ENGROSSED HOUSE
BILL NO. 2029

By: Steele, McAffrey, Kern, McDaniel (Jeannie) and Shelton of the House

and

Coates of the Senate

An Act relating to the Oklahoma Juvenile Code; amending 10 O.S. 2001, Sections 7301-1.1, 7301-1.2 and 7301-1.3, as amended by Section 1, Chapter 320, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7301-1.3), which relate to general provisions and definitions of the Oklahoma Juvenile Code; specifying duties of district attorney; updating statutory references; adding and modifying scope of certain definitions; amending 10 O.S. 2001, Section 7302-1.1, as last amended by Section 2, Chapter 320, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7302-1.1), which relates to the Board of Juvenile Affairs; updating language; amending 10 O.S. 2001, Sections 7302-3.1, as last amended by Section 5, Chapter 1, O.S.L. 2007, 7302-3.2, 7302-3.5, as amended by Section 8, Chapter 320, O.S.L. 2006, Section 4, Chapter 4, O.S.L. 2002, as amended by Section 9, Chapter 320, O.S.L. 2006, 7302-3.8, as amended by Section 11, Chapter 320, O.S.L. 2006, and 7302-3.11, as amended by Section 14, Chapter 320, O.S.L. 2006 (10 O.S. Supp. 2008, Sections 7302-3.1, 7302-3.5, 7302-3.6a, 7302-3.8 and 7302-3.11), which relate to powers and duties of the Office of Juvenile Affairs; updating language and agency designation; deleting certain specified program requirements; amending 10 O.S. 2001, Section 7302-4.1, which relates to the Juvenile Detention Improvement Revolving Fund; updating agency designation; amending 10 O.S. 2001, Sections 7302-5.1, as amended by Section 15, Chapter 320, O.S.L. 2006, 7302-5.2, as amended by Section 21, Chapter 327, O.S.L. 2002, 7302-5.3, as amended by Section 22, Chapter 327, O.S.L. 2002 and 7302-5.4, as amended by Section 3, Chapter 124, O.S.L. 2006 (10 O.S. Supp.

2008, Sections 7302-5.1, 7302-5.2, 7302-5.3 and 7302-5.4), which relate to supervision and placement of juveniles; clarifying scope of certain juvenile services; updating language and agency designation; modifying certain age limitation; amending 10 O.S. 2001, Sections 7302-6.1, as amended by Section 23, Chapter 327, O.S.L. 2002, 7302-6.2, as amended by Section 3, Chapter 213, O.S.L. 2003, 7302-6.3, as last amended by Section 7, Chapter 1, O.S.L. 2007, 7302-6.4, 7302-6.5, 7302-6.6, as amended by Section 5, Chapter 124, O.S.L. 2006, 7302-6.7, 7302-6.8, 7302-6.9, as amended by Section 6, Chapter 124, O.S.L. 2006 and 7302-6.10 (10 O.S. Supp. 2008, Sections 7302-6.1, 7302-6.2, 7302-6.3, 7302-6.6 and 7302-6.9), which relate to facilities and training programs of the Office of Juvenile Affairs; updating language and agency designation; deleting obsolete language; modifying name of certain facility; amending 10 O.S. 2001, Sections 7302-7.1, as amended by Section 8, Chapter 421, O.S.L. 2004, 7302-7.2, as amended by Section 9, Chapter 421, O.S.L. 2004, 7302-7.3, as last amended by Section 10, Chapter 421, O.S.L. 2004, 7302-7.4, as last amended by Section 3, Chapter 266, O.S.L. 2007 and 7302-7.5, as amended by Section 12, Chapter 421, O.S.L. 2004 (10 O.S. Supp. 2008, Sections 7302-7.1, 7302-7.2, 7302-7.3, 7302-7.4 and 7302-7.5), which relate to the Delinquency and Youth Gang Intervention and Prevention Act; updating language and agency designation; clarifying certain duties of the Office of Juvenile Affairs; modifying eligibility requirement for certain contracts; amending 10 O.S. 2001, Section 7302-8.1, which relates to the Juvenile Offender Victim Restitution Work Program; updating agency designation; amending 10 O.S. 2001, Sections 7302-9.1, 7302-9.2, 7302-9.3, 7302-9.4 and 7302-9.6, which relate to the Serious and Habitual Juvenile Offender Act; modifying name of act; updating agency designation; deleting certain definitions; modifying scope of tracking program components; modifying statutory references; amending 10 O.S. 2001, Sections 7303-1.1, as amended by Section 24, Chapter 327, O.S.L. 2002, 7303-1.2, as amended by Section 7, Chapter 124, O.S.L. 2006, 7303-1.3, as last amended by Section 1, Chapter 176, O.S.L. 2007, 7303-1.4, as amended by Section 3, Chapter 473, O.S.L. 2002, 7303-1.5, 7303-1.6 and 7303-1.7, as amended by Section 26, Chapter 327,

O.S.L. 2002 (10 O.S. Supp. 2008, Sections 7303-1.1, 7303-1.2, 7303-1.3, 7303-1.4 and 7303-1.7), which relate to custody proceedings; clarifying certain custody provisions; providing and modifying statutory references; modifying personal jurisdiction requirements; deleting certain jurisdiction and case transfer provisions; providing age limitation for filing of juvenile proceeding; requiring juveniles be tried in juvenile proceedings; providing for the transfer of certain cases to the juvenile division of the district court; deleting jurisdiction requirements and proceedings for municipalities; deleting municipal juvenile facility requirements; deleting municipal penalty guidelines; deleting municipal court records requirements; modifying preliminary inquiry procedures; deleting juvenile proceeding petition requirements; authorizing use of informal adjustment agreements; stating requirements and guidelines for use of informal adjustment agreements; allowing modification of informal adjustment agreements under certain circumstance; authorizing assessment of fees; requiring remittance of fee to certain revolving fund; stating purpose of fee; deleting certain time limitation; deleting certain definition; providing time limitations and procedures for filing certain petition; providing procedures for service of summons; clarifying medical examination and evaluation provisions; deleting certain investigation requirement; amending 10 O.S. 2001, Section 7303-3.1, which relates to custodial interrogations; updating agency designation; requiring custodial interrogation of youthful offenders to conform with certain requirements; clarifying provisions related to court appointments of counsel; deleting certain prohibited act; amending 10 O.S. 2001, Sections 7303-4.2, 7303-4.3, as amended by Section 1, Chapter 75, O.S.L. 2004 and 7303-4.6, as last amended by Section 8, Chapter 124, O.S.L. 2006 (10 O.S. Supp. 2008, Sections 7303-4.3 and 4.6), which relate to adjudicatory and certification hearings; authorizing reimbursement of certain expenses; requiring court to sustain or dismiss petition upon certain finding; deleting certain juvenile proceeding guidelines and certification procedures; authorizing court to require participation in certain programs during deferral period; deleting certain delinquency proceeding

guidelines and definitions; amending 10 O.S. 2001, Sections 7303-5.1, 7303-5.2, as amended by Section 27, Chapter 327, O.S.L. 2002, 7303-5.3, as last amended by Section 9, Chapter 124, O.S.L. 2006, 7303-5.4, as amended by Section 6, Chapter 473, O.S.L. 2002, 7303-5.5, as amended by Section 2, Chapter 226, O.S.L. 2005, Section 3, Chapter 226, O.S.L. 2005, Section 5, Chapter 226, O.S.L. 2005, Section 6, Chapter 226, O.S.L. 2005 and Section 7, Chapter 226, O.S.L. 2005 (10 O.S. Supp. 2008, Sections 7303-5.2, 7303-5.3, 7303-5.4, 7303-5.5, 7303-5.6, 7303-5.8, 7303-5.9 and 7303-5.10), which relate to dispositional hearings and juvenile drug court programs; modifying statutory references; modifying guidelines for disposition orders; updating agency designation; clarifying restitution and community service provisions; authorizing court to order participation in Juvenile Drug Court Program; prohibiting the use of arrest, detention or adjudication information for any public or private purposes; authorizing use of teleconference communications for review hearing; defining phrase; limiting scope of juvenile drug courts to the treatment of adjudicated juveniles; providing guidelines for determining eligibility for drug court program; requiring drug court investigation; deleting certain eligibility guidelines; modifying juvenile drug court investigation requirements; specifying written treatment plan provisions; prohibiting admissibility of statements obtained during drug court proceedings; providing an exception; modifying and deleting certain final eligibility considerations; providing certain sanctions for failing to accept personal jurisdiction; deleting certain time limitations; deleting progress hearing and notice requirements; deleting plea agreement restrictions; authorizing court to order payment of certain juvenile drug court program fees; amending 10 O.S. 2001, Section 7303-6.2, which relates to appeals to the appellate courts; modifying procedures in which appeals may be taken; amending 10 O.S. 2001, Sections 7303-7.4, 7303-7.5 and 7303-7.6, which relate to contempt of court proceedings, referees and reimbursement for certain costs; providing time limitation for punishment in a juvenile detention center; decreasing county population limit for referee appointments; requiring judge to determine

