to read as follows:

Section 7302-6.6 A. ~~The Office of Juvenile Affairs through its~~ Department of ~~Juvenile Justice~~ Corrections shall have the supervision, management, operation and control of the children's institution located at Tecumseh, formerly known and designated as Girls' Town and now known as Central Oklahoma Juvenile Center, and the youth camp located at Lake Tenkiller, and all property, equipment and supplies related thereto. All contracts, leases, or other agreements entered into by the Department of ~~Human Services~~ Juvenile Justice on behalf of the Center prior to ~~July 1, 1995~~ January 1, 2004, shall be administered by the Department of ~~Juvenile Justice~~ Corrections.

B. The Central Oklahoma Juvenile Center shall maintain facilities and bed-space capacity for programs that are consistent with providing statewide juvenile justice and delinquency prevention services.

C. It shall be the duty of the State Fire Marshal and the Commissioner of Public Health, to cause regular, periodic, not less than quarterly, unannounced inspections of said institution, utilizing adequately trained and qualified inspection personnel, to determine and evaluate conditions and programs being maintained and carried on at said institution in their respective areas of agency jurisdiction. Such inspections shall include, but not be limited to, the following: Compliance with minimum fire, life and health safety standards; compliance with minimum standards governing general sanitation of the institution, with particular emphasis upon food storage, preparation, serving and transportation, respectively. Reports of such inspections will be made in writing, itemizing and identifying any deficiencies and recommending corrective measures,

and shall be filed with the State Board of ~~Juvenile Affairs~~
Corrections, the ~~Executive Director of the Office of Juvenile~~
~~Affairs~~, the ~~Deputy~~ Director of the Department of ~~Juvenile Justice~~
Corrections, the Governor, the Attorney General, the Speaker of the
House of Representatives, the President Pro Tempore of the Senate,
the Office of Juvenile System Oversight and the Oklahoma Commission
on Children and Youth. The Department of ~~Juvenile Justice~~
Corrections shall file copies of the reports of the inspections and
recommendations of the accrediting agencies listed in subsection B
of this section with the Office of Juvenile System Oversight.

D. The Department ~~of Juvenile Justice~~ is authorized and
directed to establish, subject to the limits of funds available
therefor, a diversity of placement alternatives for children
committed to the custody of the Department including, but not
limited to, foster family homes, foster family group homes, and
group homes. All child care services and facilities operated by the
Department shall be accredited by the American Correctional
Association, the Joint Commission on Accreditation of Hospitals or
the Child Welfare League of America, as appropriate for the service
or facility.

SECTION 32. AMENDATORY 10 O.S. 2001, Section 7302-6.7,
is amended to read as follows:

Section 7302-6.7 The official name and designation of the
center for children situated at Sand Springs, Oklahoma, shall be
Lloyd E. Rader Children's Center. The supervision, management,
operation and control of the Center and all property, records,
equipment and supplies related thereto shall be the responsibility
of the ~~Office of Juvenile Affairs through its~~ Department of ~~Juvenile~~
~~Justice~~ Corrections.

All contracts, leases, or other agreements entered into by the
Department of ~~Human Services~~ Juvenile Justice on behalf of the

Center prior to ~~July 1, 1995~~ January, 1, 2004, shall be administered by the Department of ~~Juvenile Justice~~ Corrections.

SECTION 33. AMENDATORY 10 O.S. 2001, Section 7302-6.8, is amended to read as follows:

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

B. Effective ~~July 1, 1995~~ January 1, 2004, the responsibilities for ~~establishing and operating a~~ the regional juvenile facility in the southwestern part of the state shall be transferred to the ~~Office~~ Department of ~~Juvenile Affairs~~ Corrections. The facility shall include six transitional beds and seventy medium secure beds for such programs as the Department of ~~Juvenile Justice~~ determines will most appropriately and effectively provide required services; provided, no more than thirty-two beds shall be used for any one type of program. ~~It is the intent of the Legislature that the~~

~~Department of Juvenile Justice locate an existing facility that can be remodeled and used for this purpose.~~

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

SECTION 34. AMENDATORY 10 O.S. 2001, Section 7302-6.9, is amended to read as follows:

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

B. 1. ~~The Office of Juvenile Affairs through the~~ Department of ~~Juvenile Justice~~ Corrections shall establish, maintain, and operate a regimented juvenile training program. Juveniles eligible for participation in the program shall be assessed and deemed appropriate for the program by the Department of Juvenile Justice. The juveniles eligible for the program shall include juveniles adjudicated delinquent or in need of supervision in this state or another state. However, no more than one-third (1/3) of the juveniles allowed to participate in the program during any particular time period shall be from other states. No juvenile adjudicated in this state or any other state for murder or any offense which, if committed or attempted in this state, would be a crime or attempt to commit a crime requiring registration as a sex offender pursuant to Section 582 of Title 57 of the Oklahoma

Statutes shall be eligible for the program. Juveniles from other states shall be placed in the program pursuant to provisions of the Interstate Compact on the Placement of Children and rules promulgated by the ~~Office of Juvenile Affairs~~ Department.

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

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

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

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

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

- a. if appropriate juvenile diversion services are available, the Department ~~of Juvenile Justice~~ may contract for such services, and
- b. if appropriate diversion services are not available, the juvenile shall be subject to a period of supervision under the Department ~~of Juvenile Justice~~;

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

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

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

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

SECTION 35. AMENDATORY 10 O.S. 2001, Section 7302-6.10, is amended to read as follows:

Section 7302-6.10 The official name and designation of the facility located at Norman, Oklahoma, formerly known and designated as the Phil Smalley Children's Unit of the Oklahoma Youth Center, shall be the Phil Smalley Employee Development Center. The supervision, management, operation and control of the Center and all property, equipment and supplies related thereto shall be the responsibility of the ~~Office~~ Department of ~~Juvenile Affairs~~

Corrections, except as provided for in interagency agreements between the Department of Mental Health and Substance Abuse Services and the ~~Office~~ Department of Juvenile Affairs Corrections.

SECTION 36. AMENDATORY 10 O.S. 2001, Section 7302-7.2, is amended to read as follows:

Section 7302-7.2 For the purposes of the Delinquency and Youth Gang Intervention and Deterrence Act:

1. "At-risk school districts, neighborhoods and communities" means a school district, neighborhood or community with an incidence of reported juvenile crime or referrals for juvenile court intakes, or some combination of both such incidence and referrals as approved by the Department of ~~Juvenile Justice~~ Corrections, that is significantly higher than the statewide statistical mean for such incidence, referrals or combination;

2. "School, school-related or after-school programs and activities" includes delinquency prevention or early intervention programs and activities that occur during or outside of regular school hours; and

3. "Delinquency prevention and early intervention programs and activities" includes but is not limited to the following for participating youth: Intensive school and school-related programs, such as tutoring and other educational services, vocational training and counseling, employment services, recreational opportunities, and counseling services, such as family counseling, mental health counseling, substance abuse outpatient treatment, education programs, and programs and services involving the families of participating youth.

SECTION 37. AMENDATORY 10 O.S. 2001, Section 7302-7.3, as amended by Section 2, Chapter 413, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7302-7.3), is amended to read as follows:

Section 7302-7.3 A. From funds appropriated or otherwise available for that purpose, the ~~Office of Juvenile Affairs~~ through ~~its~~ Department of ~~Juvenile Justice~~ Corrections shall:

1. Issue requests for proposals and contract with eligible entities for delinquency prevention and early intervention programs;

2. Provide information and technical assistance to school districts, neighborhood and community organizations, and agencies within the children and youth service system, as that term is defined by the Serious and Habitual Juvenile Offender Act, for the purpose of assisting them to make application for federal, state and private grants for delinquency prevention and early intervention programs; and

3. Coordinate efforts among the ~~Office~~ Department of ~~Juvenile Affairs~~ Corrections, Department of Human Services, State Department of Education, State Department of Health, Department of Mental Health and Substance Abuse Services, State Arts Council, Oklahoma Commission on Children and Youth, the Oklahoma Health Care Authority, 4-H Clubs, Oklahoma Cooperative Extension Service and other organizations identified by the Department of ~~Juvenile Justice~~ Corrections that provide services to children and youth on the creation of an out-of-school resource center subject to the availability of funds.

B. The Department of ~~Juvenile Justice~~ Corrections, with the assistance of and information provided by the Oklahoma Commission on Children and Youth and the Oklahoma State Bureau of Investigation, shall establish criteria for:

1. Identifying at-risk neighborhoods, school districts, communities and specific areas within school districts and communities for the purposes of determining eligibility for any grants for at-risk areas available pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act; and

2. Determining eligibility for communities seeking other grants pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act.

The Oklahoma Commission on Children and Youth and the Oklahoma State Bureau of Investigation shall provide the Department of ~~Juvenile Justice~~ Corrections with information and assistance, as requested by the Department, for the purpose of establishing the criteria required by this section.

SECTION 38. AMENDATORY 10 O.S. 2001, Section 7302-7.4, is amended to read as follows:

Section 7302-7.4 A. The State Board of ~~Juvenile Affairs~~ Corrections shall establish the proposal, submission and education procedures and criteria and shall promulgate rules as necessary for the implementation of the Delinquency and Youth Gang Intervention and Deterrence Act. Until the rules are promulgated by the Board, the rules for implementation of the Delinquency and Youth Gang Intervention and Deterrence Act promulgated by the ~~Commission for Human Services~~ Board of Juvenile Affairs shall remain in effect.

B. In order to be eligible for an at-risk grant contract pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act the proposal shall, at minimum:

1. Be a joint proposal made by an at-risk school district, neighborhood organization, municipality or county and one or more agencies or organizations within the children and youth service system. If a school district is not a joint participant in the proposal, the proposal shall document and describe the active participation in and support of the local school district in the program and activities for which the proposal is submitted;

2. Be for programs and activities for children not less than six (6) years of age, or in grades 1 through 12, whichever is applicable;

3. Describe the respective roles and responsibilities for the administration and operation of the program and activities, including but not limited to the designation of the entity responsible for the receipt and expenditure of any funds awarded pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act;

4. Specifically identify the area within a school district or community or the neighborhood where the programs and activities will be implemented;

5. Describe how the program will coordinate and cooperate with programs and services administered by the Department of ~~Juvenile Justice~~ Corrections, the Department of Human Services, the State Department of Education, and other state or local agencies, such as law enforcement, courts and other agencies within the juvenile, children and youth service system; and

6. Provide the program and activities on-site in a school, community center, or similar location within the neighborhood or identified area of the school district or community.

C. In order to be eligible for any other contract pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act, the proposal shall, at a minimum:

1. Describe the respective roles and responsibilities for the administration and operation of the program and activities, including but not limited to the designation of the entity responsible for the receipt and expenditure of any funds awarded pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act; and

2. Describe how the program will coordinate and cooperate with programs and services administered by the Department of ~~Juvenile Justice~~ Corrections, the Department of Human Services, the State Department of Education, and other state or local agencies, such as

law enforcement, courts and other agencies within the juvenile, children and youth service system.

D. Each entity which receives a contract pursuant to this section shall submit an annual evaluation report to the Department of ~~Juvenile Justice~~ Corrections, by a date subsequent to the end of the contract period as established by the Department, documenting the extent to which the program objectives have been met and any other information required by the Department.

SECTION 39. AMENDATORY 10 O.S. 2001, Section 7302-7.5, is amended to read as follows:

Section 7302-7.5 Effective ~~July 1, 1995~~ January 1, 2004, the responsibility for implementation of the Delinquency and Youth Gang Intervention and Deterrence Act shall be transferred to the Department of ~~Juvenile Justice~~ Corrections. Any contract entered into by the Department of ~~Human Services~~ Juvenile Justice pursuant to the Delinquency and Youth Gang Intervention and Deterrence Act that is still in effect on ~~July 1, 1995~~ January 1, 2004, shall remain in effect for the duration of the contract and shall be honored by the Department of ~~Juvenile Justice~~ Corrections.

SECTION 40. AMENDATORY 10 O.S. 2001, Section 7302-8.1, is amended to read as follows:

Section 7302-8.1 A. There is hereby created a program of juvenile crime victim restitution to be administered by the ~~Office of Juvenile Affairs through its~~ Department of ~~Juvenile Justice~~ Corrections. The program shall be known as the "Juvenile Offender Victim Restitution Work Program".

B. The State Board of ~~Juvenile Affairs~~ Corrections shall promulgate rules necessary for the implementation of the provisions of this section. Until the rules are promulgated by the Board, the rules promulgated by the ~~Commission for Human Services~~ Board of Juvenile Affairs shall remain in effect.

C. The programs developed under the provisions of this section shall provide restitution to a victim by requiring the juvenile to work or provide a service for the victim, or to make monetary restitution to the victim from money earned from such a program. Restitution shall be made through the employment of the juvenile in work programs. The supervised work or service program shall not deprive the juvenile of schooling which is appropriate to the age, need, and specific rehabilitative goals of the juvenile. The program shall not prohibit the juvenile from fulfilling restitution obligations through jobs the juvenile has found, by performing volunteer services for the community, or by doing work for the victim.

D. Agreements for participation in the programs under this section may include restitution not in excess of actual damages caused by the juvenile which shall be paid from the net earnings of the juvenile received through participation in a constructive program of service or education acceptable to the juvenile, the victim, the Department of ~~Juvenile Justice~~ Corrections, the district attorney and/or the district court. During the course of such service, the juvenile shall be paid no less than the federal minimum wage. In considering a restitution agreement, the Department ~~of Juvenile Justice~~, the district attorney and/or the district court shall take into account the age, physical and mental capacity of the juvenile. The service shall be designed to relate to the juvenile a sense of responsibility for the injuries caused to the person or property of another. If a petition has not been filed, the district attorney shall approve the nature of the work, the number of hours to be spent performing the assigned tasks and shall further specify that as part of a plan of treatment and rehabilitation, that seventy-five percent (75%) or more of the net earnings of the juvenile shall be used for restitution in order to provide positive reinforcement for the work performed. If a petition has been filed,

the district court may approve the nature of the work, the number of hours to be spent performing the assigned tasks and may further specify that as part of a plan of treatment and rehabilitation, that seventy-five percent (75%) or more of the net earnings of the juvenile shall be used for restitution.

E. The Department ~~of Juvenile Justice~~ may enter into contracts with private service providers for implementation of the program required by this section. The Department may require, as a condition of the contract, that the service provider pay restitution directly to the victim or victims and pay any amounts due to the juvenile directly to the juvenile. The records of any service provider that contracts with the Department pursuant to this section shall be subject to inspection by any employee of the Department ~~of Juvenile Justice~~ designated by the ~~Executive~~ Director of the ~~Office~~ Department of Juvenile Affairs Corrections. The Department ~~of Juvenile Justice~~ may subsidize the employment of a juvenile for the purposes of participation in a work program as provided by this section.

F. Any person, entity or political subdivision who is an employer of juveniles or recipient of services from a juvenile, pursuant to an agreement with the Juvenile Offender Victim Restitution Work Program shall not be liable for ordinary negligence for:

1. Damage to the property of the juvenile or injury to the juvenile except as to the liability established by the Workers' Compensation Act if the juvenile is covered thereunder; or

2. Damage to any property or injury to any person which results from the services of the juvenile pursuant to this section.

