STATE OF OKLAHOMA

1st Session of the 51st Legislature (2007)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1579 By: Peters

COMMITTEE SUBSTITUTE

An Act relating to children; amending 10 O.S. 2001, Section 7303-1.3, as last amended by Section 7, Chapter 3, O.S.L. 2003 (10 O.S. Supp. 2006, Section 7303-1.3), which relates to preliminary inquiry and petition for juvenile proceedings; increasing certain time limitation; authorizing assessment of certain fee; requiring fee be remitted to certain bureau, agency or fund; providing purpose for fee; amending 10 O.S. 2001, Section 7305-1.2, which relates to qualifications of juvenile bureau director and personnel; modifying appointment and removal power of certain personnel; amending 10 O.S. 2001, Section 7307-1.5, which relates to inspection and disclosure of juvenile records; changing agency designation; authorizing disclosure of certain information; modifying list of persons authorized to inspect juvenile justice records; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7303-1.3, as last amended by Section 7, Chapter 3, O.S.L. 2003 (10 O.S. Supp. 2006, 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 intake is to be provided by the Department of Juvenile Justice 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 minor in need of treatment shall be filed by a district attorney pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors 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~~ <u>up to six (6) months</u> 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, or such other program as may be approved by the juvenile court and the district attorney. If the child successfully completes the program, the district attorney shall not file the petition. If the district attorney defers filing a petition pursuant to this subsection, the deferral agreement may require the child to pay a fee equal to no more than what the court costs would have been had a petition been filed. The juvenile shall remit the fee directly to the agency responsible for the monitoring and supervision of the juvenile. If the supervising agency is a juvenile bureau then the fee shall be remitted to a revolving fund of the county in which the juvenile bureau is located to be designated the "Juvenile Deferral Fee Revolving Fund" and shall be used by the juvenile bureau to defray costs for the operation of the juvenile bureau. In those counties without juvenile bureaus and in which the Office of Juvenile Affairs or one of their contracting agencies provides the monitoring and supervision of the juvenile, the fee shall be paid directly to the Office of Juvenile Affairs and shall be used to defray the costs for the operation of the Office of Juvenile Affairs. 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 2. AMENDATORY 10 O.S. 2001, Section 7305-1.2, is amended to read as follows:

Section 7305-1.2 The chief administrative officer of the juvenile bureau shall be a director, who shall be subject to the direction and supervision of the judge of the Juvenile Division, subject to the general administrative authority of the Presiding Judge of the Judicial Administrative District within budgetary limitations. There shall be sufficient counselors, clerks and assistant clerks to properly conduct the work of the bureau. The director shall be a person over the age of thirty (30) years, of good character, qualified in social work, and familiar with the problems of juvenile delinquency and dependency. The director ~~and counselors~~ shall be appointed by the judge of the Juvenile Division, subject to the general administrative authority of the Presiding Judge of the Judicial Administrative District, from a list of eligible persons established by the citizens' advisory committee at the request of the Presiding Judge of the Judicial Administrative District. ~~Other~~ Counselors and other persons may be employed by the director with the approval of the judge of the Juvenile Division, subject to the general administrative authority of the Presiding Judge of the Judicial Administrative District. The director~~, counselors and other employees~~ may be removed by the judge of the Juvenile Division, subject to the general administrative authority of the Presiding Judge of the Judicial Administrative District at any time. The counselors and other employees may be removed by the director.

SECTION 3. AMENDATORY 10 O.S. 2001, Section 7307-1.5, is amended to read as follows:

Section 7307-1.5 A. ~~Department~~ The Office of Juvenile ~~Justice~~ Affairs 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, including providing summary dispositional and placement information to the victim of the delinquent acts of the child;

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~~ paragraph 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~~ Office of Juvenile ~~Justice~~ Affairs 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 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, the United States Department of Homeland Security, or any employee of the United States Probation Office;

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 4. This act shall become effective November 1, 2007.

51-1-7387 GRS 02/26/07