reasonable compensation for referees; modifying duties and powers of referees; providing for service of findings and orders made by referees; stating procedures for review of orders; providing for the adoption or modification of certain report; stating when orders and findings become effective; providing exceptions; modifying procedures for reimbursement of costs and expenses; updating agency designation; deleting certain payment, reimbursement and disbursement procedures; deleting certain powers of the court; amending 10 O.S. 2001, Sections 7303-8.1, as amended by Section 28, Chapter 327, O.S.L. 2002, 7303-8.2, 7303-8.3, 7303-8.4, as amended by Section 29, Chapter 327, O.S.L. 2002 and 7303-8.6, as amended by Section 10, Chapter 124, O.S.L. 2006 (10 O.S. Supp. 2008, Sections 7303-8.1, 7303-8.4 and 7303-8.6), which relate to placements for adjudicated children; modifying requirements for inpatient treatment and evaluations; updating agency designations; deleting placement procedures for outpatient and inpatient care; amending 10 O.S. 2001, Sections 7304-1.1, as last amended by Section 9, Chapter 3, O.S.L. 2003 and 7304-1.3 (10 O.S. Supp. 2008, Section 7304-1.1), which relates to the detention or confinement of children; increasing time limitation for orders requiring secure detention; modifying categories that require secure detention of a child; updating agency designations; modifying statutory references; directing certain juvenile offenders be given priority status for detention beds; deleting obsolete language; amending 10 O.S. 2001, Sections 7305-1.1, as last amended by Section 1, Chapter 385, O.S.L. 2008, 7305-1.3, 7305-1.7, as last amended by Section 2, Chapter 385, O.S.L. 2008 and 7305-1.10 (10 O.S. Supp. 2008, Sections 7305-1.1 and 7305-1.7), which relate to juvenile bureaus and citizens' advisory committees; deleting certain duty required of the Department of Juvenile Justice; deleting requirement that prohibits the disclosure of certain information; modifying salary limitations for certain supervisors and employees; deleting approval requirement for mileage reimbursement; deleting reporting requirements for certain expenses incurred by directors and counselors; modifying statutory references; amending 10 O.S. 2001, Sections 7306-1.1, 7306-2.1, 7306-2.2, as last amended by Section 1, Chapter 277, O.S.L. 2008, 7306-2.3, 7306-2.4, as last

amended by Section 2, Chapter 277, O.S.L. 2008, 7306-2.5, as last amended by Section 11, Chapter 1, O.S.L. 2007, 7306-2.6, as amended by Section 5, Chapter 286, O.S.L. 2006, Section 2, Chapter 239, O.S.L. 2006, 7306-2.8, as amended by Section 6, Chapter 286, O.S.L. 2006, 7306-2.9, as last amended by Section 3, Chapter 277, O.S.L. 2008, 7306-2.10, as last amended by Section 4, Chapter 277, O.S.L. 2008, Section 1, Chapter 144, O.S.L. 2006, as amended by Section 5, Chapter 277, O.S.L. 2008, 7306-2.11, as last amended by Section 6, Chapter 277, O.S.L. 2008 and 7306-2.12, as amended by Section 10, Chapter 286, O.S.L. 2006 (10 O.S. Supp. 2008, Sections 7306-2.2, 7306-2.4, 7306-2.5, 7306-2.6, 7306-2.7a, 7306-2.8, 7306-2.9, 7306-2.10, 7306-2.10a, 7306-2.11 and 7306-2.12), which relate to reverse certification and the Youthful Offender Act; updating language; modifying statutory references; providing for appointment of attorney regardless of attempted waiver and upon determination of indigency; updating agency designation; authorizing use of teleconference communication for certain hearings; defining phrase; amending 10 O.S. 2001, Sections 7307-1.1, 7307-1.2, as last amended by Section 2, Chapter 324, O.S.L. 2008, 7307-1.3, 7307-1.4, as last amended by Section 2, Chapter 156, O.S.L. 2007, 7307-1.5, as amended by Section 2, Chapter 191, O.S.L. 2007, 7307-1.7, 7307-1.8, as amended by Section 13, Chapter 434, O.S.L. 2003 and 7307-1.9 (10 O.S. Supp. 2008, Sections 7307-1.2, 7307-1.4, 7307-1.5 and 7307-1.8), which relate to juvenile records; modifying statutory references; clarifying scope of certain definition; modifying certain confidentiality requirement; updating agency designation; clarifying what juvenile court records may be expunged; amending 10 O.S. 2001, Sections 7308-1.1, 7308-1.3, as amended by Section 2, Chapter 164, O.S.L. 2002, 7308-1.4, as amended by Section 3, Chapter 164, O.S.L. 2002 and 7308-1.5, as amended by Section 4, Chapter 164, O.S.L. 2002 (10 O.S. Supp. 2008, Sections 7308-1.3, 7308-1.4 and 7308-1.5), which relate to the Juvenile Sex Offender Registration Act; updating language; modifying statutory references; amending Section 1, Chapter 147, O.S.L. 2004 (10 O.S. Supp. 2008, Section 7309-1.1), which relates to the Interstate Compact for Juveniles Act; updating language; authorizing certain municipalities to assume jurisdiction in certain

juvenile cases; authorizing municipalities to enter into interlocal agreements; providing for the detainment of juveniles under certain circumstances and pursuant to certain restrictions; prohibiting placement of juveniles in adult detention facilities; providing for temporary detainment pursuant to certain conditions; defining phrase; requiring certification of municipal juvenile facilities; directing establishment of certification standards for municipal juvenile facilities; providing for the assessment of fines and community service for juveniles; providing penalties for failure to complete community service; providing for suspension of driver licenses and driving privileges; providing for confidentiality of certain records; directing certain funds be earmarked for certain purposes; prohibiting the filing of social records; providing procedures for filing social records; authorizing disclosure of records when permitted by law; repealing 10 O.S. 2001, Section 7302-2.5, which relates to reports made to the State Department of Education; repealing 10 O.S. 2001, Sections 7303-2.1, 7303-2.2, 7303-4.5, Section 4, Chapter 226, O.S.L. 2005, 7303-6.1, 7303-6.3, 7303-7.1, 7303-7.2, 7303-7.3 and 7303-8.5, as amended by Section 30, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2008, Sections 7303-5.7 and 7303-8.5), which relate to custody and court proceedings; providing for codification; providing for noncodification; providing for recodification; and declaring an emergency.

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

ARTICLE 2

OKLAHOMA JUVENILE CODE

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Sections 2-1-101 through 2-1-103 of Title 10A of the Oklahoma Statutes shall constitute Chapter 1 of Article 2.

CHAPTER 1 - GENERAL PROVISIONS

SECTION 2. AMENDATORY 10 O.S. 2001, Section 7301-1.1, is amended to read as follows:

Section 7301-1.1 A. ~~Chapter 73~~ Article 2 of Title ~~10~~ 10A of the Oklahoma Statutes shall be known and may be cited as the "Oklahoma Juvenile Code".

B. All statutes hereinafter enacted and codified in ~~Chapter 73~~ Article 2 of Title ~~10~~ 10A of the Oklahoma Statutes shall be considered and deemed part of the Oklahoma Juvenile Code.

C. Chapter~~, article and part~~ captions are part of the Oklahoma Juvenile Code, but shall not be deemed to govern, limit or in any manner affect the scope, meaning or intent of the provisions of any article or part of this Code.

D. The district attorney shall prepare and prosecute any case or proceeding within the purview of the Oklahoma Juvenile Code.

SECTION 3. AMENDATORY 10 O.S. 2001, Section 7301-1.2, is amended to read as follows:

Section 7301-1.2 It is the intent of the Legislature that ~~Chapter 73~~ Article 2 of this title shall be liberally construed, to the end that its purpose may be carried out.