SECTION 41. AMENDATORY 10 O.S. 2001, Section 7302-9.2, is amended to read as follows:

Section 7302-9.2 As used in the Oklahoma Juvenile Code:

1. "Agencies and programs comprising the juvenile justice system" means:

- a. the courts, the District Attorney's Council and offices of the district attorneys, state and local law enforcement agencies, juvenile bureaus, the Department of Human Services, ~~the Department of Juvenile Justice of the Office of Juvenile Affairs,~~ the Oklahoma Commission on Children and Youth, the Department of Corrections, the Criminal Justice Resource Center, any other state agency responsible for the care, custody or supervision of youth alleged or adjudicated to be delinquent, and
- b. to the extent that they are responsible for the provision of services to youth alleged or adjudicated to be delinquent, including but not limited to educational, treatment or residential services, local school districts and technology center schools and other public and private agencies not otherwise specifically included in subparagraph a of this paragraph, comprising the "children and youth service system" as defined by Section 600 of this title;

2. "Felony act" or "felony offense" means any criminal offense that would constitute a felony crime if committed by an adult;

3. "Habitual criminal acts" means three separate delinquency adjudications for the commission of felony acts. The felony acts relied upon shall not have arisen out of the same transaction or occurrence or series of events related in time and location;

4. "Juvenile court personnel" means those persons responsible for juvenile court intake, probation and parole supervision and services to youth alleged or adjudicated to be delinquent;

5. "Juvenile Justice Information System" means the automated information system established by Section 7302-9.6 of this title;

6. "Juvenile offender" means a delinquent child or juvenile as defined by Section 7301-1.3 of this title;

7. "Sanction" means a consequence imposed upon a juvenile offender:

- a. as a result of a criminal act, and
- b. as a result of a violation of a condition of probation or parole;

8. "Serious act" means any crime specified by subsection A of Section 7306-1.1 of this title;

9. "Serious and Habitual Juvenile Offender Program" means the program of information, information sharing, case tracking, case management, supervision and sanctions established by Section 7302-9.3 of this title; and

10. "Serious juvenile offender" and "habitual juvenile offender" means persons under eighteen (18) years of age who have been adjudicated delinquent for the commission of serious acts or habitual criminal acts and are subject to the Serious and Habitual Juvenile Offender Program in accordance with the criteria established pursuant to Section 7302-9.3 of this title.

SECTION 42. AMENDATORY 10 O.S. 2001, Section 7302-9.3, is amended to read as follows:

Section 7302-9.3 The Serious and Habitual Juvenile Offender Program shall include, but not be limited to:

1. The Juvenile Justice Information System pursuant to the provisions of Section 7302-9.6 of this title;

2. Specific procedures for identifying juvenile offenders who have committed a serious act or habitual criminal acts for the purposes of intensive supervision and communication between law enforcement and juvenile court personnel and others regarding said offenders;

3. Court intake risk-assessment for children alleged or adjudicated to be delinquent;

4. Structured decision-making instruments utilizing risk-assessment, offense, needs-assessment, and other appropriate criteria for determining the imposition of appropriate specific sanctions for:

- a. youth adjudicated delinquent, and
- b. the violation of a condition of probation or parole;

5. A case management system for ensuring appropriate:

- a. diversion of youth from the juvenile justice system,
- b. services for and supervision of all youth on pre-adjudicatory or postadjudicatory probation or on parole and for juvenile offenders in the custody of the Department of ~~Juvenile Justice~~ Corrections, and
- c. intensive supervision of serious juvenile offenders and habitual juvenile offenders and communication between law enforcement and juvenile court personnel and others regarding said offenders;

6. Detention criteria, the uniform statewide application of said detention criteria, and guidelines for the use of secure detention. Said guidelines shall provide for priority to be given to the use of juvenile detention facilities for the detention of serious juvenile offenders and habitual juvenile offenders through provisions requiring the removal from detention of a juvenile with a lower priority status if an empty detention bed is not available at the time of referral of a juvenile with a higher priority status and if the juvenile with a higher priority status would be more of a danger to the public than the juvenile with the lower priority status;

7. Guidelines for the imposition of sanctions for any criminal offenses committed by juveniles and for probation and parole violations;

8. Guidelines for juvenile court personnel recommendations to district attorneys regarding the disposition of individual cases by district attorneys; and

9. Guidelines for the disposition of individual cases by district attorneys.

SECTION 43. AMENDATORY 10 O.S. 2001, Section 7302-9.4, is amended to read as follows:

Section 7302-9.4 For the purpose of achieving full implementation of the Serious and Habitual Juvenile Offender Program, the Department of ~~Juvenile Justice of the Office of Juvenile Affairs~~ Corrections, the juvenile bureaus, the District Attorney's Council, the Oklahoma State Supreme Court as authorized and directed by Section 7302-2.3 of this title and Section 23 of Title 20 of the Oklahoma Statutes, the Oklahoma Commission on Children and Youth, the Oklahoma State Bureau of Investigation, local law enforcement agencies, and other agencies comprising the juvenile justice system shall:

- a. develop and implement the Serious and Habitual Juvenile Offender Program,
- b. develop and implement the Juvenile Justice Information System,
- c. adopt rules, policies, procedures, standards, protocols and guidelines, as appropriate, for the development and implementation of the Serious and Habitual Juvenile Offender Program and the Juvenile Justice Information System, and
- d. enter into contracts or interagency agreements under the Interlocal Cooperation Act, as appropriate for the purpose of implementing the Serious and Habitual Juvenile Offender Program and the Juvenile Justice Information System.

SECTION 44. AMENDATORY 10 O.S. 2001, Section 7302-9.6,
is amended to read as follows:

Section 7302-9.6 A. For the purpose of information sharing and management of the Serious and Habitual Juvenile Offender Program, there is hereby created the Juvenile Justice Information System. The information system shall be an automated, data-based, system for tracking juvenile offenders from arrest through final closure of the case and shall include information provided by all of the components of the juvenile justice system in accordance with the provisions of the Serious and Habitual Juvenile Offender Act. The information system shall be fully integrated with other information systems related to services to children and youth and shall:

1. Be based upon the integration, utilization and modification, as necessary, of existing information systems;

2. Provide for the accuracy of the information and for the security of and limited access to the information;

3. Include case specific information, including client outcomes, and have the ability to monitor juveniles in the juvenile justice system; and

4. Be capable of providing management reports and information to the various components of the juvenile justice system, and of providing aggregate information necessary for planning, monitoring, evaluating and managing programs and services provided to youthful offenders as well as for system-wide analysis of the Serious and Habitual Juvenile Offender Program.

B. The Department of ~~Juvenile Justice of the Office of Juvenile Affairs~~ Corrections, the juvenile bureaus, the Criminal Justice Resource Center, the Office of the Court Administrator, and other agencies and programs comprising the juvenile justice system, including but not limited to law enforcement and district attorneys, in accordance with guidelines established by the Serious and

Habitual Juvenile Offender Program Implementation Task Force, shall jointly:

1. Identify information to be shared by agencies on a regular basis;
2. Develop procedures for processing case-profiles as cases move through agencies that come in contact with juvenile offenders;
3. Establish training programs in the use of the system;
4. Conduct a pilot project to test the system; and
5. At least annually, evaluate the plan for full statewide implementation of the Juvenile Justice Information System and submit any necessary modifications of the existing plan to the Serious and Habitual Juvenile Offender Program Implementation Task Force and to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and each agency affected by said plan.

SECTION 45. AMENDATORY 10 O.S. 2001, Section 7303-1.1, as amended by Section 24, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7303-1.1), is amended to read as follows:

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

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

or other person having custody and control of the child for a substantial length of time or without intent to return, or if the child's surroundings are such as to endanger the welfare of the child;

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

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

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

Any child referred to in this subsection shall not be considered to be in the custody of the ~~Office~~ Department of ~~Juvenile Affairs~~ Corrections.

B. Whenever a child is taken into custody as a delinquent child or a child in need of supervision pursuant to subsection A of this section, the child shall be detained, held temporarily in the custodial care of a peace officer or other person employed by a police department, or be released to the custody of the child's parent, legal guardian, legal custodian, attorney or other responsible adult, upon the written promise of such person to bring

the child to the court at the time fixed if a petition is to be filed and to assume responsibility for costs for damages caused by the child if the child commits any delinquent acts after being released regardless of whether or not a petition is to be filed. It shall be a misdemeanor for any person to sign the written promise and then fail to comply with the terms of the promise. Any person convicted of violating the terms of the written promise shall be subject to imprisonment in the county jail for not more than six (6) months or a fine of not more than Five Hundred Dollars (\$500.00) or both such fine and imprisonment. In addition, if a parent, legal guardian, legal custodian, attorney or other responsible adult is notified that the child has been taken into custody, it shall be a misdemeanor for such person to refuse to assume custody of the child within a timely manner. If detained, the child shall be taken immediately before a judge of the district court in the county in which the child is sought to be detained, or to the place of detention or shelter designated by the court. If no judge be available locally, the person having the child in custody shall immediately report the detention of the child to the presiding judge of the judicial administrative district, provided that the child shall not be detained in custody beyond the next judicial day or for good cause shown due to problems of arranging for and transporting the child to and from a secure juvenile detention center, beyond the next two (2) judicial days unless the court shall so order after a detention hearing to determine if there exists probable cause to detain the child. The child shall be present at the detention hearing or the image of the child may be broadcast to the judge by closed-circuit television or any other electronic means that provides for a two-way communication of image and sound between the child and the judge. If the latter judge cannot be reached, such detention shall be reported immediately to any judge regularly serving within the judicial administrative district. If detained, a

reasonable bond for release shall be set. Pending further disposition of the case, a child whose custody has been assumed by the court may be released to the custody of a parent, legal guardian, legal custodian, or other responsible adult or to any other person appointed by the court, or be detained pursuant to Article IV of the Oklahoma Juvenile Code in such place as shall be designated by the court, subject to further order.

C. When any child is taken into custody pursuant to this title and it reasonably appears to the peace officer, employee of the court or person acting pursuant to court order that the child is in need of medical treatment to preserve the health of the child, any peace officer, any employee of the court or person acting pursuant to court order shall have the authority to authorize medical examination and medical treatment for any child found to be in need of medical treatment as diagnosed by a competent medical authority in the absence of the child's parent, legal guardian, legal custodian, or other person having custody and control of the child who is competent to authorize medical treatment. The officer or the employee of the court or person acting pursuant to court order shall authorize said medical treatment only after exercising due diligence to locate the child's parent, legal guardian, legal custodian, or other person legally competent to authorize said medical treatment. The child's parent, legal guardian, legal custodian, or other person having custody and control shall be responsible for such medical expenses as ordered by the court. No peace officer, any employee of the court or person acting pursuant to court order authorizing such treatment in accordance with the provisions of this section for any child found in need of such medical treatment shall have any liability, civil or criminal, for giving such authorization.

D. A child who has been taken into custody as otherwise provided by this Code who appears to be a minor in need of treatment may be admitted to a mental health or substance abuse treatment

facility on an emergency basis or for an inpatient evaluation or for treatment only in accordance with the provisions of the Inpatient Mental Health and Substance Abuse Treatment of Minors Act. The child's parent, legal guardian, legal custodian, or other person having custody and control shall be responsible for such mental health expenses as ordered by the court. No peace officer, any employee of the court or person acting pursuant to court order authorizing such treatment in accordance with the provisions of this section for any child found in need of such mental health evaluation or treatment shall have any liability, civil or criminal, for giving such authorization.

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

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

the application, regardless of whether an emergency ex parte order had been issued or denied.

3. Except as otherwise provided by paragraph 2 of this section, whenever a child is in need of medical treatment to protect the child's health or welfare, or whenever any other action is necessary to protect the child's health or welfare, and the child's parent, legal guardian, legal custodian, or other person having custody or control of the child is unwilling or unavailable to consent to such medical treatment or other action, the court, upon application of the district attorney of the county in which the child is located, shall hold a full hearing within five (5) days of filing the application. Notice of the hearing and a copy of the application shall be served upon the parent, legal guardian, legal custodian, or other person having custody or control of the child.

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

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

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

SECTION 46. AMENDATORY 10 O.S. 2001, Section 7303-1.2, is amended to read as follows:

Section 7303-1.2 A. 1. Upon the filing of a petition, or upon the assumption of custody pursuant to the provisions of Section

7303-1.1 of this title, the district court of the county in which a child:

- a. resides,
- b. is found, or
- c. is alleged to be or is found to be in need of supervision,

shall have jurisdiction of any child who is or is alleged to be in need of supervision and shall have jurisdiction of the parent, guardian, legal custodian, legal guardian or stepparent of said child, regardless of where the parent, guardian, legal custodian, legal guardian or stepparent is found; and shall have jurisdiction of any other adult person living in the home of such child. For any child who is or is alleged to be delinquent, the district court of the county where the cause of action arose shall have jurisdiction of the child and of the parent, guardian, legal custodian, legal guardian or stepparent of said child, regardless where the parent, guardian, legal custodian, legal guardian or stepparent is found; and shall have jurisdiction of any other adult person living in the home of such child.

2. When jurisdiction shall have been obtained over a child who is or is alleged to be in need of supervision, such may be retained until the child becomes eighteen (18) years of age and when jurisdiction shall have been obtained over a child who is or is alleged to be a delinquent, jurisdiction may be retained until the child becomes nineteen (19) years of age upon the court's own motion, motion by the district attorney or motion by the Department of ~~Juvenile Justice~~ Corrections, as provided in subsection B of Section 7302-5.4 of this title.

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

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

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

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

D. If the district court in which a petition is filed pursuant to either subsection B or subsection C of this section sustains the petition, the district court shall have the jurisdiction to make a final determination on the juvenile petition or to transfer the proceedings to a court having prior jurisdiction over the child. Where the other proceeding is pending in the same judicial district in which the juvenile petition is filed, the chief judge of the judicial district shall determine if the proceedings shall be consolidated and, if consolidated, which judge shall try the issues when the judges to whom the cases have been assigned are unable to agree on the procedure that should be followed.

E. 1. A municipality with a population of at least twenty-five thousand (25,000) may, by written resolution filed with the district

court as defined in this subsection, assume jurisdiction of cases involving children under eighteen (18) years of age charged with violating any municipal ordinance identified in the resolution. Any other municipality may enter into an interlocal cooperation agreement with the district court pursuant to the Interlocal Cooperation Act, Sections 1001 through 1008 of Title 74 of the Oklahoma Statutes, to assume jurisdiction of cases involving children under eighteen (18) years of age charged with violating any municipal ordinance as agreed by the district court, the district attorney and the municipality. For the purposes of this subsection, "district court" shall mean the district court judicial district or districts in which the contracting municipality is situated. The chief juvenile judge of the district court judicial district is hereby authorized to enter into the interlocal cooperation agreement as provided for in this section for and on behalf of said judicial district if the judge determines that the agreement is constitutional and complies with state and federal law. Provided, if there is no chief juvenile judge in the judicial district, then the presiding judge of the judicial administrative district that includes the contracting judicial district may enter into the agreement for and on behalf of said judicial district if the judge determines that the agreement is constitutional and complies with state and federal law.

