

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 2094

6 By: Tibbs

7 COMMITTEE SUBSTITUTE

8 An Act relating to juveniles; amending 10 O.S. 2001,
9 Section 7306-1.1, which relates to the Oklahoma
10 Juvenile Code; adding crime to certain list; and
11 providing an effective date.

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

14 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7306-1.1, is
15 amended to read as follows:

16 Section 7306-1.1 A. Any person sixteen (16) or seventeen (17)
17 years of age who is charged with murder, kidnapping, robbery with a
18 dangerous weapon, robbery in the first degree if personal injury
19 results, rape in the first degree, rape by instrumentation, use of
20 firearm or other offensive weapon while committing a felony, arson
21 in the first degree, burglary with explosives, burglary in the first
22 or second degree after three or more adjudications for committing
23 either burglary in the first degree or burglary in the second
24 degree, shooting with intent to kill, discharging a firearm,

1 crossbow or other weapon from a vehicle pursuant to subsection B of
2 Section 652 of Title 21 of the Oklahoma Statutes, intimidating a
3 witness, manslaughter in the first degree, sodomy, trafficking in
4 illegal drugs, manufacturing, distributing, dispensing, or
5 possessing with intent to manufacture, distribute, or dispense a
6 controlled dangerous substance, ~~or~~ assault and battery with a deadly
7 weapon, or assault and battery upon any corrections personnel
8 pursuant to Section 649 or 650 of Title 21 of the Oklahoma Statutes
9 shall be considered as an adult.

10 B. Any person thirteen (13), fourteen (14), fifteen (15),
11 sixteen (16), or seventeen (17) years of age who is charged with
12 murder in the first degree shall be considered as an adult.

13 C. Upon the arrest and detention, such accused person shall
14 have all the statutory and constitutional rights and protections of
15 an adult accused of a crime, but shall be detained in a jail cell or
16 ward entirely separate from prisoners who are eighteen (18) years of
17 age or over.

18 D. 1. Upon the filing of an information against such accused
19 person, a warrant shall be issued which shall set forth the rights
20 of the accused person, and the rights of the parents, guardian or
21 next friend of the accused person to be present at the preliminary
22 hearing, to have an attorney present and to make application for
23 certification of such accused person as a child to the juvenile
24 division of the district court. The warrant shall be personally

1 served together with a certified copy of the information on the
2 accused person and on a custodial parent, guardian or next friend of
3 the accused person.

4 2. When personal service of a custodial parent, guardian or
5 next friend of the accused person cannot be effected, service may be
6 made by certified mail to such person's last-known address,
7 requesting a return receipt from the addressee only. If delivery is
8 refused, notice may be given by mailing the warrant and a copy of
9 the information on the accused person by regular first class mail to
10 the address where the person to be notified refused delivery of the
11 notice sent by certified mail. Where the address of a custodial
12 parent, guardian or next friend is not known, or if the mailed
13 warrant and copy of the information on the accused person is
14 returned for any reason other than refusal of the addressee to
15 accept delivery, after a distinct and meaningful search of all
16 reasonably available sources to ascertain the whereabouts of a
17 custodial parent, guardian or next friend has been conducted, the
18 court may order that notice of the hearing be given by publication
19 one time in a newspaper of general circulation in the county. In
20 addition, the court may order other means of service of notice that
21 the court deems advisable or in the interests of justice.

22 3. Before service by publication is ordered, the court shall
23 conduct an inquiry to determine whether a distinct and meaningful
24 search has been made of all reasonably available sources to

1 ascertain the whereabouts of any party for whom notice by
2 publication is sought.

3 E. The accused person shall file a motion for certification as
4 a child before the start of the criminal preliminary hearing. Upon
5 the filing of such motion, the complete juvenile record of the
6 accused shall be made available to the district attorney and the
7 accused person.

8 At the conclusion of the state's case at the criminal
9 preliminary hearing, the accused person may offer evidence to
10 support the motion for certification as a child.

11 The court shall rule on the certification motion of the accused
12 person before ruling on whether to bind the accused over for trial.
13 When ruling on the certification motion of the accused person, the
14 court shall give consideration to the following guidelines, listed
15 in order of importance:

16 1. Whether the alleged offense was committed in an aggressive,
17 violent, premeditated or willful manner;

18 2. Whether the offense was against persons or property, greater
19 weight being given for retaining the accused person within the adult
20 criminal system for offenses against persons, especially if personal
21 injury resulted;

22 3. The record and past history of the accused person, including
23 previous contacts with law enforcement agencies and juvenile or
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1 criminal courts, prior periods of probation and commitments to
2 juvenile institutions; and

3 4. The prospects for adequate protection of the public if the
4 accused person is processed through the juvenile system.

5 The court, in its decision on the certification motion of the
6 accused person, need not detail responses to each of the above
7 considerations, but shall state that the court has considered each
8 of the guidelines in reaching its decision.

9 F. Upon completion of the criminal preliminary hearing, if the
10 accused person is certified as a child to the juvenile division of
11 the district court, then all adult court records relative to the
12 accused person and this charge shall be expunged and any mention of
13 the accused person shall be removed from public record.

14 G. An order certifying a person as a child or denying the
15 request for certification as a child shall be a final order,
16 appealable when entered.

17 H. The provisions of this section shall apply only to offenses
18 committed before January 1, 1998.

19 SECTION 2. This act shall become effective November 1, 2007.

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21 51-1-7120 GRS 02/14/07

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