The purpose of the laws relating to juveniles alleged or adjudicated to be delinquent is to promote the public safety and reduce juvenile delinquency. This purpose should be pursued through means that are fair and just, that:

1. Recognize the unique characteristics and needs of juveniles;

2. Give juveniles access to opportunities for personal and social growth;

3. Maintain the integrity of substantive law prohibiting certain behavior and developing individual responsibility for lawful behavior;

4. Provide a system for the rehabilitation and reintegration of juvenile delinquents into society;

5. Preserve and strengthen family ties whenever possible, including improvement of home environment;

6. Remove a juvenile from the custody of parents if the welfare and safety of the juvenile or the protection of the public would otherwise be endangered;

7. Secure for any juvenile removed from the custody of parents the necessary treatment, care, guidance and discipline to assist the juvenile in becoming a responsible and productive member of society; and

8. Provide procedures through which the provisions of the law are executed and enforced and which will assure the parties fair hearings at which their rights as citizens are recognized and protected.

SECTION 4. AMENDATORY 10 O.S. 2001, Section 7301-1.3, as amended by Section 1, Chapter 320, O.S.L. 2006 (10 O.S. Supp. 2008, 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~~ Chapter 2 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 Board of Juvenile Affairs and which are used for the temporary detention of juveniles in lieu of secure detention in a juvenile detention facility;

3. "Behavioral health" means mental health, substance abuse or co-occurring mental health and substance abuse diagnoses, and the continuum of mental health, substance abuse, or co-occurring mental health and substance abuse treatment;

4. "Behavioral health facility" means a mental health or substance abuse facility as provided for by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act;

5. "Board" means the Board of Juvenile Affairs;

~~4.~~ 6. "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~~ charged and convicted for any offense specified in the Youthful Offender Act or against whom judgment and sentence has been deferred for such offense, or any person who is certified as an adult pursuant to any certification procedure authorized in the Oklahoma Juvenile Code for any offense which results in a

conviction or against whom judgment and sentence has been deferred for such offense;

~~5.~~ 7. "Child or juvenile in need of mental health and substance abuse treatment" means a juvenile in need of mental health and substance abuse treatment as defined by the Inpatient Mental Health and Substance Abuse Treatment of ~~Children~~ Minors Act;

~~6.~~ 8. "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.~~ 9. "Community-based" means a facility, program or service located near the home or family of the juvenile, and programs of

community prevention, diversion, 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, prevention and diversion programs, diversion programs for first-time offenders, transitional living, independent living and other rehabilitative services;

~~8.~~ 10. "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~~ 2-7-305 of this title;

~~9.~~ 11. "Core community-based" means the following community-based facilities, programs or services provided through contract with the Office of Juvenile Affairs as provided in Section ~~7302-3.6a~~ 2-7-306 of this title:

a. screening, evaluation and assessment which includes a face-to-face screening and evaluation to establish problem identification and to determine the risk level of a child or adolescent and may result in clinical diagnosis or diagnostic impression,

b. treatment planning which includes preparation of an individualized treatment plan which is usually done as part of the screening, evaluation and assessment,

c. treatment plan reviewing which includes a comprehensive review and evaluation of the effectiveness of the treatment plan,

d. individual counseling which includes face-to-face, one-on-one interaction between a counselor and a juvenile to promote emotional or psychological change to alleviate the issues, problems, and difficulties that led to a referral, including ongoing assessment of the status and response of the juvenile to treatment as well as psychoeducational intervention,

e. group counseling which includes a method of treating a group of individuals using the interaction between a counselor and two or more juveniles and/or parents or guardians to promote positive emotional or behavioral change, not including social skills development or daily living skills,

f. family counseling which includes a face-to-face interaction between a counselor and the family of the juvenile to facilitate emotional, psychological or behavior changes and promote successful communication and understanding,

g. crisis intervention counseling which includes unanticipated, unscheduled face-to-face emergency intervention provided by a licensed level or qualified staff with immediate access to a licensed provider to resolve immediate, overwhelming problems that severely impair the ability of the juvenile to function or maintain in the community,

h. crisis intervention telephone support which includes supportive telephone assistance provided by a licensed level provider or qualified staff with immediate access to a licensed provider to resolve immediate, overwhelming problems that severely impair the ability of the juvenile to function or maintain in the community,

i. case management which includes planned linkage, advocacy and referral assistance provided in partnership with a client to support that client in self-sufficiency and community tenure,

j. case management and home-based services which includes that part of case management services dedicated to travel for the purpose of linkage, advocacy and referral assistance and travel to provide counseling and support services to families of children as needed

to support specific youth and families in self-sufficiency and community tenure,

k. individual rehabilitative treatment which includes face-to-face service provided one-on-one by qualified staff to maintain or develop skills necessary to perform activities of daily living and successful integration into community life, including educational and supportive services regarding independent living, self-care, social skills regarding development, lifestyle changes and recovery principles and practices,

l. group rehabilitative treatment which includes face-to-face group services provided by qualified staff to maintain or develop skills necessary to perform activities of daily living and successful integration into community life, including educational and supportive services regarding independent living, self-care, social skills regarding development, lifestyle changes and recovery principles and practices,

m. community-based prevention services which include services delivered in an individual or group setting by a qualified provider designed to meet the services needs of a child or youth and family of the child or

youth who has been referred because of identified problems in the family or community. The group prevention planned activities must be focused on reducing the risk that individuals will experience behavioral, substance abuse or delinquency-related problems. Appropriate curriculum-based group activities include, but are not limited to, First Offender groups, prevention and relationship enhancement groups, anger management groups, life skills groups, substance abuse education groups, smoking cessation groups, STD/HIV groups and parenting groups,

n. individual paraprofessional services which include services delineated in the treatment plan of the juvenile which are necessary for full integration of the juvenile into the home and community, but do not require a professional level of education and experience. Activities include assisting families with Medicaid applications, assisting with school and General Educational Development (GED) enrollment, assisting youth with independent living arrangements, providing assistance with educational problems and deficiencies, acting as a role model for youth while engaging them in community activities, assisting youth

in seeking and obtaining employment, providing transportation for required appointments and activities, participating in recreational activities and accessing other required community support services necessary for full community integration and successful treatment,

o. tutoring which includes a tutor and student working together as a learning team to bring about overall academic success, improved self-esteem and increased independence as a learner for the student,

p. community relations which include public or community relations activities directed toward the community or public at large or any segment of the public to encourage understanding, accessibility and use of community-based facilities, programs or services,

q. emergency shelter beds and shelter host homes which include emergency shelter care for juveniles referred to the program needing shelter care within the State of Oklahoma,

r. transitional living programs which include a structured program to help older homeless youth achieve self-sufficiency and avoid long-term dependence on social services,

s. community-at-risk services (C.A.R.S.) which include a program provided to juveniles in custody or under the supervision of the Office of Juvenile Affairs or a juvenile bureau to prevent out-of-home placement and to reintegrate juveniles returning from placements. The program shall include, but not be limited to, treatment plan development, counseling, diagnostic and evaluation services, mentoring, tutoring, and supervision of youth in independent living,

t. first offender programs which include alternative diversion programs ~~for first-time offenders~~, as defined by Section ~~7303-4.6~~ 2-2-404 of this title, and

u. ~~teen court programs which include teen court programs subject to the requirements and procedures provided in Section 7303-4.6 of this title,~~

~~v. teen substance abuse schools which include teen substance abuse schools that shall include any program approved by the court that provides educational, motivational and behavior modification instruction for juveniles who have chemical dependency problems, and~~

~~w.~~ other community-based facilities, programs or services designated by the Board as core community-based facilities, programs or services;

~~10.~~ 12. "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.~~ 13. "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.~~ 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;

~~13.~~ 15. "Executive Director" means the Executive Director of the Office of Juvenile Affairs;

~~14.~~ 16. "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;

~~15.~~ 17. "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;

~~16.~~ 18. "Group home" means a residential facility 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;

~~17.~~ 19. "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;

~~18.~~ 20. "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;

~~19.~~ 21. "Juvenile detention facility" means a secure facility which meets the certification standards of the ~~Department~~ Office 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;

~~20. "Mental health facility" means a mental health facility as defined by the Inpatient Mental Health Treatment of Children Act;~~