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

3. A child under eighteen (18) years of age who is taken into custody for the alleged violation of a municipal ordinance relating to curfews may be held temporarily under the custodial care of a peace officer or other person employed by a police department only until the child's parent, legal guardian, legal custodian, attorney

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

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

- a. the municipality shall immediately take all reasonable steps to attempt to locate the child's parent, legal guardian, legal custodian, attorney or another responsible adult and determine if said parent, legal guardian, legal custodian, attorney or other responsible adult is willing to appear at the municipal juvenile facility and assume personal custody of the child upon the child's release from such facility,
- b. the child shall be released to the personal custody of the child's parent, legal guardian, legal custodian, attorney or other responsible adult as soon as practicable and upon the written promise of such

person to return the child to municipal court to answer the municipal charges on the date and at the time set by the municipal court and to assume responsibility for costs for damages by the child if the child causes damages while committing any acts in violation of municipal ordinances listed in this section after being released. Municipalities may enact ordinances providing penalties for failure to comply with the written promise and for refusal to assume custody of a child in a timely manner,

- c. the child shall be detained in the municipal juvenile facility for no longer than twenty-four (24) hours; provided, if the child's parent, legal guardian, legal custodian, attorney or other responsible adult fails to appear at the municipal juvenile facility and assume personal custody of the child within said twenty-four-hour period, then custody or release of the child shall be determined pursuant to the provisions of Section 7303-1.1 of this title,
- d. the child shall be provided with adequate fresh drinking water,
- e. the child shall be provided with adequate food not less than three times in a twenty-four-hour period,
- f. the child shall be provided with adequate bathroom facilities and bedding, and
- g. the child shall be provided with any necessary medical care and treatment.

Prior to the temporary detention of any child pursuant to the authority of this subsection, the municipal juvenile facility shall be certified by the ~~Office~~ Department of ~~Juvenile Affairs~~ Corrections pursuant to the applicable certification standards set by the State Board of ~~Juvenile Affairs~~ Corrections, and each member

of the staff of the municipal juvenile facility shall have satisfactorily completed a training program provided or approved by the Department ~~of Juvenile Justice~~. In furtherance of this subsection, the ~~Office of Juvenile Affairs is directed to and~~ Department shall establish standards for the certification of municipal juvenile facilities, with said standards to include, but not be limited to, the conditions set forth in subparagraphs a through g, inclusive, of this paragraph, and the Department ~~of Juvenile Justice~~ is directed to and shall provide or approve an appropriate training program for staff members of such facilities. In lieu of operating a municipal juvenile facility with trained municipal employees, the municipality may contract with an independent public or private facility properly certified by the ~~Office of Juvenile Affairs~~ Department for performance of the detention services authorized by the provisions of this paragraph. For the purposes of this section, a "municipal juvenile facility" shall mean a secure facility which is entirely separate from any jail, adult lockup, or other adult facility, or is spatially separate if contained inside any jail, adult lockup, or other adult facility which is certified by the Office of Juvenile Affairs for use for the temporary detention of juveniles as authorized by the provisions of this paragraph. The provisions of this paragraph shall not restrict or limit the use of municipal juvenile facilities for detention of juveniles who are detained pursuant to other provisions of law. In no event shall a juvenile be held in an adult facility that does not meet the definition of a municipal juvenile facility. Until certification standards are promulgated by the State Board of Corrections, the standards promulgated by the Board of Juvenile Affairs shall remain in place.

5. Pursuant to an interlocal cooperation agreement between a municipality and the district court, as authorized by the provisions of paragraph 1 of this subsection, a child less than eighteen (18)

years of age may be charged, prosecuted and, if convicted, fined for violating a municipal ordinance for which provision is made in paragraph 1 of this subsection; provided, that the maximum fine which may be imposed shall not exceed the maximum fine authorized by law. When assessing punishment, the court also may require appropriate community service work, not to exceed ninety (90) hours, in lieu of or in addition to a fine if the product of multiplying the number of hours of community service work by the prevailing minimum wage plus any fine imposed does not result in a number which exceeds the maximum fine authorized by law, or restitution, or both community service work and restitution. If the child fails to complete the community service, a parent or guardian of the child who knew or should have known that the child failed to complete the community service may be fined an amount that is equal to the number of community service hours that are uncompleted by the child multiplied by the hourly minimum wage amount. In addition, during any calendar year that any child:

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

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

If a child is prosecuted for an offense in a municipal court, the child shall not be prosecuted for the offense in the district court. The municipal court may also impose costs as authorized by law.

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

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

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

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

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

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

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

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

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

SECTION 47. AMENDATORY 10 O.S. 2001, Section 7303-1.3, as amended by Section 2, Chapter 473, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7303-1.3), is amended to read as follows:

Section 7303-1.3 A. The court may provide by rule who shall make a preliminary inquiry to determine whether the interests of the public or of the child who is within the purview of the Oklahoma Juvenile Code require that further court action be taken. Provided, that ~~where~~ if intake is to be provided by the Department of ~~Juvenile Justice~~ Corrections under contract with the Supreme Court, or under the provision of rules issued by the Supreme Court, the preliminary inquiry shall follow the uniform contractual procedures as agreed to by the Supreme Court and the Department. If it is determined by the preliminary inquiry that no further action be taken and if agreed to by the district attorney, the person or the court may make such informal adjustment as is practicable without a petition.

B. A petition in a juvenile proceeding may be filed by the district attorney to determine if further action is necessary. The proceeding shall be entitled "In the matter of _____, an alleged (delinquent) or (a child alleged to be in need of supervision)".

The petition shall be verified and may be upon information and belief. It shall set forth:

1. With particularity facts which bring the child within the purview of the Oklahoma Juvenile Code;
2. The name, age and residence of the child;
3. The names and residences of the parents of the child;
4. The name and residence of the legal guardian of the child, if applicable;
5. The name and residence of the person or persons having custody or control of the child;
6. The name and residence of the nearest known relative, if no parent or guardian can be found;
7. The relief requested; and
8. The specific federal law, state law or municipal ordinance under which the child is charged, and an endorsement of witnesses intended to be called by the petitioner, where the child is sought to be adjudged a delinquent child.

If a termination of parental rights is desired, it must be stated in the petition and summons, and if an order for the payment of funds for the care and maintenance of the child is desired, it must be stated in the petition and summons. If any of the facts herein required are not known by the petitioner, the petition shall so state, along with the reasons why the facts are not known to the petitioner.

C. A petition alleging a child to be a child in need of treatment shall be filed by a district attorney pursuant to the Inpatient Mental Health Treatment of Children Act.

D. A copy of the petition shall be attached to and delivered with the summons.

E. A district attorney may defer filing a petition alleging a child to be delinquent or in need of supervision for a period of ninety (90) days if the child participates in a teen court program,

a graduated sanctions program or a first-time offender program, as defined in Section 7303-4.6 of this title. If the child successfully completes the program, the district attorney shall not file the petition. The records of a case for which a petition is not filed shall be subject to the provisions of Article VII of the Oklahoma Juvenile Code.

SECTION 48. AMENDATORY 10 O.S. 2001, Section 7303-1.6, is amended to read as follows:

Section 7303-1.6 A. After a petition shall have been filed, unless the parties provided for in this section shall voluntarily appear, a summons shall be issued which shall recite briefly the nature of the proceeding with the phrase "as described more fully in the attached petition" and requiring the person or persons who have the custody or control of the child to appear personally and bring the child before the court at a time and place stated. The summons shall state the relief requested, and shall set forth the right of the child, parents and other interested parties to have an attorney present at the hearing on the petition.

B. The summons shall be served on the person who has actual custody of the child, and if the child has reached the age of twelve (12) years, a copy shall be served on the child. If the person who has actual custody of the child shall be other than a parent or guardian of the child, a copy of the summons shall be served on the parent or guardian, or both. A copy of the summons shall be served on a custodial parent, guardian or next friend. If no parent or guardian can be found, a summons shall be served on such other person or persons as the court shall designate.

Summons may be issued requiring the appearance of any other person whose presence is necessary.

C. If it subsequently appears that a person who should have been served was not served and has not entered an appearance, the

court shall immediately order the issuance of a summons which shall be served on said person.

D. If after a petition has been filed, it appears that the child is in such condition or surroundings that the welfare of the child requires that custody be immediately assumed by the court, the judge may immediately issue a detention order or warrant authorizing the taking of said child into emergency custody. Any such child shall not be considered to be in the custody of the ~~Office~~ Department of Juvenile Affairs Corrections.

E. In a delinquency proceeding, whenever a warrant for the arrest of a child shall issue, it shall state the offense the child is being charged with having committed; in a child in need of supervision proceeding, whenever a warrant for detention of a child shall issue, it shall state the reason for detention. Warrants for the arrest or detention of a child shall comport with all other requirements of issuance of arrest warrants for adult criminal offenders.

SECTION 49. AMENDATORY 10 O.S. 2001, Section 7303-1.7, as amended by Section 26, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7303-1.7), is amended to read as follows:

Section 7303-1.7 A. After a petition under the provisions of this article has been filed, the court may order the child to be examined and evaluated by a physician or other appropriate professional to aid the court in making the proper disposition concerning the child. The court may order a mental health evaluation of a child as provided by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

B. Whenever a child concerning whom a petition has been filed appears to be in need of nursing, medical or surgical care, the court may order the parent or other person responsible for the care and support of the child to provide such care in a hospital or otherwise. If the parent or other person fails to provide such

care, the court may, after due notice, enter an order therefor, and the expense thereof, when approved by the court, shall be a charge upon the county, but the court may adjudge that the person having the duty under the law to support the child pay part or all of the expenses of such care. In an emergency the court may, when health or condition of the child may require it, cause the child to be placed in a public hospital or institution for treatment or special care, or in a private hospital or institution which will receive the child for like purpose, and consent to emergency treatment or surgery.

C. After adjudication and at the request of a judge in any juvenile proceeding, the Department of ~~Juvenile Justice~~ Corrections shall investigate the home conditions and environment of the child and the financial ability, occupation and earning capacity of the parent, legal guardian or custodian of the child. Upon request by the court of another state, the Department may conduct a similar investigation.

SECTION 50. AMENDATORY 10 O.S. 2001, Section 7303-3.1, is amended to read as follows:

Section 7303-3.1 A. No information gained by a custodial interrogation of a child or a youthful offender under sixteen (16) years of age nor any evidence subsequently obtained as a result of such interrogation shall be admissible into evidence against the child or youthful offender unless the custodial interrogation about any alleged offense by any law enforcement officer or investigative agency, or employee of the court, or employee of the Department of ~~Juvenile Justice~~ Corrections is done in the presence of the parents, guardian, attorney, adult relative, adult caretaker, or legal custodian of the child or youthful offender. No such custodial interrogation shall commence until the child and the parents, guardian, attorney, adult relative, adult caretaker, or legal custodian of the child have been fully advised of the constitutional

and legal rights of the child or youthful offender, including the right to be represented by counsel at every stage of the proceedings, and the right to have counsel appointed by the court if the parties are without sufficient financial means; provided, however, that no legal aid or other public or charitable legal service shall make claim for compensation as contemplated herein. It is further provided that where private counsel is appointed in such cases, the court shall set reasonable compensation and order the payment out of the court fund. As used in this section, "custodial interrogation" means questioning of a child or youthful offender under sixteen (16) years of age while that child or youthful offender is in law enforcement custody or while that child or youthful offender is being deprived of freedom of action in any significant way by a law enforcement officer, employee of the court, or employee of the Department. Custodial interrogation shall conform with all requirements for interrogation of adult criminal offenders. The term "custodial interrogation" shall not be deemed to mean questioning of a child or youthful offender by a public school administrator or teacher, so long as such questioning is not being conducted on behalf of a law enforcement officer, an employee of the court or an employee of the Department. Any information gained from noncustodial questioning of a child or youthful offender by a public school administrator or teacher concerning a wrongful act committed on public school property shall be admissible into evidence against the child or youthful offender.

B. If the parents, guardian, or other legal custodian of the child being interrogated requests an attorney and is found to be without sufficient financial means, counsel shall be appointed by the court if a petition has been filed alleging that the child is a child in need of supervision, or if termination of parental rights is a possible remedy, provided that the court may appoint counsel without such request, if it deems representation by counsel

necessary to protect the interest of the parents, guardian or other legal custodian. If the child is not otherwise represented by counsel, whenever a petition is filed pursuant to the provisions of Section 7303-1.3 of this title, the court shall appoint a separate attorney, who shall not be a district attorney, for the child regardless of any attempted waiver by the parent or other legal custodian of the child of the right of the child to be represented by counsel.

C. Whenever a petition is filed alleging that a child is a delinquent child or a child in need of supervision, the court may appoint a guardian ad litem for the child at any time subsequent to the filing of the petition and shall appoint a guardian ad litem upon the request of the child or the attorney of the child. The guardian ad litem shall not be a district attorney, an employee of the office of the district attorney, an employee of the court, an employee of a juvenile bureau, or an employee of any public agency having duties or responsibilities towards the child.

D. The guardian ad litem shall be given access to the court file and access to all records and reports relevant to the case and to any records and reports of examination of the child's parent or other custodian, made pursuant to this section or Section 846 of Title 21 of the Oklahoma Statutes.

E. It shall be unlawful and a misdemeanor for the ~~Office of Juvenile Affairs, the~~ Department of ~~Juvenile Justice~~ Corrections, any person employed by ~~the Office or~~ the Department, or any other public officer or employee, to furnish or permit to be taken off of the records any information therein contained for commercial, political or any other unauthorized purpose.

SECTION 51. AMENDATORY 10 O.S. 2001, Section 7303-4.6, as amended by Section 4, Chapter 473, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7303-4.6), is amended to read as follows:

Section 7303-4.6 A. If the court finds that the allegations of a petition alleging a child to be delinquent or in need of supervision are supported by the evidence, the court shall sustain the petition, and shall make an order of adjudication setting forth whether the child is delinquent or in need of supervision and shall adjudge the child as a ward of the court.

B. A court may defer delinquency adjudication proceedings or proceedings to determine if a child is in need of supervision for one hundred eighty (180) days if the child:

1. Is alleged to have committed or attempted to commit a delinquent offense that if committed by an adult would be a misdemeanor or that if committed by an adult would be grand larceny of property valued at One Hundred Dollars (\$100.00) or less;

2. Waives the privilege against self-incrimination and testifies, under oath, that the allegations are true;

3. Has not been previously adjudicated a delinquent; and

4. Presents to the court an oral or written request to attend a Teen Court program or graduated sanctions program.

C. The Teen Court program or graduated sanctions program must be approved by the court.

D. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the Teen Court program or graduated sanctions program has been successfully completed.

E. The court may require a child who requests a Teen Court program to pay a fee, as determined by the court, not to exceed Twenty Dollars (\$20.00) to cover the costs of administration. The fee shall be deposited in the court clerk's official depository account. Eighty percent (80%) of the costs so paid shall be distributed to the organization sponsoring the Teen Court to be used for Teen Court operating expenses. The remaining twenty percent

(20%) of the cost shall be paid by the court clerk to the court fund.

