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THE STATE SENATE
Monday, February 25, 2008

Committee Substitute for
Senate Bill No. 1889

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1889 - By: LAMB of the Senate and BLACKWELL of the House.

An Act relating to children; amending 10 O.S. 2001, Section 7306-2.9, as amended by Section 7, Chapter 286, O.S.L. 2006 (10 O.S. Supp. 2007, Section 7306-2.9), which relates to youthful offenders; authorizing detainment of youthful offenders in county jails under certain circumstances; providing for compensation to jail operator; assigning liability of medical treatment costs to the Office of Juvenile Affairs; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7306-2.9, as amended by Section 7, Chapter 286, O.S.L. 2006 (10 O.S. Supp. 2007, 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; and

1 2. The court shall conduct a hearing and shall consider, with
2 the greatest weight given to subparagraphs a, b and c:

3 a. whether the offense was committed in an aggressive,
4 violent, premeditated or willful manner,

5 b. whether the offense was against persons and, if
6 personal injury resulted, the degree of personal
7 injury,

8 c. the record and past history of the person, including
9 previous contacts with law enforcement agencies and
10 juvenile or criminal courts, prior periods of
11 probation and commitments to juvenile institutions,

12 d. the sophistication and maturity of the person and the
13 person's capability of distinguishing right from wrong
14 as determined by consideration of the person's
15 psychological evaluation, home, environmental
16 situation, emotional attitude and pattern of living,

17 e. the prospects for adequate protection of the public if
18 the person is processed through the youthful offender
19 system or the juvenile system,

20 f. the reasonable likelihood of rehabilitation of the
21 person if found to have committed the offense, by the
22 use of procedures and facilities currently available
23 to the juvenile, and

1 g. whether the offense occurred while the person was
2 escaping or on escape status from an institution for
3 youthful offenders or delinquent children.

4 B. 1. After the hearing and consideration of the report of the
5 presentence investigation, the court shall impose sentence as a
6 youthful offender within the range prescribed by law for adult
7 felony convictions except capital offenses and shall make one of the
8 following dispositional orders regarding a youthful offender:

9 a. place the youthful offender under the supervision of
10 the Office of Juvenile Affairs through its Department
11 of Juvenile Justice, or

12 b. place the youthful offender in the custody of the
13 Office of Juvenile Affairs.

14 2. In addition to or in lieu of the placement of the youthful
15 offender in the custody of or under the supervision of the Office of
16 Juvenile Affairs, the court may issue orders with regard to the
17 youthful offender as provided by law for the disposition of an
18 adjudicated juvenile delinquent.

19 C. It is the intent of the Oklahoma Legislature that youthful
20 offenders be held insofar as is practical separate from the juvenile
21 delinquent population.

22 D. A youthful offender who has been sentenced into the custody
23 of the Office of Juvenile Affairs may be detained in a county jail

1 pending placement in an Office of Juvenile Affairs juvenile
2 correctional facility, provided the county jail meets the jail
3 standards promulgated by the State Department of Health for juvenile
4 offenders. A youthful offender who is eighteen (18) years of age or
5 older may be held in the general population of the county jail. The
6 State Department of Health, Jail Inspection Division, shall have
7 sole oversight, including the investigation of complaints, of county
8 jails with regard to the detention of youthful offenders. A
9 youthful offender may be held in a county jail for a maximum of
10 sixty (60) days without compensation to the operator of the county
11 jail. Thereafter, the Office of Juvenile Affairs shall compensate
12 the county jail operator at a rate that is equal to the actual cost
13 of providing food and care to the youthful offender during the
14 period that the youthful offender was held in the county jail. At
15 any time a youthful offender is detained in a county jail, the
16 Office of Juvenile Affairs shall be liable for the cost of necessary
17 medical treatment for the youthful offender.

18 SECTION 2. This act shall become effective November 1, 2008.

19 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN RESOURCES, dated
20 2-21-08 - DO PASS, As Amended and Coauthored.