~~21.~~ 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~~ 2-2-102 of this title;

~~22.~~ 23. "Office" means the Office of Juvenile Affairs;

~~23.~~ 24. “Peer Review” means an initial or annual review and report to the Office of Juvenile Affairs of the organization, programs, records and financial condition of a Youth Services Agency

by the Oklahoma Association of Youth Services, or another Oklahoma nonprofit corporation whose membership consists solely of Youth Services Agencies and of whom at least a majority of Youth Services Agencies are members. An annual review may consist of a review of one or more major areas of the operation of the Youth Services Agency being reviewed;

~~24.~~ 25. "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~~ Title 10 of the Oklahoma Statutes;

~~25.~~ 26. "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;

~~26.~~ 27. "Probation" means a legal status created by court order whereby a delinquent juvenile is permitted to remain outside ~~a Department~~ an Office of Juvenile ~~Justice~~ Affairs facility directly

or by contract under prescribed conditions and under supervision by the ~~Department~~ Office, subject to return to the court for violation of any of the conditions prescribed;

~~27.~~ 28. "Rehabilitative facility" means a facility maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of juveniles in need of supervision;

~~28.~~ 29. "Responsible adult" means a stepparent, foster parent, person related to the juvenile in any manner who is eighteen (18) years of age or older, or any person having an obligation and authority to care for or safeguard the juvenile in the absence of another person who is eighteen (18) years of age or older;

30. "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~~ Office of Juvenile ~~Justice~~ Affairs after adjudication;

~~29.~~ 31. "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;

~~30.~~ 32. "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; and

~~31.~~ 33. “Youth Services Agency” means a nonprofit corporation with a local board of directors, officers and staff that has been designated by the Board as a Youth Services Agency, that is peer reviewed annually, and that provides community-based facilities, programs or services to juveniles and their families in the youth services service area in which it is located.

SECTION 5. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Sections 2-7-101 through 2-7-905 of Title 10A of the Oklahoma Statutes shall constitute Chapter 7 of Article 2.

CHAPTER 7 - JUVENILE JUSTICE

SECTION 6. AMENDATORY 10 O.S. 2001, Section 7302-1.1, as last amended by Section 2, Chapter 320, O.S.L. 2006 (10 O.S. Supp. 2008, 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~~ the 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~~ the modification becomes effective if such appointment would result in more than two members serving from the same modified district. The terms of office of the members serving on the Board on the effective date of this act shall expire at the end of the current term of the member.

C. 1. All appointments made by the Governor pursuant to this act shall be as follows:

a. one member appointed by the Governor shall be a resident of the First Congressional District,

b. one member appointed by the Governor shall be a resident of the Second Congressional District,

c. one member appointed by the Governor shall be a resident of the Third Congressional District,

d. one member appointed by the Governor shall be a resident of the Fourth Congressional District,

e. one member appointed by the Governor shall be a resident of the Fifth Congressional District,

f. one member appointed by the Governor shall be appointed at large, and

g. one member appointed by the Governor shall be appointed at large.

All members shall be appointed for terms of four (4) years. All terms shall expire on the first day of July of the year in which the terms of each member expire.

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~~ the 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 or herself 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. Members appointed pursuant to this paragraph shall include persons having experience in social work, juvenile justice, criminal justice, community-based youth services, criminal-justice-related behavioral sciences, indigent defense, and education. In making the appointments, the Governor shall also give consideration to urban, rural, gender, and minority representation.

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 Board shall:

1. Adopt and promulgate rules for its government and may adopt an official seal for the Office of Juvenile Affairs;

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;

4. Review and approve the budget request of the Office of Juvenile Affairs to the Governor;

5. Assist the Office of Juvenile Affairs in conducting periodic reviews and planning activities related to the goals, objectives, priorities, and policies of the Office;

6. 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 at least quarterly. The Board shall have the

authority to adopt nonbinding resolutions requesting action by the Office of Juvenile Affairs in response to comments received or upon the Board's own initiative; and

7. Establish contracting procedures for the Office of Juvenile Affairs and guidelines for rates of payment for services provided by contract.

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

2. Effective July 1, 1995, any administrative policies adopted by the Commission for Human Services 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 Board of Juvenile Affairs.

3. Any rules adopted by the Commission for Human Services 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 Oklahoma Legislature

may be finally adopted and promulgated by the Board of Juvenile Affairs 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 Board of Juvenile Affairs shall develop performance standards for programs implemented, either directly or pursuant to contract, by the Office of Juvenile Affairs.

SECTION 7. AMENDATORY 10 O.S. 2001, Section 7302-3.1, as last amended by Section 5, Chapter 1, O.S.L. 2007 (10 O.S. Supp. 2008, Section 7302-3.1), is amended to read as follows:

Section 7302-3.1 A. Effective July 1, 2006, in addition to other responsibilities specified by law, the Office of Juvenile Affairs shall:

1. Be the state planning and coordinating agency for statewide juvenile justice and delinquency prevention services; provided, it shall give full consideration to any recommendations of the Oklahoma

Association of Youth Services regarding community-based facilities, programs or 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 Office of Juvenile Affairs shall include the following:

1. The Office of Advocate Defender;

2. The Office of the Parole Board which shall consist of the Parole Review and Hearing Board; and

3. Such other offices prescribed by the Executive Director of the Office of Juvenile Affairs or by law.

C. 1. Effective July 1, 2006, the following programs are established within the Office of Juvenile Affairs:

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 Tracking Program,

f. regimented juvenile training programs,

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

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

2. Beginning July 1, 1995, the Office of Juvenile Affairs, in cooperation with the courts, shall develop programs which can be used directly by the Office of Juvenile Affairs or can be used in communities with the assistance of the Office of Juvenile Affairs to divert juveniles at risk of becoming delinquent from the formal court process. ~~Such~~ Any 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~~ meet the requirements of Section 2-2-404 of this title.

D. Beginning July 1, 1995, the Office of Juvenile Affairs, in its role as coordinator for delinquency prevention services, shall, after full consideration of any recommendation of the Oklahoma Association of Youth Services:

1. Establish guidelines for juvenile delinquency prevention and diversion programs for use in community-based programs, 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,

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

j. case management services; 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 Office of Juvenile Affairs shall provide this service in each county either directly or by contract.

E. 1. On July 1, 2006, the following programs or divisions, which were transferred from the Department of Human Services to the Department of Juvenile Justice on July 1, 1995, shall be transferred, along with funding allocations, ~~from the Department of Juvenile Justice~~ to 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,

c. 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, and

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. The Office of Juvenile Affairs may enter into a contract for professional services for any contract that was in effect at the time of the posting of the reduction in force with a person who has been separated from service with the Office of Juvenile Affairs as a result of the reduction in force.

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. Effective July 1, 2006, records in the custody of the Department of Juvenile Justice relating to delinquent juveniles and juveniles in need of supervision shall be transferred to the Office of Juvenile Affairs.

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

Section 7302-3.2 A. ~~Effective July 1, 1995, there~~ There is hereby established within the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs the Division of Advocate Defender which will be separate and apart from the Office of General Counsel. 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'~~ years of experience as an attorney. The Executive Director of the Office of Juvenile Affairs 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, the~~ 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 and placed in private facilities or facilities operated by the Office of Juvenile Affairs; 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~~ Executive Director of the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, 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 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, 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, in the favor of the complainant; and

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

SECTION 9. AMENDATORY 10 O.S. 2001, Section 7302-3.5, as amended by Section 8, Chapter 320, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7302-3.5), is amended to read as follows:

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

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

1. The Office of Juvenile Affairs shall, to the extent reasonable and practicable, provide community-based services, community residential care and community intervention centers to children in the custody of the Office of Juvenile Affairs through

financial agreements, as authorized in Sections ~~7302-3.3~~ 2-7-303 and ~~7302-3.4 of~~ 2-7-304 of this title.

2. The Office of Juvenile Affairs 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 Office of Juvenile Affairs shall implement programs 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 pursuant to rules promulgated by the Office. The municipality may enter into subcontracts with one or more service providers, subject to the approval by the Office of Juvenile Affairs. The service provider, whether a municipality or other

entity, must have access to the management information system provided for in Section ~~7302-3.8~~ 2-7-308 of this title and must employ qualified staff, as determined by the Office of Juvenile Affairs.

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.