F. A court may defer delinquency proceedings or proceedings to determine if a child is in need of supervision for one hundred eighty (180) days for any child that has not been previously adjudicated delinquent, if the child and, if required by the court, the parent or legal guardian of the child agree to participate in an alternative diversion program for first-time offenders that has been approved by the court. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the alternative diversion program for first-time offenders has been successfully completed. The records of a case dismissed pursuant to this subsection shall be subject to the provisions of Article VII of the Oklahoma Juvenile Code.

G. A court may defer delinquency proceedings for one hundred eighty (180) days for any child that has not been previously adjudicated delinquent, if the child agrees to participate in a military mentor program that has been approved by the court. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the military mentor program has been successfully completed. The records of a case dismissed pursuant to this subsection shall be subject to the provisions of Article VII of the Oklahoma Juvenile Code.

H. As used in this section:

1. "Alternative diversion programs for first-time offenders" means programs for juveniles who have been identified by law enforcement personnel, the district attorney, or the court as having committed acts which are not serious enough to warrant adjudication through the juvenile court process, but which do indicate a need for intervention to prevent further development toward juvenile

delinquency. The program shall be administered, pursuant to contact with the Department of ~~Juvenile Justice~~ Corrections, by organizations designated as youth services agencies in accordance with Section 7302-3.6 of this title;

2. "Teen Court program" means a program which provides an alternative judicial forum for cases involving juvenile offenders, in which teenage participants, under the supervision of an adult coordinator, may serve in various capacities within the courtroom, including jurors, lawyers, bailiffs and judges. Such program also may include participation by volunteer adult attorneys. The Teen Court hears cases involving juvenile offenders who are referred to the Teen Court by the district attorney or the district court and assesses sentences such as participation in community work projects, counseling or rehabilitation programs;

3. "Military mentor program" means a program administered by the Oklahoma Military Department as provided in Section 7303-5.3 of this title; and

4. "Graduated sanctions program" means a program administered by the ~~Office~~ Department of ~~Juvenile Affairs~~ Corrections or as otherwise approved by the Court as defined in Section 7301-1.3 of this title.

SECTION 52. AMENDATORY 10 O.S. 2001, Section 7303-5.3, as amended by Section 5, Chapter 473, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7303-5.3), is amended to read as follows:

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

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

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

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

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

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

- b. In issuing orders to a parent, guardian, legal guardian, stepparent or other adult person living in the home of a child adjudicated to be a delinquent child or in making other disposition of said delinquent child, the court may consider the testimony of said parent, guardian, legal guardian, stepparent or other adult person concerning the behavior of the juvenile and the ability of such person to exercise parental control over the behavior of the juvenile.
- c. In any dispositional order involving a child age sixteen (16) or older, the court shall make a determination, where appropriate, of the services needed to assist the child to make the transition to independent living.

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

3. The court may commit the child to the custody of a private institution or agency, including any institution established and operated by the county, authorized to care for children or to place them in family homes. In committing a child to a private institution or agency, the court shall select one that is licensed

by any state department supervising or licensing private institutions and agencies; or, if such institution or agency is in another state, by the analogous department of that state. Whenever the court shall commit a child to any institution or agency, it shall transmit with the order of commitment a summary of its information concerning the child, and such institution or agency shall give to the court such information concerning the child as the court may at any time require.

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

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

- a. is staffed by National Guard or qualified civilian personnel who are trained by the Oklahoma Military Department pursuant to training standards established by the Department of ~~Juvenile Justice~~ Corrections and meets screening requirements established by the Department of ~~Juvenile Justice~~ Corrections,
- b. provides for adequate supervision of the child, and
- c. is designed to develop useful skills and abilities of the child and/or integrate the child into community service activities or public works projects.

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

6. The court may commit the child to the custody ~~of the Office of Juvenile Affairs under the~~ and supervision of the Department of ~~Juvenile Justice~~ Corrections. Any order adjudicating the child to be delinquent and committing the child to the Department ~~of Juvenile Justice~~ shall be for an indeterminate period of time. If the

adjudication is for distribution of a controlled dangerous substance or possession with intent to distribute a controlled dangerous substance, the court may require that the offender be placed in a regimented juvenile training program as described in Section 7302-6.9 of this title, or a secure facility operated or contracted for by the ~~Office of Juvenile Affairs~~ Department. The placement must occur within sixty (60) days of disposition unless extended by the court for an additional sixty (60) days.

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

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

- a. for acts involving criminally injurious conduct as defined in Section 142.3 of Title 21 of the Oklahoma Statutes, order the child to pay a victim compensation assessment in an amount not to exceed that amount specified in Section 142.18 of Title 21 of the Oklahoma Statutes. The court shall forward a copy of the adjudication order to the Crime Victims Compensation Board for purposes of Section 142.11 of Title 21 of the Oklahoma Statutes. Except as otherwise provided by law, such adjudication order shall be kept confidential by the Board,
- b. order the child to engage in a term of community service without compensation. The state or any political subdivision shall not be liable if a loss or

claim results from any acts or omission of a child ordered to engage in a term of community service pursuant to the provisions of this paragraph,

- c. if it is consistent with the welfare of the child, require community service or restitution or both community service and restitution for acts of delinquency. The immunities provided by Sections 227 and 228 of Title 57 of the Oklahoma Statutes shall apply to community services directed pursuant to this section. The court may order the parents or custodial parent of any child living with the parents or custodial parent to supervise the performance of community service by the child. The court may order the parents or custodial parent of any child living with the parents or custodial parent at the time of the criminal or delinquent act of the child to remit the amount of restitution ordered by the court. The court may consider any hardship of such order on the parents or custodial parent of the child. The parents or custodial parent may be represented by an attorney in the matter of the order for remittance of the restitution by the parents or custodial parent. Provided however, if the court orders the parents or custodial parent to remit the amount of restitution as provided for in this paragraph, in addition to any other dispositional orders of the court, the court shall order the child to perform community service for the number of hours commensurate with the number of hours it would require under federal or state minimum wage to earn the amount paid by such child's parents or custodial parent under the order to remit restitution,

- d. order the child to pay the fine which would have been imposed had such child been convicted of such crime as an adult. Any such fine collected pursuant to this paragraph shall be deposited in a special Work Restitution Fund to be established by the court to allow children otherwise unable to pay restitution to work in community service projects in the private or public sector to earn money to compensate their victims,
- e. order the cancellation or denial of driving privileges as provided by Sections 6-107.1 and 6-107.2 of Title 47 of the Oklahoma Statutes,
- f. in accordance with the guidelines approved and adopted by the Oklahoma Supreme Court for the implementation of the Serious and Habitual Juvenile Offender Program, make the following orders: sanction detention in the residence of the child or facility designated by the Department of ~~Juvenile Justice~~ Corrections or the juvenile bureau for such purpose for up to five (5) days; weekend detention in a place other than a juvenile detention facility or shelter; tracking; or house arrest with electronic monitoring. On and after the adoption of guidelines by the Oklahoma Supreme Court for the implementation of the Serious and Habitual Juvenile Offender Program, the provisions of subparagraphs a through e of this paragraph shall be subject to said guidelines,
- g. in accordance with the guidelines approved and adopted by the Oklahoma Supreme Court for the implementation of the Serious and Habitual Juvenile Offender Program, impose sanctions for the violation of preadjudicatory or postadjudicatory violations of probation.

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

10. In any dispositional order removing a child from the home of the child, the court shall, in addition to the findings required by subsection B of Section 7303-1.4 of this title, make a determination that, in accordance with the best interests of the child and the protection of the public, reasonable efforts have been made to provide for the return of the child to the child's own home, or that efforts to reunite the family are not required as provided in subsection B of Section 7303-1.4 of this title, and reasonable efforts are being made to finalize an alternate permanent placement for the child.

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

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

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

E. No child charged in a state or municipal court with a violation of state or municipal traffic laws or ordinances, or convicted therefor, may be incarcerated in jail for the violation

unless the charge for which the arrest was made would constitute a felony if the child were an adult. Nothing contained in this subsection shall prohibit the detention of a juvenile for traffic-related offenses prior to the filing of a petition in the district court alleging delinquency as a result of the acts and nothing contained in this section shall prohibit detaining a juvenile pursuant to Section 7303-1.2 of this title.

F. The court may revoke or modify a disposition order and may order redispotion. The child whose disposition is being considered for revocation or modification at said hearing shall have the right to be represented by counsel, to present evidence in the child's behalf and to be confronted by witnesses against the child. Any revocation, modification or redispotion of the court in whole or in part shall be subject to review on appeal, as in other appeals of criminal cases. Bail may be allowed pending appeal.

SECTION 53. AMENDATORY 10 O.S. 2001, Section 7303-5.4, as amended by Section 6, Chapter 473, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7303-5.4), is amended to read as follows:

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

2. A dispositional order removing a child from the custody of the parents of the child shall be reviewed at a hearing by the court at least once every six (6) months until such time as the child is returned to the custody of the child's parents. No later than twelve (12) months after placing a child in out-of-home care and every twelve (12) months thereafter, the court making the original order of adjudication shall conduct a permanency hearing to

determine whether or not reasonable efforts have been made to finalize one of the following permanent placement plans:

- a. the child should be returned to the parents of the child or other family member,
- b. the child should be continued in out-of-home care for a specified period,
- c. the rights of the parents of the child should be terminated and the child placed for adoption or legal guardianship pursuant to the Oklahoma Children's Code, or
- d. the child, because of exceptional circumstances, should remain in out-of-home care on a long-term basis as a permanent plan or with a goal of independent living.

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

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

2. The report shall include, but not be limited to, a summary of the physical, mental, and emotional condition of the child, the conditions existing in the home or institution where the child has been placed, and the child's adjustment thereto, a report on the child's progress in school and, if the child has been placed outside the home of the child, the visitation exercised by the parents of such child or other persons authorized by the court, and services being provided to a child sixteen (16) years of age or older to

assist in the transition from out-of-home care or other community placement to independent living.

3. If the ~~Office~~ Department of ~~Juvenile Affairs~~ Corrections is the legal custodian of the child, the report also shall include any efforts on the part of the parent or parents to correct the conditions which caused the child to be adjudicated. The report shall specifically recommend, giving reasons therefor, whether or not the parental rights of the parent or parents of the child should be terminated and the child placed for adoption, whether or not the child should remain in the home or if placed outside the home of the child's lawful parents, whether or not the child should remain outside the home or be returned to the home from which the child was removed.

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

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

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

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

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

E. The Department ~~of Juvenile Justice~~ shall notify the court having jurisdiction, the appropriate review board and the appropriate district attorney whenever the placement of a child in the custody of the Department is changed and shall inform said court and attorney regarding the location of the child unless placement modification results from an emergency situation, in which case the notification required by this subsection shall be within one (1) business day after the change of placement. As used in this subsection, "emergency situation" means a placement change requested by a person having actual custody of a child, if the request is made at a time when the business offices of the parties to be notified are closed, or a placement for emergency medical treatment.

F. The Department ~~of Juvenile Justice~~ shall provide the foster parent of a child and any preadoptive parent or relative providing care for the child with timely notice of and an opportunity to be heard in six-month review hearings and twelve-month permanency hearings held with respect to the child during the time the child is in foster care of such foster parent, preadoptive parent or relative caregiver. Notice of hearings and an opportunity to be heard does not include the right to standing as a party to the case.

SECTION 54. AMENDATORY 10 O.S. 2001, Section 7303-7.6, is amended to read as follows:

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

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

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

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

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

5. Reimburse any law enforcement agency, in whole or in part, for any costs or expenses incurred by the law enforcement agency for custodial services or other authorized actions taken pursuant to the Juvenile Justice Code.

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

2. After a judicial determination that the child, the parent of the child, or both such child or parent, are able to pay the costs and reimbursements, in whole or in part, specified by this section, the court shall order the costs and reimbursements. The court may

order such payments and reimbursements to be paid in installments and shall set the amount and due date of each installment.

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

C. The court shall have all powers incident to such orders necessary for their enforcement, including the power and authority to require bond or other security for the payment of such order; and may resort to execution and the power of punishment for contempt for noncompliance with such order.

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

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

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

be recorded in the office of the county clerk in the county in which the parent resides or in which the asset is located.

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

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

SECTION 55. AMENDATORY 10 O.S. 2001, Section 7303-8.1, as amended by Section 28, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7303-8.1), is amended to read as follows:

Section 7303-8.1 A. 1. Whenever the court transfers custody of a child as provided in this article, the person, institution, agency, or department receiving custody shall have the right to, and shall be responsible for, the care and control of the child, and shall have the duty and authority to provide food, clothing, shelter, medical care, education, and discipline for the child, and to authorize and consent to medical care for the child provided by a qualified health care professional. Except for an emergency psychiatric admission pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, said person, institution, agency or department may provide or arrange for the provision of an inpatient evaluation or inpatient treatment of such minor only pursuant to a court order as provided by the Inpatient Mental Health

and Substance Abuse Treatment of Minors Act. Nothing in this subsection shall be interpreted to prohibit or preclude the provision of outpatient services, including an outpatient examination, counseling, educational, rehabilitative or other similar services to said minor, as necessary and appropriate, in the absence of a specific court order for such services.

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

3. Nothing in this subsection shall be interpreted to:

- a. relieve a parent of the obligation to provide for the support of the child as otherwise provided by law, or
- b. limit the authority of the court to order a parent to make support payments or to make payments or reimbursements for medical care or treatment, including mental health care or treatment, to the person, institution, agency or ~~Department~~ department having custody of the child, or
- c. abrogate the right of the child to any benefits provided through public funds for which the child is otherwise eligible.

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

B. The person, institution, agency, or department having legal custody of a child pursuant to an order of the court shall receive notice of court proceedings regarding the child as provided in Sections 7303-2.1 and 7303-5.1 of this title and shall be allowed to

intervene upon application as a party to all court proceedings pertaining to the care and custody of the child including, but not limited to: adjudication, disposition, review of disposition, termination of parental rights and proceedings pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

SECTION 56. AMENDATORY 10 O.S. 2001, Section 7303-8.2, is amended to read as follows:

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

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

SECTION 57. AMENDATORY 10 O.S. 2001, Section 7303-8.3, is amended to read as follows:

Section 7303-8.3 A. The Department of ~~Juvenile Justice~~ Corrections shall review and assess each child committed to the Department to determine the type of placement consistent with the treatment needs of the child in the nearest geographic proximity to the home of the child and, in the case of delinquent children, the protection of the public. Such review and assessment shall include

an investigation of the personal and family history of the child, ~~and his~~ the environment of the child, and any physical or mental examinations considered necessary.

B. In making such review, the Department may use any facilities, public or private, which offer aid to it in the determination of the correct placement of the child.

SECTION 58. AMENDATORY 10 O.S. 2001, Section 7303-8.4, as amended by Section 29, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7303-8.4), is amended to read as follows:

Section 7303-8.4 A. The Department of ~~Juvenile Justice~~ Corrections may provide for the care of a child who is in the custody of the ~~Office of Juvenile Affairs~~ Department and found by a court to be a minor in need of treatment pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act:

1. In the home of the child, the home of a relative of the child, a foster home, a group home, a transitional living program, an independent living program or in any other community-based child care facility determined by the Department to be appropriate for the care of the child, or as otherwise provided by the Oklahoma Juvenile Code, and shall provide for the outpatient care and treatment of the child; or

2. The Department shall place a child who has been committed by a court for inpatient mental health or substance abuse treatment as provided by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act in a Department-operated treatment center or a public or private facility as determined by the Department. The Department may place such child with the Department of Mental Health and Substance Abuse Services upon the consent of the Commissioner of Mental Health and Substance Abuse Services or ~~his~~ a designee of the Commissioner. The Department shall establish a system for the regular review by a qualified mental health professional, at intervals of not more than thirty (30) days, of the case of each

child in need of treatment in the custody of the Department and receiving inpatient care and treatment to determine whether or not continued inpatient treatment is required and appropriate for the child. When such child no longer requires inpatient care and treatment in a mental health treatment facility, the Department shall place the child as provided in paragraph 1 of this subsection.

B. In providing for the outpatient mental health care and the treatment of children in its custody, the Department ~~of Juvenile Justice~~ shall utilize to the maximum extent possible and appropriate the services available through:

1. The guidance centers operated by the State Department of Health; ~~and~~

2. The Department of Mental Health and Substance Abuse Services;

3. The Department of Human Services; and

4. Community-based private agencies and organizations.

SECTION 59. AMENDATORY 10 O.S. 2001, Section 7303-8.5, as amended by Section 30, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7303-8.5), is amended to read as follows:

Section 7303-8.5 A. The ~~Office~~ Department of ~~Juvenile Affairs~~ Corrections and the Department of Mental Health and Substance Abuse Services, ~~no later than September 1, 1995,~~ shall jointly:

1. Establish procedures which shall ensure that children placed in the custody of the ~~Office of Juvenile Affairs or its~~ Department of ~~Juvenile Justice~~ Corrections shall have adequate and appropriate access to mental health services, including but not limited to inpatient services in accordance with the provisions of the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, emergency services, group homes, and day treatment services, provided through the Oklahoma Youth Center and to other appropriate facilities and programs operated by or available through the Department of Mental Health and Substance Abuse Services; and

2. Establish administrative procedures for the timely and expeditious resolution of any dispute which may arise over the placement of a child in a facility or program operated by the Department of Mental Health and Substance Abuse Services. Such procedures shall, at a minimum, provide:

- a. for a person designated by each agency to serve as its representative for the purpose of resolving any dispute which may arise over the placement of a child in an inpatient treatment facility operated by the Department of Mental Health and Substance Abuse Services, and
- b. that whenever there is no resolution of a dispute over the placement of a child in an inpatient facility operated by the Department of Mental Health and Substance Abuse Services within three (3) working days after the initial request of the ~~Office of Juvenile Affairs or the~~ Department of ~~Juvenile Justice~~ Corrections for the consent of the Department of Mental Health and Substance Abuse Services for the placement of a child in a Department of Mental Health and Substance Abuse Services inpatient facility, an arbitrator provided for in subsection ~~B~~ C of this section will be notified, and the matter will be immediately submitted for arbitration and that the decision of the arbitrator shall be a final decision, and
- c. an opportunity for the child whose placement is in dispute to be represented at any arbitration proceedings regarding his placement.

B. The procedures required by subsection A of this section that were established by the Office of Juvenile Affairs and the Department of Mental Health and Substance Abuse Services shall

remain in place until new procedures are established by the Department of Corrections and the Department of Mental Health and Substance Abuse Services.

C. No later than ~~September 1, 1995~~ July 1, 2004, the ~~Office of Juvenile Affairs~~ Department of Corrections and the Department of Mental Health and Substance Abuse Services shall jointly select an individual to serve as arbitrator and an individual to serve as an alternate in case the arbitrator is unavailable. Until the arbitrator and alternate are selected, the arbitrator and alternate selected by the Office of Juvenile Affairs and the Department of Mental Health and Substance Abuse Services shall continue to serve as arbitrator and alternate. Any person selected to serve as an arbitrator or alternate arbitrator shall:

1. Be a person qualified to make a decision regarding the placement of a child found by a court to be a child in need of mental health treatment;

2. Agree to make ~~his~~ services immediately available upon notification of a dispute to be resolved; and

3. Agree to provide a decision within no more than one (1) week after notification of a dispute over the placement of a child.

~~C.~~ D. If for any reason the Department of ~~Juvenile Justice~~ Corrections and the Department of Mental Health and Substance Abuse Services are unable to jointly agree upon a person to serve as arbitrator ~~by September 1, 1995~~, the Commission on Children and Youth shall select said person at its next regularly scheduled monthly meeting.

~~D.~~ E. Nothing in the Oklahoma Juvenile Code shall be construed as prohibiting the Department of Mental Health and Substance Abuse Services from admitting a child, upon the voluntary application for admission by the parent or legal guardian of the child and the recommendation of a qualified mental health professional for such admission, to a facility or program operated by the Department of

Mental Health and Substance Abuse Services appropriate for the care and treatment of the child.

SECTION 60. AMENDATORY 10 O.S. 2001, Section 7303-8.6, is amended to read as follows:

Section 7303-8.6 When a child is committed to the custody of the Department of ~~Juvenile Justice~~ Corrections under the provisions of this article, the court shall order the child to be delivered by the sheriff or by a private contractor pursuant to the provisions of Section 7304-1.3 of this title to an institution, or other place, designated by the Department, and the cost of transportation shall be paid from the county's general fund.

SECTION 61. AMENDATORY 10 O.S. 2001, Section 7304-1.1, as amended by Section 7, Chapter 473, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7304-1.1), is amended to read as follows:

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

1. a. No preadjudicatory or predisposition detention or custody order shall remain in force and effect for more than thirty (30) days. The court, for good and sufficient cause shown, may extend the effective period of such an order for an additional period not to exceed sixty (60) days. If the child is being detained for the commission of a murder, the court may, if it is in the best interests of justice, extend the effective period of such an order an additional sixty (60) days.
- b. Whenever the court orders a child to be held in a juvenile detention facility, an order for secure detention shall remain in force and effect for not

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

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

3. Except as otherwise authorized by this section, a child who has been taken into custody as a deprived child, a child in need of supervision, or who appears to be a child in need of mental health

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

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

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

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

3. The child is seriously assaultive or destructive towards others or self;

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

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

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

a. is on probation or parole on a prior delinquent offense,

b. is on preadjudicatory community supervision,

c. is currently on release status on a prior delinquent offense, or

- d. has willfully failed or there is reason to believe that the child will willfully fail to appear for juvenile court proceedings.

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

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

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

- a. the child is detained for the commission of a crime that would constitute a felony if committed by an adult, and
- b. the child is awaiting an initial court appearance, and
- c. the child's initial court appearance is scheduled within twenty-four (24) hours after being taken into custody, excluding weekends and holidays, and
- d. the court of jurisdiction is outside of the Standard Metropolitan Statistical Area as defined by the Bureau of Census, and
- e. there is no existing acceptable alternative placement for the child, and
- f. the jail, adult lockup or adult detention facility provides sight and sound separation for juveniles, pursuant to standards required by subsection E of Section 7304-1.3 of this title, or

g. the jail, adult lockup or adult detention facility meets the requirements for licensure of juvenile detention facilities, as adopted by the Office of Juvenile Affairs, is appropriately licensed, and provides sight and sound separation for juveniles, which includes:

(1) total separation between juveniles and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities,

(2) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping and general living activities, and

(3) separate juvenile and adult staff, specifically direct care staff such as recreation, education and counseling.

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

2. Nothing in this section shall preclude a child who is detained for the commission of a crime that would constitute a felony if committed by an adult, or a child who is an escapee from a juvenile training school or from a Department of ~~Juvenile Justice~~ Corrections group home from being held in any jail certified by the State Department of Health, police station or similar law enforcement offices for up to six (6) hours for purposes of identification, processing or arranging for transfer to a secure

detention or alternative to secure detention. Such holding shall be limited to the absolute minimum time necessary to complete these actions.

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

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

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

5. Nothing in this section shall preclude detaining a person, whose age is not immediately ascertainable and who is being detained for the commission of a felony, in a jail certified by the State Department of Health, a police station or similar law enforcement office for up to twenty-four (24) hours for the purpose of determining whether or not the person is a child, if:

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

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

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

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

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

Code. The Indian tribe may contract with any juvenile detention facility for the providing of detention services.

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

SECTION 62. AMENDATORY 10 O.S. 2001, Section 7304-1.3, is amended to read as follows:

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

B. County sheriffs, their designee, private contractors under contract with the Department of ~~Juvenile Justice~~ for transportation services, or juvenile court officers shall provide for the transportation of juveniles to and from secure detention for purposes of admission, interfacility transfer, discharge, medical or dental attention, court appearance, or placement designated by the Department. No private contract for transportation services shall be entered into by the Department unless the private contractor demonstrates to the satisfaction of the Department that such contractor is able to obtain insurance or provide self-insurance to indemnify the Department against possible lawsuits and meets the requirements of subparagraphs a, b and d of paragraph 4 of subsection C of this section. The Department of ~~Juvenile Justice~~ shall not be ordered to provide transportation for a juvenile who is detained in or is destined for secure detention. The Department of ~~Juvenile Justice~~

~~Juvenile Justice~~ shall provide reimbursement to the entity transporting juveniles for necessary and actual expenses for transporting juveniles who are detained in or destined for a secure detention center as follows:

1. A fee for the cost of personal services at the rate of Twelve Dollars (\$12.00) per hour;
2. Mileage reimbursement for each mile actually traveled at the rate established in the State Travel Reimbursement Act;
3. Meals for transporting personnel, not to exceed Six Dollars (\$6.00) per meal; and
4. Meals for juveniles being transported, not to exceed Six Dollars (\$6.00) per meal.

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

C. 1. All juvenile detention facilities shall be certified by the ~~Office of Juvenile Affairs~~ Department. To be certified, a juvenile detention facility shall be required to meet standards for certification promulgated by the State Board of ~~Juvenile Affairs~~ Corrections. Until such standards are promulgated, the standards promulgated by the ~~Oklahoma Commission for Human Services~~ Board of Juvenile Affairs shall remain in effect.

2. The board of county commissioners of every county shall provide for the temporary detention of a child who is or who may be subject to secure detention and may construct a building or rent space for such purpose. The boards of county commissioners shall provide for temporary detention services and facilities in accordance with the provisions of the State Plan for the Establishment of Juvenile Detention Services adopted pursuant to subsection D of this section and in accordance with Section 7302-6.8 of this title. The boards of county commissioners are hereby

authorized to create multi-county trust authorities for the purpose of operating juvenile detention facilities.

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

- a. operate the juvenile detention facility through a statutorily constituted juvenile bureau subject to the supervision of the district court, or
- b. operate the juvenile detention facility by employing a manager who may employ personnel and incur other expenses as may be necessary for its operation and maintenance, or
- c. contract with a public agency, private agency, federally recognized tribe, or single or multi-county trust authority for the operation of the juvenile detention facility. In the event any board of county commissioners contracts with a public or private agency or a federally recognized tribe, pursuant to the provisions of this section, the Department is authorized to directly contract with and pay such public or private agency or federally recognized tribe for provision of detention services. Any contract with a federally recognized tribe shall become effective upon approval by the board of county commissioners.

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

- a. that the contractor has the qualifications, experience, and personnel necessary to implement the terms of the contract,
- b. that the financial condition of the contractor is such that the term of the contract can be fulfilled,
- c. that the ability of the contractor to obtain insurance or provide self-insurance to indemnify the county against possible lawsuits and to compensate the county for any property damage or expenses incurred due to the private operation of the juvenile detention facility, and
- d. that the contractor has the ability to comply with applicable court orders and rules of the Department of ~~Juvenile Justice~~.

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

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

7. The operation of a juvenile detention facility by a county shall constitute a quasi-judicial function and is also hereby declared to be a function of the State of Oklahoma for purposes of the Eleventh Amendment to the United States Constitution. In addition, no contract authorized by the provisions of this section for the providing of transportation services or for the operation of

a juvenile detention facility shall be awarded until the contractor demonstrates to the satisfaction of the county that the contractor has obtained liability insurance with the limits specified by the Governmental Tort Claims Act against lawsuits arising from the operation of the juvenile detention facility by the contractor, or if the contract is for the providing of transportation services, the contractor has obtained liability insurance with the limits specified by the Governmental Tort Claims Act against lawsuits arising from the transportation of juveniles as authorized by subsection A of this section.

D. The State Board of ~~Juvenile Affairs~~ Corrections, from monies appropriated for that purpose, shall develop, adopt, and implement a plan for secure juvenile detention services and alternatives to secure detention, to be known as the State Plan for the Establishment of Juvenile Detention Services, which shall provide for the establishment of juvenile detention facilities and services with due regard for appropriate geographical distribution and existing juvenile detention programs operated by statutorily constituted juvenile bureaus. Said plan may be amended or modified by the Board as necessary and appropriate. Until said plan is adopted by the State Board of Corrections, the plan adopted by the ~~Oklahoma Commission for Human Services~~ Board of Juvenile Affairs shall remain in effect.

1. The State Board of ~~Juvenile Affairs~~ Corrections shall establish procedures for the letting of contracts or grants, including grants to existing juvenile detention programs operated by statutorily constituted juvenile bureaus, and the conditions and requirements for the receipt of said grants or contracts for juvenile detention services and facilities as provided in this section and Section 7302-4.1 of this title. A copy of such procedures shall be made available to any member of the general public upon request. All such grants or contracts shall require the

participation of local resources in the funding of juvenile detention facilities. A contract for services shall be based upon a formula approved by the Board which shall set the contract amount in accordance with the services offered and the degree of compliance with standards for certification. Until the procedures are established by the State Board of Corrections, the procedures established by the ~~Commission for Human Services~~ Board of Juvenile Affairs shall remain in effect.

2. The State Board of Juvenile Affairs Corrections shall establish standards for the certification of detention services and juvenile detention facilities. Such standards may include, but not be limited to: Screening for detention; education and recreation opportunities for juveniles in secure detention; and accreditation by the American Correctional Association. As a condition of continuing eligibility for grants or contracts, secure juvenile detention services and facilities shall be certified by the Board within two (2) years of the date of the initial grant or contract. Until the procedures are established by the State Board of Corrections, the procedures established by the Board of Juvenile Affairs shall remain in effect.

E. The State Department of Health, with the assistance of the ~~Office~~ Department of Juvenile Affairs Corrections, shall establish standards for the certification of jails, adult lockups, and adult detention facilities used to detain juveniles. Such standards shall include but not be limited to: Separation of juveniles from adults; supervision of juveniles; and health and safety measures for juveniles. The Department of Health is authorized to inspect any jail, adult lockup, or adult detention facility for the purpose of determining compliance with such standards. No jail, adult lockup, or other adult detention facility shall be used to detain juveniles unless such jail, adult lockup, or other adult detention facility complies with the standards established by the Department of Health

and is designated as a place for the detention of juveniles by the judge having juvenile docket responsibility in the county from a list of eligible facilities supplied by the Department of Health.