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~~ 2-7-308 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. 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, if written permission to do so is obtained from the parent, guardian or other person legally responsible for the ~~juvenile's~~ care of the juvenile. 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.

SECTION 10. AMENDATORY Section 4, Chapter 4, O.S.L. 2002, as amended by Section 9, Chapter 320, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7302-3.6a), is amended to read as follows:

Section 7302-3.6a A. Funds specifically appropriated to the Office of Juvenile Affairs for designated Youth Services Agency programs for both the Office of Juvenile Affairs and the Department of Human Services shall be made available through contracts negotiated by the Office of Juvenile Affairs, to organizations designated by the Board of Juvenile Affairs as "Youth Services Agencies". All core community-based programs and services to be performed by a Youth Services Agency during a contract period shall be included in one contract or contract extension for that period. Designations of Youth Services Agencies by the Board shall be granted based on community needs, as indicated in the State Plan for Youth Services Agencies which shall be adopted by rule by the Board. The State Plan for Youth Services Agencies shall be adopted in accordance with criteria approved by the Board of Juvenile Affairs after full consideration of any recommendations of the Department of Human Services and the Oklahoma Association of Youth Services. The criteria and plan adopted by the Board shall designate community-based Youth Services Agency Service Areas that will serve as the primary catchment area for each Youth Services Agency. Until the criteria is established by the Board, the criteria established by the Commission for Human Services 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~~ 2-7-303 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 the Youth Services Agency Area served by the agency;

5. Financial viability;

6. A documented need for the local services to be offered as determined by a local needs assessment for the Youth Services Agency Service Area that shall be reviewed and approved or modified by the Board and included in the State Plan for Youth Services Agencies; and

7. Any negative impact on the ability to provide services or the financial viability of an existing Youth Services Agency.

As used in this section, “financial viability” means the ability of a Youth Services Agency to continue to achieve its operating objectives and fulfill its mission over the long term. When determining the financial viability of a Youth Services Agency, the Office of Juvenile Affairs shall develop an analysis that takes into consideration the three (3) previous fiscal years’ financial audits, if available; the previous fiscal year program audits, if available; the current fiscal year financial position; and one-year future revenue and expenditure projection.

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

1. Successful completion of an initial peer review by the Oklahoma Association of Youth Services or another Oklahoma nonprofit corporation whose membership consists solely of Youth Services Agencies and of whom at least a majority of Youth Services Agencies are members; and

2. Such other criteria as the Board of Juvenile Affairs 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 Board of Juvenile Affairs, on recommendation of the Office of Juvenile Affairs, 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 annual peer review process by the Oklahoma Association of Youth Services or another Oklahoma nonprofit corporation whose membership consists solely of Youth Services Agencies and of whom at least a majority of Youth Services Agencies are members.

Before the Board of Juvenile Affairs terminates the designation of a Youth Services Agency, the Office of Juvenile Affairs shall complete a report documenting its reasons for the termination. The report shall be submitted to the Board for review. The report shall contain an analysis of the program administration, financial viability and most recent peer review report of the Youth Services Agency. The Office of Juvenile Affairs shall also develop a plan to ensure that services provided by the Youth Services Agency whose designation is being terminated shall continue to be provided by another Youth Services Agency or agencies. In developing the plan, the Office of Juvenile Affairs shall give full consideration to any recommendations of the Oklahoma Association of Youth Services. The plan shall be submitted to the Board as part of the report

documenting the reasons for termination of the Youth Services Agency by the Office of Juvenile Affairs.

Any applicant organization denied designation as a Youth Services Agency or any Youth Services Agency whose designation as a Youth Services Agency is being terminated, is entitled to an individual proceeding as provided in Article II of the Administrative Procedures Act.

E. No Youth Services Agency shall be eligible to receive funding until the beginning of the fiscal year after it receives its designation as a Youth Services Agency unless it is replacing a Youth Services Agency whose designation has been terminated. No Youth Services Agency shall receive funding for the first time if such funding will result in lowering the contract amount from the previous fiscal year for any existing Youth Services Agency.

F. The Office of Juvenile Affairs 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. Provided, the Office of Juvenile Affairs shall make no requirement that would require a juvenile to be inappropriately diagnosed for the purpose of receiving federal reimbursement for services.

G. The Office of Juvenile Affairs 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 Office of Juvenile Affairs 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.

H. Funds for the support of Youth Services Agencies shall be authorized by the Office of Juvenile Affairs only on the basis of cost reimbursement performance contracts or fee-for-service contracts. If a Youth Services Agency provides some services on a fee-for-services basis and some services on a cost reimbursement basis, no cost which has been included as part of the rate for services provided on a fee-for-service basis shall be reimbursable under the cost reimbursement portion of the contract. Fees charged for annual peer reviews shall be reimbursable.

I. The Board may establish a fixed and uniform rate for any community-based prevention service, including services to individuals, groups, and community relations directed toward the larger community, so long as the segment of the larger community or target audience of persons to benefit is identified and the specific prevention activities to be performed are described in the rate.

J. Beginning in fiscal year 2007 and thereafter, contracts for the support of Youth Services Agencies shall be negotiated in the following manner:

1. The local board of the Youth Services Agency, based upon its knowledge and assessment of the needs of the community, shall prepare and present to the Office of Juvenile Affairs a proposal to provide community-based services to juveniles and families in the youth services service area in which it is located. The proposal shall be specific in terms of its program objectives and goals and the services the Youth Services Agency proposes to render;

2. Upon receipt of the proposal of the Youth Services Agency, the Office of Juvenile Affairs shall determine if the proposal meets the criteria adopted by the Board of Juvenile Affairs in the State Plan for Youth Services Agencies and, within the resources available, meets the need for community-based services in the youth services service area. If no State Plan for Youth Services exists, the proposal shall be deemed to meet the need for community-based services in the youth services area;

3. Contracts shall require performance of a specific service or services to be performed. Where the services cannot be broken down into units, specifically measurable and reviewable services shall be stated. Contracts may contain requirements of performance based upon measurable quality outcome indicators. Documentation required for monitoring and evaluation of the contract shall be consistent with the terms of the contract, shall be in accordance with generally accepted governmental accounting practices, and so far as possible, sufficient for the Office of Juvenile Affairs to monitor

the performance of the contract without being overly burdensome to the Youth Services Agency. The documentation to be required is the proper subject of negotiation as part of the contracts, and the parties may rely on the Department of Central Services for assistance if they are unable to reach agreement;

4. The Office of Juvenile Affairs and the Youth Services Agency shall negotiate the final terms and enter into the contract. Youth Services Agencies may authorize the Oklahoma Association of Youth Services or another Oklahoma nonprofit corporation, whose membership consists solely of Youth Services Agencies and of whom at least a majority of Youth Services Agencies are members, to negotiate on their behalf; and

5. The Office of Juvenile Affairs and a Youth Services Agency may agree to extend their fiscal year 2006 contracts for a period not to exceed one (1) year in order to implement the provisions of this subsection. The amount of money in the contracts may be amended to reflect any change in the money appropriated for fiscal year 2007 for community-based service agencies.

K. Contracts with Youth Services Agencies for community-based services shall be for a period of twelve (12) months, beginning at the first of each fiscal year, and renewable on an annual basis. Contracts shall be considered during the third and fourth quarter of the fiscal year for contracting the following year. Consideration for renewal shall include a review of the performance of the current

contract including the annual peer review. If the Office of Juvenile Affairs determines the contractual relationship shall be renewed, it shall be in a new contract for the upcoming fiscal year and may or may not contain the same terms, conditions, form and format as the previous contract. Any change from the contract of the previous year that is proposed by the Youth Services Agency or the Office of Juvenile Affairs shall be the subject of negotiation at the request of either party.

L. The Oklahoma Association of Youth Services, or another Oklahoma nonprofit corporation whose membership consists solely of Youth Services Agencies and of whom at least a majority of Youth Services Agencies are members may provide technical assistance to the Youth Services Agencies in the preparation and presentation of their proposals or negotiations as requested by a Youth Services Agency.

M. The Office of Juvenile Affairs is authorized to contract with the Oklahoma Association of Youth Services or another Oklahoma nonprofit corporation whose membership consists solely of Youth Services Agencies and of whom at least a majority of Youth Services Agencies are members for evaluation, training and program materials 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 has contracts.