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

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

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

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

SECTION 63. AMENDATORY 10 O.S. 2001, Section 7305-1.1, is amended to read as follows:

Section 7305-1.1 A. In each county having a population of one hundred thousand (100,000) or more, as shown by the last preceding Federal Decennial Census, there is created a juvenile bureau and a citizens' advisory committee.

B. In each county having a duly constituted juvenile bureau as of January 1, 1981, as provided for in subsection A of this section, the juvenile bureau shall remain in place and continue in operation. No other counties shall establish juvenile bureaus. ~~The~~ Effective

November 1, 2004, the Department of ~~Juvenile Justice~~ Corrections shall provide intake, probation and parole services in all counties not having juvenile bureaus as provided for in Section 7302-2.3 of this title.

SECTION 64. AMENDATORY 10 O.S. 2001, Section 7305-1.3, is amended to read as follows:

Section 7305-1.3 A. The director, under the general supervision of the judge, shall organize, direct and develop the administrative work of the court, including the social, financial and clerical work, and the director shall perform such other duties as to children as any judge of the court shall direct. The technical and professional employees shall have charge of cases assigned to them for investigation or treatment and shall perform such other duties as may be assigned to them by the director.

B. To assure uniformity of procedures and care throughout the state, each juvenile bureau shall perform its statutory duties for children alleged or adjudicated to be in need of supervision or delinquent in accordance with the procedures and guidelines promulgated by the State Board of ~~Juvenile Affairs~~ Corrections and implemented by the Department of ~~Juvenile Justice~~ of the ~~Office of ~~Juvenile Affairs~~ Corrections~~. Until procedures and guidelines are promulgated by the State Board of Corrections, the procedures and guidelines promulgated by the Board of Juvenile Affairs shall remain in effect.

C. All information obtained in discharge of official duty by any officer or other employee of the court shall be privileged and shall not be disclosed to anyone other than the judge and others entitled under this act to receive such information, unless and until otherwise ordered by the judge.

SECTION 65. AMENDATORY 10 O.S. 2001, Section 7306-2.2, is amended to read as follows:

Section 7306-2.2 A. For the purposes of the Youthful Offender Act:

1. "Youthful offender" means a person:
 - a. thirteen (13), fourteen (14), fifteen (15), sixteen (16) or seventeen (17) years of age who is charged with murder in the first degree and certified as a youthful offender as provided by Section 7306-2.5 of this title,
 - b. fifteen (15), sixteen (16), or seventeen (17) years of age and charged with a crime listed in subsection A of Section 7306-2.6 of this title, and
 - c. sixteen (16) or seventeen (17) years of age and charged with a crime listed in subsection B of Section 7306-2.6 of this title,

if the offense was committed on or after January 1, 1998; ~~and~~

2. "Sentenced as a youthful offender" means the imposition of a court order making disposition of a youthful offender as provided by Section 7306-2.9 of this title which shall constitute an adult criminal sentence if ~~the youthful offender is transferred to the custody or supervision of the Department of Corrections~~ a sentence as an adult is imposed pursuant to paragraph 5 of subsection F of Section 7306-2.10 of this title; and

3. "Juvenile system" means programs and services for juveniles administered by the Department of Corrections.

B. It is the purpose of the Youthful Offender Act to better ensure the public safety by holding youths accountable for the commission of serious crimes, while affording courts methods of rehabilitation for those youths the courts determine, at their discretion, may be amenable to such methods. It is the further purpose of the Youthful Offender Act to allow those youthful offenders whom the courts find to be amenable to rehabilitation by the methods prescribed in the Youthful Offender Act to be placed in

the custody or under the supervision of the ~~Office of Juvenile Affairs~~ Department of Corrections for the purpose of accessing the rehabilitative programs for juveniles provided by ~~that Office~~ the Department and thereby, upon good conduct and successful completion of such programs, avoid conviction for a crime.

SECTION 66. AMENDATORY 10 O.S. 2001, Section 7306-2.4, is amended to read as follows:

Section 7306-2.4 A. A child who is arrested for an offense pursuant to subsection A or B of Section 7306-2.6 of this title or who is certified as a youthful offender pursuant to Section 7306-2.5 of this title, shall be charged by information in the same manner as provided for adults.

B. When a person is certified to stand trial as an adult or a youthful offender as provided by the Youthful Offender Act, the accused person shall have all the statutory and constitutional rights and protections of an adult accused of a crime. All proceedings shall be as for a criminal action and the provisions of Title 22 of the Oklahoma Statutes shall apply, except as provided for in the Youthful Offender Act. All youthful offender court records for such a person shall be considered adult records and shall not be subject to the provisions of Article VII of the Oklahoma Juvenile Code.

C. Proceedings against a youthful offender shall be heard by any judge of the district court.

D. Upon arrest and detention of a person subject to the provisions of Section 7306-2.5 or 7306-2.6 of this title, the person has the same right to be released on bail as would an adult in the same circumstances and, if detained, may be detained in a county jail if separated from the adult population as otherwise authorized by law. If no such county jail is available, then such person may be detained at a juvenile detention facility.

E. Upon a verdict of guilty or entry of a plea of guilty or nolo contendere by a youthful offender who has been certified for the imposition of an adult sentence as provided by Section 7306-2.8 of this title the person may be detained as an adult and, if incarcerated, may be incarcerated with the adult population.

F. A child or youthful offender shall be tried as an adult in all subsequent criminal prosecutions, and shall not be subject to the jurisdiction of the juvenile court or youthful offender processes in any further proceedings if:

1. The child or youthful offender has been certified to stand trial as an adult pursuant to any certification procedure provided by law; or

2. The youthful offender has been certified for the imposition of an adult sentence as provided by Section 7306-2.8 of this title and is subsequently convicted of the alleged offense or against whom the imposition of judgment and sentencing has been deferred.

G. Except as otherwise provided in the Youthful Offender Act, a person who has been prosecuted and sentenced as a youthful offender shall be prosecuted as a youthful offender in all subsequent criminal proceedings until the youthful offender has attained eighteen (18) years of age.

All proceedings for the commission of a crime committed after a youthful offender has reached eighteen (18) years of age shall be adult proceedings.

H. When a person who has been sentenced as a youthful offender is placed in the custody or under the supervision of the ~~Office of Juvenile Affairs~~ Department of Corrections as a youthful offender, if the youthful offender has not been previously discharged by the court from the custody or supervision of the ~~Office of Juvenile Affairs~~ Department, within the thirty (30) days immediately preceding the date on which the youthful offender becomes eighteen (18) years of age, or if extended by the court, nineteen (19) years

of age, the court shall hold a review hearing and shall make further orders regarding the youthful offender as provided by Section 7306-2.10 of this title.

SECTION 67. AMENDATORY 10 O.S. 2001, Section 7306-2.6, is amended to read as follows:

Section 7306-2.6 A. Any person fifteen (15), sixteen (16) or seventeen (17) years of age who is charged with:

1. Murder in the second degree;
2. Kidnapping for the purpose of extortion;
3. Manslaughter in the first degree;
4. Robbery with a dangerous weapon or attempt thereof;
5. Robbery with a firearm or attempt thereof;
6. Rape in the first degree or attempt thereof;
7. Rape by instrumentation or attempt thereof;
8. Forcible sodomy;
9. Lewd molestation;
10. Arson in the first degree or attempt thereof;
11. Shooting with intent to kill; or
12. Discharging a firearm, crossbow or other weapon from a

vehicle pursuant to subsection B of Section 652 of Title 21 of the Oklahoma Statutes,

shall be held accountable for his acts as a youthful offender.

B. Any person sixteen (16) or seventeen (17) years of age who is charged with:

1. Burglary in the first degree or attempted burglary in the first degree;
2. Aggravated assault and battery of a police officer;
3. Intimidating a witness;
4. Trafficking in or manufacturing illegal drugs;
5. Assault or assault and battery with a deadly weapon;
6. Maiming;

7. Residential burglary in the second degree after two or more adjudications that are separated in time for delinquency for committing burglary in the first degree or residential burglary in the second degree;

8. Rape in the second degree; or

9. Use of a firearm while in commission of a felony, shall be held accountable for his acts as a youthful offender.

C. Except as provided in subsection G of Section 7306-2.4 of this title, after a preliminary inquiry conducted by the Department of ~~Juvenile Justice~~ Corrections or a juvenile bureau, whichever is applicable for the county, the district attorney may file a petition alleging the person to be a delinquent or may file an information against the accused person charging the person as a youthful offender.

D. 1. Upon the filing of the information against such alleged youthful offender, a warrant shall be issued which shall set forth the rights of the accused person, and the rights of the parents, guardian or next friend of the accused person to be present at the preliminary hearing, and to have an attorney present.

2. The warrant shall be personally served together with a certified copy of the information on the alleged youthful offender and on a custodial parent, guardian or next friend of the accused person.

3. When personal service of a custodial parent, guardian or next friend of the alleged youthful offender cannot be effected, service may be made by certified mail to such person's last-known address, requesting a return receipt from the addressee only. If delivery is refused, notice may be given by mailing the warrant and a copy of the information on the accused person by regular first-class mail to the address where the person to be notified refused delivery of the notice sent by certified mail. Where the address of a custodial parent, guardian or next friend is not known, or if the

mailed warrant and copy of the information on the accused person is returned for any reason other than refusal of the addressee to accept delivery, after a distinct and meaningful search of all reasonably available sources to ascertain the whereabouts of a custodial parent, guardian or next friend has been conducted, the court may order that notice of the hearing be given by publication one time in a newspaper of general circulation in the county. In addition, the court may order other means of service of notice that the court deems advisable or in the interests of justice.

4. Before service by publication is ordered, the court shall conduct an inquiry to determine whether a thorough search has been made of all reasonably available sources to ascertain the whereabouts of any party for whom notice by publication is sought.

E. A criminal preliminary hearing shall be held within ninety (90) days of the charging of the accused person.

F. 1. The accused person may file a motion for certification to the juvenile system before the start of the criminal preliminary hearing:

- a. upon the filing of such motion, the complete juvenile record of the accused shall be made available to the district attorney and the accused person,
- b. at the conclusion of the state's case at the criminal preliminary hearing, the accused person may offer evidence to support the motion for certification as a child.

2. If no motion to certify the accused person to the juvenile system has been filed, at the conclusion of the criminal preliminary hearing the court may on its own motion hold a hearing on the matter of the certification of the accused youthful offender to the juvenile system.

3. The court shall rule on the certification motion before ruling on whether to bind the accused over for trial. When ruling

on the certification motion, the court shall give consideration to the following guidelines:

- a. the seriousness of the alleged offense to the community, and whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner,
- b. whether the offense was against persons or property, greater weight being given to offenses against persons, and if personal injury resulted, the degree of personal injury,
- c. the sophistication and maturity of the juvenile and his capability of distinguishing right from wrong as determined by consideration of his psychological evaluation, home, environmental situation, emotional attitude and pattern of living,
- d. the record and previous history of the accused person, including previous contacts with community agencies, law enforcement agencies, schools, juvenile courts and other jurisdictions, prior periods of probation or prior commitments to juvenile institutions,
- e. the prospects for adequate protection of the public,
- f. the likelihood of reasonable rehabilitation of the juvenile if he is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court, and
- g. whether the offense occurred while the accused person was escaping or in an escape status from an institution for delinquent children.

4. In its decision on the motion for certification as a juvenile, the court shall detail findings of fact and conclusions of law to each of the above considerations and shall state that the

court has considered each of the guidelines in reaching its decision.

5. An order certifying a person or denying such certification to the juvenile system shall be a final order, appealable when entered.

G. Upon conviction, sentence may be imposed as a sentence for a youthful offender as provided by Section 7306-2.9 of this title. If the youthful offender sentence is imposed as an adult sentence as provided by Section 7306-2.8 of this title, the juvenile may be incarcerated with the adult population.

SECTION 68. AMENDATORY 10 O.S. 2001, Section 7306-2.8, is amended to read as follows:

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

1. Not more than thirty (30) days following formal arraignment; or

2. If, prior to that time, the accused person indicates to the court that the accused person wishes to plead guilty, the court shall grant the state ten (10) days from that date to file the motion required by this subsection, if requested by the state.

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

C. 1. The court shall order an investigation to be conducted unless waived by the accused person with approval of the court. Any

such investigation required shall be conducted by the Department of ~~Juvenile Justice~~ Corrections.

2. At the hearing the court shall consider:

- a. the seriousness of the alleged offense to the community, and whether the offense was committed in an aggressive, violent, premeditated or willful manner,
- b. whether the offense was against persons or property, greater weight being given for offenses against persons and, if personal injury resulted, the degree of injury,
- c. the sophistication and maturity of the accused person and his capability of distinguishing right from wrong as determined by consideration of his psychological evaluation, home, environmental situation, emotional attitude and pattern of living,
- d. the record of the person including previous involvements with law enforcement agencies or courts, or prior periods of probation or prior commitments to institutions for delinquent behavior, and the previous history of the person with community agencies and schools,
- e. the prospects for adequate protection of the public,
- f. the likelihood of reasonable rehabilitation of the youthful offender if he is found to have committed the alleged offense, by the use of procedures and facilities currently available to the court if the accused person is processed through the youthful offender system, and
- g. whether the offense occurred while the person was escaping from a secure facility for youthful offenders or delinquent children.

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

In its decision on the motion of the state for imposition of an adult sentence, the court shall detail findings of fact and conclusions of law to each of the considerations in subsection C of this section and shall state that the court has considered each of its guidelines in reaching its decision.

E. An order certifying or denying certification for imposition of an adult sentence shall be a final order, appealable when entered.

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

G. Upon a verdict of guilty or a plea of guilty or nolo contendere, the court may order the person to pay a fee to the Department of ~~Juvenile Justice~~ of not less than Five Dollars (\$5.00), nor more than Two Hundred Fifty Dollars (\$250.00), for the presentence investigation. In hardship cases, the court may waive

the fee or set the amount of the fee and establish a payment schedule.

SECTION 69. AMENDATORY 10 O.S. 2001, Section 7306-2.9, is amended to read as follows:

Section 7306-2.9 A. Upon a verdict of guilty or a plea of guilty or nolo contendere of a youthful offender and prior to the imposition of a youthful offender sentence by the court:

1. A youthful offender presentence investigation shall be conducted unless waived by the youthful offender with approval of the court or unless an investigation is conducted pursuant to subsection C of Section 7306-2.8 of this title. Any presentence investigation required shall be conducted by the Department of ~~Juvenile Justice~~ Corrections; and

2. The court shall conduct a hearing and shall consider:

- a. whether the offense was committed in an aggressive, violent, premeditated or willful manner,
- b. whether the offense was against persons or property, greater weight being given to offenses against persons when personal injury resulted and the degree of injury,
- c. the sophistication and maturity of the juvenile and ~~his~~ capability of distinguishing right from wrong as determined by consideration of ~~his~~ a psychological evaluation, home, environmental situation, emotional attitude and pattern of living,
- d. the record of the person including previous involvements with law enforcement agencies or courts, or prior periods of probation or prior commitments to institutions for delinquent behavior, and the previous history of the person with community agencies and schools,
- e. the prospects for adequate protection of the public,

- f. the likelihood of reasonable rehabilitation of the youthful offender by the use of procedures and facilities currently available to the court if the accused person is processed through the youthful offender system, and
- g. whether the offense occurred while the person was escaping from a secure facility for youthful offenders or delinquent children.

B. After the hearing and consideration of the report of the presentence investigation, the court shall impose sentence as a youthful offender. In no event shall the sentence exceed the amount of time of a possible sentence for an adult convicted of the same offense or ten (10) years, whichever is less. The court may make one of the following dispositional orders regarding a youthful offender:

1. Place the youthful offender under the supervision of the ~~Office of Juvenile Affairs through its Department of Juvenile Justice~~ juvenile system of the Department; or

2. Place the youthful offender in the custody of the ~~Office of Juvenile Affairs~~ Department through the juvenile system of the Department.

In addition to or in lieu of the placement of the youthful offender in the custody of or under the supervision of the ~~Office of Juvenile Affairs~~ Department, the court may issue orders with regard to the youthful offender as provided by law for the disposition of a child adjudicated delinquent.

SECTION 70. AMENDATORY 10 O.S. 2001, 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~~ Department of Corrections through its juvenile system, the ~~Office~~ Department 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~~ Department, 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~~ juvenile system of the Department 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 adult system of 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~~ Department 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~~ Department, 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~~ Department through its juvenile system;

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~~ Department, 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 adult system 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~~ the offender's 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 adult system 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, and
- b. has substantially complied 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 or dismiss the charge as provided in paragraph 1 of subsection F of this section.

G. All persons sentenced as a youthful offender and placed in the custody or under the supervision of the juvenile system of the Department of Juvenile Justice of the Office of Juvenile Affairs shall be discharged or transferred to the custody of the adult system 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 in the juvenile system until nineteen (19) years of age unless otherwise provided by law.

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

I. 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~~ juvenile system of the Department, ~~he~~ the offender shall receive credit for the time spent in the custody or under the supervision of the ~~Office of Juvenile Affairs~~ juvenile system of the Department. Upon commitment to the adult system of the Department of Corrections, a youthful offender

shall also receive other credits as provided by law, for an adult inmate.

SECTION 71. AMENDATORY 10 O.S. 2001, Section 7306-2.11, is amended to read as follows:

Section 7306-2.11 A. Whenever a youthful offender is committed to the custody of the ~~Office of Juvenile Affairs~~ juvenile system of the Department of Corrections, the Department ~~of Juvenile Justice~~ may:

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

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

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

4. Place the youthful offender in a sanction program 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.

B. The Department ~~of Juvenile Justice~~ shall be responsible for the care and control of a youthful offender placed in the custody of

the ~~Office of Juvenile Affairs~~, and shall have the duty and the authority to provide food, clothing, shelter, ordinary medical care, education, discipline and in an emergency to authorize surgery or other extraordinary care. Said medical care, surgery and extraordinary care shall be charged to the appropriate agency where the youthful offender qualifies for said care under law, rule, regulation or administrative order or decision. Nothing in this section shall abrogate the right of a youthful offender to any benefits provided through public funds nor the parent's statutory duty or responsibility to provide said necessities; further, no person, agency or institution shall be liable in a civil suit for damages for authorizing or not authorizing surgery or extraordinary care in an emergency, as determined by competent medical authority. No state employee shall be liable for the costs of any medical care or mental health services provided to any child in the custody of the ~~Office of Juvenile Affairs~~ Department.

C. A youthful offender in the custody of the ~~Office of Juvenile Affairs~~ juvenile system of the Department shall:

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

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

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

SECTION 72. AMENDATORY 10 O.S. 2001, Section 7307-1.2, as amended by Section 1, Chapter 132, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7307-1.2), is amended to read as follows:

Section 7307-1.2 A. Except as provided by this section or as otherwise specifically provided by state or federal laws, the following juvenile records are confidential and shall not be open to the general public, inspected, or their contents disclosed:

1. Juvenile court records;
2. Agency records;
3. District attorney's records;
4. Law enforcement records;
5. Nondirectory education records; and
6. Social records.

B. The confidentiality limitation of subsection A of this section shall not apply to statistical information or information of a general nature obtained pursuant to the provisions of the Oklahoma Juvenile Code.

C. The confidentiality requirements of subsection A of this section for juvenile court records and law enforcement records shall not apply:

1. Upon the certification of a juvenile as an adult pursuant to Section 7303-4.3 of this title;
2. Upon the charging of an individual pursuant to Section 7306-1.1 of this title;
3. To a violation of any traffic regulation or motor vehicle regulation of Title 47 of the Oklahoma Statutes, or to a violation of any city ordinance or county resolution which relates to the regulation of traffic on the roads, highways or streets, or to the operation of self-propelled or nonself-propelled vehicles of any kind in this state;
4. To a juvenile who is fourteen (14) years of age or older and who has been adjudicated delinquent and who subsequently comes

before the juvenile court on a new delinquency matter after July 1, 1995;

5. To a juvenile adjudicated a delinquent for committing a delinquent act which, if committed by an adult, would be a felony offense that is a crime against the person or a felony offense involving a dangerous weapon;

6. To arrest records of a juvenile arrested for committing an act, which if committed by an adult, would be a felony offense; or

7. To a violation of the Prevention of Youth Access to Tobacco Act.

D. Following the first adjudication as a delinquent, the court having jurisdiction shall note on the juvenile court record of the person that any subsequent juvenile court records shall not be confidential; provided, the child is at least fourteen (14) years of age or older. Any juvenile court record which becomes an open juvenile record as provided in this subsection may be expunged as provided in Section 7307-1.8 of this title.

The provisions of this subsection shall only apply to the juvenile court records and law enforcement records of juvenile offenders certified, charged or adjudicated on and after July 1, 1995.

E. When a delinquent child has escaped or run away from a training school or other institutional placement for delinquents, the name and description of the child may be released to the public by the agency having custody of the child as necessary and appropriate for the protection of the public and the apprehension of the delinquent child whether or not the juvenile record is confidential or open.

F. Except as otherwise required by state or federal law, the confidential records listed in subsection A of this section may only be inspected, released, disclosed, corrected or expunged pursuant to an order of the court. Except as otherwise provided in Section

601.6 of this title or any provision of this chapter, no subpoena or subpoena duces tecum purporting to compel disclosure of confidential information or any confidential juvenile record shall be valid.

G. An order of the court authorizing the inspection, release, disclosure, correction or expungement of confidential records shall be entered by the court only after a review of the records by the court and a determination by the court, with due regard for the confidentiality of the records and the privacy of persons identified in the records, that a compelling reason exists and such inspection, release or disclosure is necessary for the protection of a legitimate public or private interest.

Except for district attorney records, any court order authorizing the disclosure, release or inspection of a confidential juvenile record may be conditioned on such terms and restrictions as the court deems necessary and appropriate.

H. Upon receiving a written request for inspection, release, disclosure, or correction of a juvenile record, the court shall determine whether the record of a juvenile falls under one of the exceptions listed in subsection C of this section. If the record falls under one of the exceptions in subsection C of this section, the court shall issue an order authorizing inspection, release, disclosure or correction of the juvenile record. If the release of a juvenile record is authorized by the court, the ~~Office of Juvenile Affairs~~ Department of Corrections shall provide information to the requestor regarding the location of the juvenile record to be released.

I. Any agency or person may seek an order from the juvenile court prohibiting the release of confidential information subject to disclosure without an order of the court pursuant to Section 620.6 of this title or any provision of this chapter. The court may, for good cause shown, prohibit the release of such information or

authorize release of the information upon such conditions as the court deems necessary and appropriate.

J. In accordance with the provisions of the Serious and Habitual Juvenile Offender Act and Section 620.6 of this title:

1. Information included in the records listed in subsection A of this section may be entered in and maintained in the Juvenile Justice Information System and other automated information systems related to services to children and youth whether or not the record is confidential or open; and

2. The information systems may be accessed by participating agencies as defined by this chapter or as otherwise provided by law.

K. The court may authorize a designated person to review juvenile court confidential reports and records and collect statistical information and other abstract information for research purposes. Such authorization shall be in writing and shall state specifically the type of information which may be reviewed and reported.

Each person granted permission to inspect confidential reports and records for research purposes shall present a notarized statement to the court stating that the names of juveniles, parents and other persons as may be required by the court to be confidential will remain confidential.

L. Nothing contained in the provisions of Section 620.6 of this title or any provision of this chapter shall be construed as:

1. Authorizing the inspection of records or the disclosure of information contained in records relating to the provision of benefits or services funded, in whole or in part, with federal funds, except in accord with federal statutes and regulations governing the receipt or use of such funds;

2. Authorizing the disclosure of information required to be kept confidential by Section 7505-1.1, 7506-1.1 or 7510-1.5 of this

title, the Oklahoma Adoption Code or disclosure of any other confidential record pursuant to the provisions of this chapter;

3. Abrogating any privilege, including the attorney-client privilege, or affecting any limitation on such privilege found in any other statutes;

4. Limiting or otherwise affecting access of parties to a juvenile proceeding to any records filed with or submitted to the court;

5. Limiting or otherwise affecting access of agencies to information subject to disclosure, review or inspection by contract or as a condition for the receipt of public funds or participation in any program administered by the agency;

6. Prohibiting the Department ~~of Juvenile Justice~~ from summarizing the outcome of an investigation to the person who reported a known or suspected instance of child abuse or neglect; or

7. Prohibiting the person or agency conducting a preliminary inquiry relating to an alleged delinquent act from providing information, as to the disposition of the matter by the district attorney, to the person or agency which referred the matter, including but not limited to whether a petition was filed or an alternative action taken, and the basis for such action and the terms of any agreement entered into by the child for payment of restitution, and including but not limited to provisions for community services.

M. The confidential records listed in subsection A of this section may be inspected and their contents disclosed without a court order to a school district in which the child who is the subject of the record is currently enrolled. The inspection of records and disclosure authorized by this subsection may be limited to summaries or to information directly necessary for the purpose of such inspection or disclosure. Upon request by the school district, the agency in possession of the records shall provide the requested

information to the school district. Any records disclosed as provided by this subsection shall remain confidential. The use of any information shall be limited to the purposes for which disclosure is authorized.

SECTION 73. AMENDATORY 10 O.S. 2001, Section 7307-1.3, is amended to read as follows:

Section 7307-1.3 A. In accordance with the rules adopted pursuant to the Serious and Habitual Juvenile Offender Act and Section 620.6 of this title, the confidential records listed in subsection A of Section 7307-1.2 of this title may be inspected and their contents disclosed without a court order to:

1. Participating agencies;
2. The following, provided that the inspection of records and disclosure authorized by this paragraph may be limited to summaries or to information directly necessary for the purpose of such inspection or disclosure:
 - a. pursuant to the provisions of this title, a person, agency, hospital or clinic authorized or directed by the court or by the Department of ~~Juvenile Justice~~ Corrections to care for, treat, examine, evaluate or supervise a child or to treat, examine or evaluate the parent, legal guardian or other adult person living in the home of the child,
 - b. a legally recognized school that is not a participating agency in which the child who is the subject of the record is currently enrolled, and
 - c. individuals or agencies engaged in legitimate research for educational, scientific or public purposes or for the purpose of an audit authorized by law. No information identifying the subjects of the records shall be made available or disclosed unless it is essential to the research or audit purpose.

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

SECTION 74. AMENDATORY 10 O.S. 2001, Section 7307-1.4, is amended to read as follows:

Section 7307-1.4 A. Juvenile court records which are confidential may be inspected, and their contents shall be disclosed, without a court order to the following persons upon showing of proper credentials and pursuant to lawful duties:

1. The judge having the child currently before the court in any proceeding pursuant to the Oklahoma Juvenile Code, or any judge of the district court or tribal court to which such proceedings may be transferred;

2. Employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court;

3. Members of review boards established pursuant to Sections 1116.2 and 1116.6 of this title. In addition to juvenile court records, any member of such review boards may inspect, without a court order, information including but not be limited to:

- a. psychological and medical records,
- b. placement history and information, including the names and addresses of foster parents,
- c. family assessments,
- d. treatment or service plans, and
- e. school records;

4. A district attorney and the employees of an office of a district attorney in the course of their official duties;

5. The attorney representing a child who is the subject of a juvenile proceeding pursuant to the provisions of this chapter. The attorney representing a child or considering representing a child in a juvenile proceeding may also access other records listed in subsection A of Section 7307-1.2 of this title for use in the legal representation of the child;

6. Employees of juvenile bureaus in the course of their official duties;

7. Employees of the Department of ~~Juvenile Justice~~ Corrections in the course of their official duties;

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

9. The Oklahoma Commission on Children and Youth;

10. The Department of ~~Juvenile Justice~~ Corrections or other public or private agency or any individual having court-ordered custody or custody pursuant to Department ~~of Juvenile Justice~~ placement of the child who is the subject of the record;

11. The Department of Human Services;

12. The child who is the subject of the record and the parents, legal guardian, legal custodian or foster parent of said child;

13. Any federally recognized Indian tribe in which the child who is the subject of the record is a member, or is eligible to become a member of the tribe due to the child being the biological child of a member of an Indian tribe pursuant to the Federal Indian Child Welfare Act, P.L. 95-608, and the Oklahoma Indian Child

Welfare Act; provided such Indian tribe member, in the course of official duties:

- a. is investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody, or
- b. is providing services to or for the benefit of a child including but not limited to protective, emergency, social and medical services;

14. Any federally recognized Indian tribe in which the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

The records that are to be provided to Indian tribes pursuant to the provisions of this subsection shall include all case records, reports and documents as defined in this chapter;

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

16. Any federal official of the United States Department of Health and Human Services;

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

~~18. Employees of the Department of Corrections in the course of their official duties; and~~

~~19.~~ Employees of the United States Probation Office, in the course of their official duties.

B. Records and their contents disclosed without an order of the court as provided by the provisions of this section shall remain confidential. The use of any information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful

for any person to furnish any confidential record or disclose any confidential information contained in any juvenile record for commercial, political or any other unauthorized purpose. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor.

SECTION 75. AMENDATORY 10 O.S. 2001, Section 7307-1.5, is amended to read as follows:

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

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

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

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

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

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

6. Employees of a law enforcement agency of this or another state and employees of a child protective service of another state or any federally recognized Indian tribe member in the course of

their official duties pertaining to investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

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

8. The Oklahoma Commission on Children and Youth;

9. The Department of Human Services;

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

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

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

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

- a. the person or agency conducting the research is employed by the State of Oklahoma or is under contract with this state and is authorized by the ~~Office of Juvenile Affairs~~ Department of Corrections to conduct the research, and

b. the person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to any documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed;

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

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

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

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

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

SECTION 76. AMENDATORY 10 O.S. 2001, Section 7307-1.7, is amended to read as follows:

Section 7307-1.7 A. No adjudication by the court upon the status of a child in a juvenile proceeding shall operate to impose any of the civil disabilities ordinarily resulting from conviction

of a crime, nor shall a child be deemed a criminal by reason of a juvenile adjudication.