SECTION 11. AMENDATORY 10 O.S. 2001, Section 7302-3.8, as amended by Section 11, Chapter 320, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7302-3.8), is amended to read as follows:

Section 7302-3.8 A. ~~On or before October 1, 1996, the~~ The Office of Juvenile Affairs shall implement an agency-wide management information system for all programs and services of the Office of Juvenile Affairs 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 Office of Juvenile Affairs;

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 Office of Juvenile Affairs;

4. Be capable of providing management reports and information regarding the various children and youth programs of the Office of Juvenile Affairs, 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 Office of Juvenile Affairs 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~~ Office of Juvenile ~~Justice~~ Affairs pursuant to ~~Article VII~~ Chapter 6 of the Oklahoma Juvenile Code.

SECTION 12. AMENDATORY 10 O.S. 2001, Section 7302-3.11, as amended by Section 14, Chapter 320, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7302-3.11), is amended to read as follows:

Section 7302-3.11 A. The Office of Juvenile Affairs 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 Board of Juvenile Affairs, and the Oklahoma Commission on Children and Youth analyzing and evaluating the effectiveness of its programs and services. ~~Such~~ The 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 operated by the Office of Juvenile Affairs 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, and at least annually thereafter, the~~ The Office of Juvenile Affairs shall annually 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 13. 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~~ Office of Juvenile

~~Justice~~ Affairs 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 and monies which may otherwise be available to the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs for use as provided for in this section.

B. All monies appropriated to the fund shall be budgeted and expended by the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs 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~~ 2-3-103 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~~ The rate of reimbursement of approved operating cost shall be eighty-five percent (85%) for the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs 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~~ Office of Juvenile ~~Justice~~ Affairs 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~~ 2-7-608 of this title.

3. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs 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. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs 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~~ 2-3-103 of this title.

5. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs 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~~ 2-3-103 of this title.

SECTION 14. AMENDATORY 10 O.S. 2001, Section 7302-5.1, as amended by Section 15, Chapter 320, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7302-5.1), is amended to read as follows:

Section 7302-5.1 A. The Office of Juvenile Affairs shall provide intake~~,~~ and probation ~~and parole~~ services for juveniles in all counties not having a juvenile bureau and parole services in all counties of the state and may enter into agreements to supplement probationary services to juveniles in any county. The Office of Juvenile Affairs 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 of the child, the parent or guardian of the child or to the ~~child's~~ attorney of the child. In accordance with the ~~guidelines established pursuant to the Serious and Habitual~~ Juvenile Offender Tracking Program and Section 620.6 of ~~this title~~ Title 10 of the Oklahoma Statutes, 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~~ The Office of Juvenile Affairs 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 Office of Juvenile Affairs, and

c. intensive supervision of ~~serious and habitual~~ juvenile 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 Office of Juvenile Affairs 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 Office of Juvenile Affairs 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 Office of Juvenile Affairs,

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 of the child 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 Tracking Program and Section 620.6 of ~~this title~~ Title 10 of the Oklahoma Statutes, 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 Office of Juvenile Affairs, the child shall be assessed and a literacy improvement program shall be implemented in accordance with Sections ~~7302-6.1~~ 2-7-601 and ~~7302-6.3~~ 2-7-603 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 15. AMENDATORY 10 O.S. 2001, Section 7302-5.2, as amended by Section 21, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2008, 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~~ Office of Juvenile ~~Justice~~ Affairs, the ~~Department~~ Office 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~~ an Office-operated institution, other than a rehabilitative facility.

B. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs 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~~ 2-2-804 of this title and the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

SECTION 16. AMENDATORY 10 O.S. 2001, Section 7302-5.3, as amended by Section 22, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2008, 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~~ Office of Juvenile ~~Justice~~ Affairs, 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~~ Office of Juvenile ~~Justice~~ Affairs, the ~~Department~~ Office 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~~ Office of Juvenile ~~Justice~~ Affairs to be in the best interest of the child; or

7. Place the child as provided by Section ~~7303-8.4~~ 2-2-804 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~~ Office 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~~ Office of Juvenile ~~Justice~~ Affairs 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 17. AMENDATORY 10 O.S. 2001, Section 7302-5.4, as amended by Section 3, Chapter 124, O.S.L. 2006 (10 O.S. Supp. 2008, 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~~ Office of Juvenile ~~Justice~~ Affairs shall be discharged at such time as the ~~Department~~ Office 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~~ Office retain legal custody. Following a hearing, the court may also order that a child adjudged delinquent and committed to the ~~Department~~ Office shall be discharged by the ~~Department~~ Office provided the child is on parole status and the court deems the discharge in the best interest of the child and public. The ~~Department~~ Office 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~~ Office of ~~Justice~~ Juvenile Affairs and not discharged under subsection A of this section shall be discharged when the child becomes eighteen (18) years of age, unless the ~~Department~~ Office 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~~ Office or the district attorney, which must be filed prior to the date the child becomes eighteen (18) years of age, the court, after notice to the delinquent child and to the parents and attorney of said child, may authorize the ~~Department~~ Office to retain custody of the child until ~~he~~ the child reaches nineteen (19) years of age in order for the child to complete the previously adopted plan of rehabilitation or achieve reasonable treatment objectives. 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~~ Office. 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~~ Office of Juvenile ~~Justice~~ Affairs 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)~~ eighteen (18) 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. Any child referred to in this subsection over whom the court retains jurisdiction solely for payment of ~~restitution or~~ court costs shall not be considered to be in the custody of or under the supervision of the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs.

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~~ Office of Juvenile ~~Justice~~ Affairs 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 18. AMENDATORY 10 O.S. 2001, Section 7302-6.1, as amended by Section 23, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2008, 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~~ Office of Juvenile ~~Justice~~ Affairs shall have the following duties and powers with regard to juveniles placed in ~~Department-operated~~ Office-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~~ Office shall provide for a uniform system of assessment of the reading ability of each juvenile upon initial placement in ~~a Department-operated~~ an Office-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~~ Office 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~~ Office 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~~ Office, a juvenile who has been adjudicated delinquent, if the ~~Department~~ Office 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~~ Office shall comply with the notification requirements of Section ~~7303-5.4~~ 2-2-504 of this title;

3. Release on parole a juvenile previously adjudicated to be delinquent, subject to terms and conditions specified by the ~~Department~~ Office, whenever the ~~Department~~ Office 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~~ Office 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~~ Office; 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~~ Office 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~~ an Office-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~~ Office 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~~ Office 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~~ Office 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~~ Office or in residence at institutions or facilities maintained by the ~~Department~~ Office.

SECTION 19. AMENDATORY 10 O.S. 2001, Section 7302-6.2, as amended by Section 3, Chapter 213, O.S.L. 2003 (10 O.S. Supp. 2008, Section 7302-6.2), is amended to read as follows:

Section 7302-6.2 A. The Office of Juvenile Affairs 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~~ Office.

B. The Executive Director of the Office of Juvenile Affairs 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~~ Office of Juvenile ~~Justice~~ Affairs. The Office 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. 1. The Office of Juvenile Affairs may directly request national criminal history records searches as defined by Section 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State Bureau of Investigation for the purpose of investigating the criminal history of an employee or applicant. The Oklahoma State Bureau of Investigation may charge a search fee as provided in Section 150.9 of Title 74 of the Oklahoma Statutes. The fee shall be deposited in the OSBI Revolving Fund.

2. The Board of Juvenile Affairs shall promulgate rules for the Office of Juvenile Affairs to obtain national criminal history record searches in accordance with the requirements of Section 404.1 of ~~this title~~ Title 10 of the Oklahoma Statutes for personnel described in subsection B of this section, except that such rules may permit employment of applicants pending receipt of the results of national criminal history record searches.

D. 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 20. AMENDATORY 10 O.S. 2001, Section 7302-6.3, as last amended by Section 7, Chapter 1, O.S.L. 2007 (10 O.S. Supp. 2008, Section 7302-6.3), is amended to read as follows:

Section 7302-6.3 A. The Board of Juvenile Affairs shall promulgate written rules, outline policies and procedures governing the operation of those facilities operated by or through contract with the Office of Juvenile Affairs 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. Provided that, when based on legitimate facility interests of order and security as determined by the facility superintendent, mail addressed to a child or sent by a child may be read, censored, or rejected, except that mail addressed to a child from the attorney of the child or sent by the child to the attorney of said child shall not be opened, censored, or withheld in any way. The child shall be notified when incoming or outgoing mail is withheld in part or in full;

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~~ behavioral health services;

7. A child in the custody or care of the Office of Juvenile Affairs 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~~ The behavioral health needs and mental well-being of a child 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 Office of Juvenile Affairs, 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 Office of Juvenile Affairs and the Department of Mental Health and Substance Abuse Services for the care and treatment of children in the custody of the Office of Juvenile Affairs 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~~ 2-7-604 of this title.

SECTION 21. 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~~ Office of Juvenile ~~Justice~~ Affairs 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~~

Office of Juvenile ~~Justice~~ Affairs 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~~ Office of Juvenile Affairs and Department of Mental Health and Substance Abuse Services.

SECTION 22. 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~~ Office of Juvenile ~~Justice~~ Affairs 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 23. AMENDATORY 10 O.S. 2001, Section 7302-6.6, as amended by Section 5, Chapter 124, O.S.L. 2006 (10 O.S. Supp. 2008, 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~~ shall have the supervision,

management, operation and control of the ~~children's~~ institution for children located at Tecumseh, formerly known and designated as Girls' Town and now known as Central Oklahoma Juvenile Center, and all property, equipment and supplies related thereto. ~~All contracts, leases, or other agreements entered into by the Department of Human Services on behalf of the Center prior to July 1, 1995, shall be administered by the Department of Juvenile Justice.~~

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 Board of Juvenile Affairs, the Executive Director of the Office of Juvenile Affairs, ~~the Deputy Director of the Department of Juvenile Justice, 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~~ Office of Juvenile ~~Justice~~ Affairs shall file copies of the reports of the inspections and recommendations of the accrediting agencies listed in subsection ~~B~~ D of this section with the Office of Juvenile System Oversight.

D. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs 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~~ Office 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~~ Office 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. The ~~Department~~ Office may directly contract for accreditation fees, training or training conferences with the organization accrediting the service or facility as required by this subsection.

SECTION 24. 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~~.

~~All contracts, leases, or other agreements entered into by the Department of Human Services on behalf of the Center prior to July 1, 1995, shall be administered by the Department of Juvenile Justice.~~

SECTION 25. 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~~ Affairs 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 beds or by the number necessary to result in a total of two hundred sixty-five such beds. 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~~ 2-3-103 of this title.

B. Effective July 1, 1995, the responsibilities for establishing and operating a regional juvenile facility in the southwestern part of the state shall be transferred to the Office of Juvenile Affairs. The facility shall include six transitional beds and seventy medium secure beds for such programs as the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs 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~~ Office of Juvenile ~~Justice~~ Affairs 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~~ 2-3-103 of this title.

SECTION 26. AMENDATORY 10 O.S. 2001, Section 7302-6.9, as amended by Section 6, Chapter 124, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7302-6.9), is amended to read as follows:

Section 7302-6.9 It is the intent of the Legislature that the facilities and residential programs established or contracted by the Office of Juvenile Affairs ~~through the Department of Juvenile Justice~~ affirm the dignity of self and respect for others; promote the value of education, work, and self-discipline; and develop useful skills and abilities that can be applied when the juvenile is reintegrated into the community.

SECTION 27. 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 of Juvenile Affairs, except as provided for in interagency agreements between the Department of Mental Health and Substance Abuse Services and the Office of Juvenile Affairs.

SECTION 28. AMENDATORY 10 O.S. 2001, Section 7302-7.1, as amended by Section 8, Chapter 421, O.S.L. 2004 (10 O.S. Supp. 2008, Section 7302-7.1), is amended to read as follows:

Section 7302-7.1 A. Sections ~~7302-7.1~~ 2-7-701 through ~~7302-7.5~~ 2-7-705 of this title shall be known and may be cited as the "Delinquency and Youth Gang Intervention and Prevention Act".

B. The Legislature recognizes that the economic cost of crime to the state and communities continues to drain existing resources, and the cost to victims, both economic and psychological, is traumatic and tragic. The Legislature further recognizes that many adults in the criminal justice system were once delinquents in the juvenile justice system. The Legislature also recognizes that the most effective juvenile delinquency programs are programs that prevent children from entering the juvenile justice system, meet local community needs, and have substantial community involvement and support. Therefore, it is the belief of the Legislature that one of the best investments of scarce resources available to combat crime is to counteract the negative social and economic factors that contribute to criminal and delinquent behavior by engaging youth who are determined to have the highest risk of involvement with gangs or delinquent behaviors or live in at-risk neighborhoods and communities in positive programs and opportunities at the local, neighborhood and community level.

C. For the purpose of reducing the likelihood of later or continued involvement in criminal or delinquent activities, the intent of the Legislature in enacting the Delinquency and Youth Gang Intervention and Prevention Act is to provide programs for adjudicated delinquents and highest risk children and their families who live in at-risk neighborhoods and communities, as defined in Section ~~7302-7.2~~ 2-7-702 of this title, and to aid all communities in developing delinquency and gang intervention and prevention programs and activities.

SECTION 29. AMENDATORY 10 O.S. 2001, Section 7302-7.2, as amended by Section 9, Chapter 421, O.S.L. 2004 (10 O.S. Supp. 2008, 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 Prevention Act:

1. "At-risk neighborhoods and communities" means residential and business areas within a specific political subdivision with a history of assault or battery offenses, shootings or firearm-related offenses, substance abuse-related offenses, property and theft-related offenses, and known gang activity that are documented by local law enforcement agencies, and 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~~ Office of Juvenile ~~Justice~~ Affairs and substantiated by local law enforcement agencies, that is significantly higher than

the statewide statistical mean for such offenses, incidence, referrals or combination;

2. "Children at highest risk of involvement with gangs or delinquent behaviors" means:

a. children and their family members living in at-risk neighborhoods and communities as defined in this section,

b. children living with family members who are gang members or associate with gang members,

c. children living with family members who have been adjudicated or convicted of a criminal offense,

d. children adjudicated delinquent and their family members, or

e. children who use alcohol or controlled substances or who have behavioral problems in school, with peers, family members or authority figures, or some combination thereof;

3. "Delinquency and gang intervention and prevention 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 family members of participating youth; and

4. "Family members" means children, siblings, parents and other persons living in the immediate household.

SECTION 30. AMENDATORY 10 O.S. 2001, Section 7302-7.3, as last amended by Section 10, Chapter 421, O.S.L. 2004 (10 O.S. Supp. 2008, Section 7302-7.3), is amended to read as follows:

Section 7302-7.3 A. From funds appropriated for the Delinquency and Youth Gang Intervention and Prevention Act or otherwise available for that purpose, the Office of Juvenile Affairs ~~through its Department of Juvenile Justice~~ shall:

1. Issue requests for proposals or enter into agreements pursuant to the Interlocal Cooperation Act and contract ~~with eligible entities~~ for delinquency and gang intervention and prevention programs for children and their family members who live in at-risk neighborhoods and communities, as defined by Section ~~7302-7.2~~ 2-7-702 of this title;

2. Provide information and technical assistance to individuals and entities receiving ~~grants or~~ contracts pursuant to the Delinquency and Youth Gang Intervention and Prevention Act, schools, neighborhood and community organizations, and agencies within the children and youth service system, as that term is defined ~~by~~ in the ~~Serious and Habitual~~ Juvenile Offender ~~Act~~ Tracking Program, for the purpose of assisting such agencies in making application for

federal, state and private grants for delinquency and gang intervention and prevention programs; and

3. Coordinate efforts among the Office of Juvenile Affairs, Department of Human Services, State Department of Education, State Department of Health, Department of Mental Health and Substance Abuse Services, ~~State~~ Oklahoma 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~~ Office of Juvenile ~~Justice~~ Affairs 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~~ Office of Juvenile ~~Justice~~ Affairs, 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 and procedures for:

1. Identifying at-risk neighborhoods and communities, as defined by Section ~~7302-7.2~~ 2-7-702 of this title, for the purposes of determining eligibility for any grants for at-risk areas available pursuant to the Delinquency and Youth Gang Intervention and Prevention Act; and

2. Determining eligibility of individuals and other organizations seeking other grants pursuant to the Delinquency and Youth Gang Intervention and Prevention Act.