B. The court may order the records of a person alleged to be delinquent to be sealed as follows:

1. When the person has been alleged to be delinquent and:
 - a. one (1) year has elapsed from the later of:
 - (1) dismissal or closure of the case by the court, or
 - (2) notice to the court by the Department of ~~Juvenile Justice~~ Corrections or a juvenile bureau of final discharge of such person from the supervision of the Department ~~of Juvenile Justice~~ or juvenile bureau, and
 - b. the person has not been found guilty of or admitted to the commission of a subsequent criminal offense in either a juvenile or adult proceeding, and
 - c. no juvenile or adult proceeding for a criminal offense is pending;
2. When a juvenile court intake has been completed and:
 - a. the case has been dismissed, or
 - b. no petition has been filed pending fulfillment of conditions of a voluntary probation, or
 - c. a petition has been filed but no adjudication has occurred pending the fulfillment of conditions of a preadjudicatory probation;
3. When a juvenile participates in a court-approved alternative diversion program for first-time offenders and:
 - a. the juvenile presents satisfactory evidence to the court that the juvenile has successfully completed the program, and
 - b. the court dismisses the case at the conclusion of the deferral period; or

4. When a juvenile participates in a court-approved military mentor program and:

- a. the juvenile presents satisfactory evidence to the court that the juvenile has successfully completed the program, and
- b. the court dismisses the case at the conclusion of the deferral period.

The records may be sealed one (1) year after such dismissal or completion of the conditions of a voluntary or preadjudicatory probation, alternative diversion program for first-time offenders, or military mentor program or upon the person attaining the age of eighteen (18) years in the discretion of the court.

C. The Administrative Office of the Courts shall establish on or before January 1, 1994, a system for sealing records as required by subsection B of this section and records shall be sealed in accordance with the procedures established pursuant to said system.

D. Upon the sealing of any record of a person alleged to be delinquent pursuant to this title, the record and official actions subject to the order shall be deemed never to have occurred, and the person who is the subject of the record and all juvenile justice agencies may properly reply upon any inquiry in the matter that no such action ever occurred and no such record exists with respect to such person.

E. 1. Upon the entry of an order to seal a juvenile court record, the court clerk shall seal the juvenile court record indicated in the court's order, except that a confidential index shall be maintained for the purpose of locating records subject to inspection or release pursuant to subsection G of this section.

2. When notified by the court clerk of a court order sealing a juvenile court record, the law enforcement agency having records pertaining to the person shall seal the records as ordered, except basic identification information shall be maintained.

3. Except where such documents are necessary to maintain state or federal funding, the juvenile court personnel records pertaining to the person shall be sealed.

F. Members of the judiciary, district attorneys, the defendant, the defendant's counsel and employees of juvenile bureaus, ~~the Department of Juvenile Justice assigned juvenile court intake responsibilities,~~ and the Department of Corrections may access records that have been sealed pursuant to this section without a court order for the purpose of determining whether to dismiss an action, seek a voluntary probation, file a petition, or for purposes of sentencing or placement in a case where the person who is the subject of the sealed record is alleged to have committed a subsequent juvenile delinquent act or any adult criminal offense. Provided, any record sealed pursuant to this section may be used in a subsequent juvenile delinquent or adult prosecution only after the issuance of a court order unsealing the record.

G. The court may issue an order unsealing sealed juvenile court records, for use for the following purposes:

1. In subsequent cases against the same child pursuant to this title;

2. In an adult criminal proceeding pursuant to Section 7303-4.3 or 7306-1.1 of this title;

3. Upon conviction of a criminal offense in an adult proceeding, in connection with the sentencing of such person;

4. If the person is placed in ~~the~~ adult custody or ~~under the~~ supervision of the Department of Corrections;

5. In accordance with the guidelines adopted pursuant to the Serious and Habitual Juvenile Offender Act and Section 620.6 of this title, for maintaining juvenile justice and criminal justice statistical information;

6. For the purpose of a criminal investigation; or

7. When the court finds that there is a compelling reason and it is in the interest of justice to order the record unsealed.

H. Any person or agency having a legitimate interest in a delinquency case or proceeding may petition the court for an order unsealing a juvenile court record. Upon the filing of a petition to unseal any juvenile court record, the court shall set a date for a hearing and shall provide thirty (30) days' notice to all interested parties. The hearing may be closed at the court's discretion. If, after a hearing, the court determines that there is any reason enumerated in subsection G of this section and it is necessary for the protection of a legitimate public or private interest to unseal the records, the court shall order the record unsealed.

I. Any record ordered to be sealed pursuant to this section, if not unsealed within ten (10) years of the order, shall be obliterated or destroyed at the end of the ten-year period.

SECTION 77. AMENDATORY 10 O.S. 2001, Section 7307-1.8, is amended to read as follows:

Section 7307-1.8 A. A person who is the subject of an open juvenile court record may petition the district court in which the juvenile court record is located for an order to expunge all or any part of the record pertaining to the person, except basic identification information; provided:

1. The person has attained twenty-one (21) years of age or older;

2. The person has not been arrested for any adult criminal offense and no charge, indictment, or information has been filed or is pending against the person at the time of the petition for an expungement;

3. The person has not been subject to any deferred prosecution or deferred sentence, and has not been convicted of any criminal offense; and

4. All court costs, restitution, fines and other court-ordered requirements have been completed for all juvenile proceedings.

B. Upon the filing of a petition for expungement of a juvenile court record, the court shall set a date for a hearing, which hearing may be closed at the court's discretion, and shall provide a thirty (30) days' notice of the hearing to the district attorney, the Department of ~~Juvenile Justice~~ Corrections, the Oklahoma State Bureau of Investigation, and any other person or agency whom the court has reason to believe may have relevant information related to the expungement of any record.

C. Upon a finding that the harm to privacy of the person in interest or dangers of unwarranted adverse consequences outweigh the public interest in retaining the records, the court may order the records, or any part thereof except basic identification information, to be expunged. If the court finds that neither expungement of the records nor maintaining of the records unsealed by the agency would serve the ends of justice, the court may enter an appropriate order limiting access to the records. Any order entered pursuant to the provisions of this subsection shall specify those agencies to which the court order shall apply.

D. Upon the entry of an order to expunge any juvenile court record, or any part thereof, the subject official actions shall be deemed never to have occurred, and the person in interest and all juvenile and criminal justice agencies may properly reply, upon any inquiry in the matter, that no such action ever occurred and that no such record exists with respect to the person.

E. Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person in interest who is the subject of the records, the Attorney General, or by the district attorney and only to those persons and for such purposes named in the petition.

F. Employers, educational institutions, state and local government agencies, officials, and employees shall not, in any application or interview or otherwise, require an applicant to disclose any information contained in any expunged juvenile records. An applicant need not, in answer to any question concerning arrest, juvenile and criminal records, provide information that has been expunged, including any reference to or information concerning expungement and may state that no such action has ever occurred. Such an application may not be denied solely because of the applicant's refusal to disclose information that has been expunged.

G. Nothing in this section shall be construed to authorize the physical destruction of any juvenile records.

H. For the purposes of this section, expunged materials which are recorded in the same document as unsealed material may be recorded in a separate document, and sealed, then obliterated in the original document.

I. For the purposes of this act, district court index reference of sealed material shall be destroyed, removed or obliterated.

J. Any record ordered to be expunged pursuant to this section shall be sealed and, if not unsealed within ten (10) years of the expungement order, may be obliterated or destroyed at the end of the ten-year period.

K. Subsequent to records being sealed as provided herein, the district attorney, the Department of ~~Juvenile Justice~~ Corrections, the Oklahoma State Bureau of Investigation, or other interested person or agency may petition the court for an order unsealing any records. Upon filing of a petition, the court shall set a date for hearing, which hearing may be closed at the court's discretion, and shall provide thirty (30) days' notice to all interested parties. If, upon hearing, the court determines there has been a change of conditions or that there is a compelling reason to unseal the

records, the court may order all or a portion of the records unsealed.

L. Nothing herein shall prohibit the introduction of evidence regarding actions sealed pursuant to the provisions of this section at any hearing or trial for purposes of impeaching the credibility of a witness or as evidence of character testimony pursuant to Section 2608 of Title 12 of the Oklahoma Statutes.

SECTION 78. AMENDATORY 10 O.S. 2001, Section 7307-1.9, is amended to read as follows:

Section 7307-1.9 ~~The Office of Juvenile Affairs~~ Department of Corrections shall, in cooperation with sheriffs in this state, develop procedures for providing timely and relevant information to sheriffs concerning juvenile court records and agency records of persons who have met the criteria specified in paragraph 5 of subsection C of Section 7307-1.2 of Title 10 of the Oklahoma Statutes. The procedures shall be designed to provide the type of information useful and relevant to establishing security level requirements for persons in the custody of a sheriff. The provisions of this section shall not require the disclosure of any records or information which is required by law to be kept confidential.

SECTION 79. AMENDATORY 10 O.S. 2001, Section 7308-1.3, as amended by Section 2, Chapter 164, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7308-1.3), is amended to read as follows:

Section 7308-1.3 ~~The Office of Juvenile Affairs~~ Department of Corrections shall establish and maintain a registry for juvenile sex offenders required by the court to register. The registry shall include fingerprints, photographs, and information collected from forms submitted and other communications relating to notice of duty to register, sex offender registration, and notice of change of name or address. Information in the juvenile sex offender registry is subject to release to law enforcement agencies and may be released

to the public pursuant to court order as provided in Section 7308-1.4 of this title.

SECTION 80. AMENDATORY 10 O.S. 2001, Section 7308-1.4, as amended by Section 3, Chapter 164, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7308-1.4), is amended to read as follows:

Section 7308-1.4 A. When a person meets the definition of a juvenile sex offender pursuant to Section 7308-1.2 of this title, the district attorney may make an application to include the juvenile in the juvenile sex offender registry. Upon the application of the district attorney, the court shall appoint two persons who are qualified sex offender treatment professionals to evaluate the juvenile and report to the court on the treatment prognosis and likelihood that the juvenile offender represents an ongoing serious or aggressive threat to the public or children under sixteen (16) years of age. One appointee shall be currently licensed as a physician or psychologist in Oklahoma with a minimum of two hundred (200) hours of clinical experience in juvenile sex offender treatment. Other criteria for qualifying as a sex offender treatment professional shall include, but not be limited to, current licensure as a medical or mental health professional with a minimum of two hundred (200) hours of clinical experience in juvenile sex offender treatment, or current licensure as a medical or mental health professional with a minimum of two (2) years' combined clinical experience in child abuse treatment, child or adolescent anger management treatment, juvenile delinquency or criminal behavior treatment, sexual abuse treatment, child or adolescent psychology, or therapeutic social work. A list of sex offender treatment professionals meeting the established criteria shall be provided to each district court by the ~~Office of Juvenile Affairs~~ Department of Corrections. Where professionals are appointed to conduct an evaluation in such cases, the court may set reasonable compensation and order the payment out of the court fund. In the

event two qualified sex offender treatment professionals are not available to the court to evaluate the juvenile sex offender, the ~~Office of Juvenile Affairs~~ Department may, at the court's request, select additional qualified sex offender treatment professionals employed by the agency to assist with the evaluation report.

B. The court shall, after consideration of the evaluation report required by subsection A of this section, make a finding of whether the juvenile offender represents an ongoing serious or aggressive threat to the public or children under sixteen (16) years of age. If the court finds the juvenile represents such threat, the court shall order the juvenile to register on the juvenile sex offender registry as provided in this act.

C. The court, in its discretion, may order information on any juvenile sex offender released from the juvenile sex offender registry to any person or to the public at large when the evaluation report considered by the court indicates a likelihood of an ongoing serious or aggressive threat to the public or children under sixteen (16) years of age. If the court orders release of this information to the public at large, it shall promptly be made available for public inspection or copying pursuant to rules promulgated by the ~~Office of Juvenile Affairs~~ the Department of Corrections. Rules promulgated by the Office of Juvenile Affairs shall remain in effect until rules are promulgated by the Department. If the court orders the release of this information through community notification, the notification shall be carried out by the local law enforcement authority applicable to the person's residence.

D. The court may review the treatment prognosis of any registered juvenile sex offender at any time and may, in its discretion, order release of additional information from the juvenile sex offender registry, as deemed appropriate for the protection of the public.

SECTION 81. AMENDATORY 10 O.S. 2001, Section 7308-1.5, as amended by Section 4, Chapter 164, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7308-1.5), is amended to read as follows:

Section 7308-1.5 ~~On and after the effective date of this act~~ Beginning July 1, 2001, when the court orders a juvenile sex offender to register on the juvenile sex offender registry as provided in Section 7308-1.4 of this title, the court shall provide at the time of the order written notification of the duty to register. The written notification shall be a form provided by the ~~Office of Juvenile Affairs~~ Department of Corrections and shall be signed by the juvenile and a parent or guardian who has custody and control of the juvenile. One copy shall be retained by the court, one copy shall be provided to the juvenile offender, and one copy shall be submitted within three (3) working days to the juvenile sex offender registry.

SECTION 82. AMENDATORY 10 O.S. 2001, Section 7308-1.7, is amended to read as follows:

Section 7308-1.7 An adjudicated juvenile sex offender ordered to register on the juvenile sex offender registry shall be subject to annual registration and change of name and address notification pursuant to this act, except during periods when the juvenile is in the custody of the ~~Office of Juvenile Affairs~~ Department of Corrections.

SECTION 83. AMENDATORY 10 O.S. 2001, Section 7308-1.9, as amended by Section 5, Chapter 164, O.S.L. 2002 (10 O.S. Supp. 2002, Section 7308-1.9), is amended to read as follows:

Section 7308-1.9 When a registered juvenile sex offender reaches twenty-one (21) years of age or is otherwise released from the custody of the ~~Office of Juvenile Affairs~~ juvenile system of the Department of Corrections, the district attorney may petition the court to transfer the person's registration to the adult sex offender registry maintained by the Department of Corrections,

subject to the provisions of Section 581 et seq. of Title 57 of the Oklahoma Statutes. After notice, if the court determines at a hearing that the person who is registered on the juvenile sex offender registry is likely to or does pose an ongoing serious or aggressive threat to the public or children under sixteen (16) years of age, the court shall order that the delinquent act be deemed an adult criminal conviction for the purpose of registration, notification, and public information access pursuant to Section 581 et seq. of Title 57 of the Oklahoma Statutes. If no petition is filed within ninety (90) days following the twenty-first birthday of the person or the date of release from custody, or if the court determines the person is not likely to or does not pose an ongoing serious or aggressive threat to the public or children under sixteen (16) years of age, the juvenile's name and information shall be deleted from the juvenile sex offender registry, and the person may not be included in the adult sex offender registry.

SECTION 84. AMENDATORY 10 O.S. 2001, Section 7308-1.13, is amended to read as follows:

Section 7308-1.13 ~~The Office of Juvenile Affairs~~ Department of Corrections shall promulgate rules, procedures, and forms necessary for the implementation of a juvenile sex offender registry. Until the Department promulgates the necessary rules, procedures and forms, the rules, procedures and forms promulgated by the Office of Juvenile Affairs shall remain in effect.

SECTION 85. This act shall become effective January 1, 2004.

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