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

SECTION 31. AMENDATORY 10 O.S. 2001, Section 7302-7.4, as last amended by Section 3, Chapter 266, O.S.L. 2007 (10 O.S. Supp. 2008, Section 7302-7.4), is amended to read as follows:

Section 7302-7.4 A. The Office of Juvenile Affairs shall establish procedures and criteria for selecting and implementing program models and ~~issuing and submitting grant proposals~~ awarding contracts. The Board of Juvenile Affairs shall promulgate rules as necessary for the implementation of the Delinquency and Youth Gang Intervention and Prevention Act.

B. In order to be eligible for a ~~grant or~~ contract in an at-risk neighborhood or community, as defined by Section ~~7302-7.2~~ 2-7-702 of this title, pursuant to the Delinquency and Youth Gang Intervention and Prevention Act the ~~proposal~~ contract shall, at minimum:

1. Be ~~a joint proposal~~ made by an individual or organization, a neighborhood or community organization, a municipality or county or a municipal or county agency from the at-risk neighborhood or community~~, and one or more agencies or organizations within the children and youth service system~~. If a school or local law

enforcement agency is not a ~~joint~~ participant in the ~~proposal~~ contract, the ~~proposal~~ contract shall document and describe the active participation in and support of either the local school or local law enforcement agency in the program and activities for which the ~~proposal~~ contract is submitted;

2. Be a program or activity for children at highest risk of involvement in gangs or delinquent behaviors, as defined by Section ~~7302-7.2~~ 2-7-702 of this title, and their family members;

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 Prevention Act;

4. Specifically identify the at-risk neighborhood or community where the programs and activities will be implemented and provide either statistical information concerning the at-risk area or a letter of support from a local school or local law enforcement agency;

5. Describe how the program will coordinate and cooperate with programs and services administered by the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, 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 other similar location within the identified at-risk neighborhood or community.

C. In order to be eligible for training or continuing education ~~grants~~ contracts or any other ~~contract~~ contracts pursuant to the Delinquency and Youth Gang Intervention and Prevention Act, the ~~proposal~~ contract shall, at a minimum:

1. Describe the respective roles and responsibilities for the administration and operation of the training or activity, 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 Prevention Act; and

2. Describe how the training or activity will coordinate and cooperate with existing programs and services administered by the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, 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 receiving a ~~grant or~~ contract pursuant to the Delinquency and Youth Gang Intervention and Prevention Act shall work with local community leaders, neighborhood associations, direct service providers, local school officials, law enforcement and other

stakeholders to create a local youth and gang violence coordinating council to help facilitate the implementation of the program. The entity shall also submit an annual evaluation report to the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, by a date subsequent to the end of the contract period as established by the ~~Department~~ Office, documenting the extent to which the program objectives were met and any other information required by the ~~Department~~ Office.

SECTION 32. AMENDATORY 10 O.S. 2001, Section 7302-7.5, as amended by Section 12, Chapter 421, O.S.L. 2004 (10 O.S. Supp. 2008, Section 7302-7.5), is amended to read as follows:

Section 7302-7.5 A. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs shall have the responsibility for implementation and evaluation of the Delinquency and Youth Gang Intervention and Prevention Act and any modifications thereto.

B. Any contract executed by the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs with an eligible entity on and after the effective date of this act for delinquency prevention and early intervention programs, subject to the Delinquency and Youth Gang Intervention and Prevention Act, shall require the eligible entity to prepare and submit to the ~~Department~~ Office, in a manner prescribed by the ~~Department~~ Office, an outcome-based performance report including, but not limited to, the following:

1. A description of the target population, service eligibility criteria, and risk factors;

2. A description of program services, the number of clients referred each year, the number of clients served each year, and the number of clients discharged each year;

3. The average cost per client participating in program services each year; and

4. Performance measures referencing service completion and recidivism which employ uniform definitions developed by the ~~Department~~ Office.

C. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs shall submit to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor by January 15 of each year, an annual report, including a summary detailing the following information derived from the outcome-based performance reports submitted by the eligible entities pursuant to the provisions of subsection A of this section and other information available to the ~~Department~~ Office:

1. Total amount of funds per state fiscal year expended for the delinquency prevention programs subject to the Delinquency and Youth Gang Intervention and Prevention Act;

2. Average expenditures per juvenile during the most recent state fiscal year;

3. Analyses of the nature and effectiveness of gang-related delinquency prevention and early intervention programs provided by eligible entities pursuant to contracts;

4. Effectiveness of each of the programs provided by the eligible entities;

5. Recommendations regarding distribution of the funds based upon the effectiveness of the programs provided by the eligible entities; and

6. Any other information or recommendations deemed necessary by the Board of Juvenile Affairs.

SECTION 33. 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~~. The program shall be known as the "Juvenile Offender Victim Restitution Work Program".

B. The Board of Juvenile Affairs 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 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~~ Office of Juvenile ~~Justice~~ Affairs, 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~~ Office of Juvenile ~~Justice~~ Affairs, 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~~ Office of Juvenile ~~Justice~~ Affairs may enter into contracts with private service providers for implementation of the program required by this section. The ~~Department~~ Office 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~~ Office pursuant to this section shall be subject to inspection by any employee of the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs designated by the Executive Director of the Office of Juvenile Affairs. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs 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 34. AMENDATORY 10 O.S. 2001, Section 7302-9.1, is amended to read as follows:

Section 7302-9.1 A. There is hereby created the ~~Serious and Habitual~~ Juvenile Offender ~~Act~~ Tracking Program for the purpose of:

1. Establishing an accurate and accessible data base with information on juvenile offenders readily available to law enforcement agencies, juvenile court personnel, district attorneys, and others who require such information; and

2. ~~Establishing a case management system for individual juvenile offenders that includes intensive supervision of serious or habitual juvenile offenders; and~~

~~3.~~ Enhancing community control of crime through information sharing regarding ~~serious and habitual~~ juvenile offenders that can be used by patrol officers and criminal investigators for the early identification of offenders and assist in the reduction of crime.

B. Sections ~~7302-9.1~~ 2-7-901 through ~~7302-9.6~~ 2-7-905 of this title shall be known and may be cited as the "~~Serious and Habitual~~ Juvenile Offender ~~Act~~ Tracking Program".

SECTION 35. 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~~ Title 10 of the Oklahoma Statutes;

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.~~ 3. "Juvenile Justice Information System" means the automated information system established by Section ~~7302-9.6~~ 2-7-905 of this title;

~~6.~~ 4. "Juvenile offender" means a delinquent child or juvenile as defined by Section ~~7301-1.3~~ 2-1-103 of this title; and

~~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~~

5. "Juvenile Offender Tracking Program" means the program of information, information sharing~~,~~ and case tracking~~, case management, supervision and sanctions~~ established by Section ~~7302-9.3~~ 2-7-903 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 36. 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 Tracking Program shall include, but not be limited to:

1. The Juvenile Justice Information System pursuant to the provisions of Section ~~7302-9.6~~ 2-7-905 of this title; and

2. Specific procedures for identifying juvenile offenders ~~who have committed a serious act or habitual criminal acts~~ for the ~~purposes~~ purpose 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, 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 37. 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 Tracking Program, the ~~Department of Juvenile Justice of the~~ Office of Juvenile Affairs, the juvenile bureaus, the District Attorney's Council, the Oklahoma State Supreme Court as authorized and directed by Section ~~7302-2.3~~ 2-7-203 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~~

1. Develop and implement the ~~Serious and Habitual~~ Juvenile Offender Tracking Program~~,~~

~~b. develop~~;

2. Develop and implement the Juvenile Justice Information System~~,~~

~~c. adopt~~;

3. Adopt rules, policies, procedures, standards, protocols and guidelines, as appropriate, for the development and implementation of the ~~Serious and Habitual~~ Juvenile Offender Tracking Program and the Juvenile Justice Information System~~,~~; and

~~d. enter~~

4. Enter into contracts or interagency agreements under the Interlocal Cooperation Act, as appropriate for the purpose of implementing the ~~Serious and Habitual~~ Juvenile Offender Tracking Program and the Juvenile Justice Information System.

SECTION 38. 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 Tracking 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~~ Tracking Program. 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 Tracking Program.

B. The ~~Department of Juvenile Justice of the~~ Office of Juvenile Affairs, 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 Tracking 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 Tracking 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 39. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Sections 2-2-101 through 2-2-805 of Title 10A of the Oklahoma Statutes shall constitute Chapter 2 of Article 2.

CHAPTER 2 - CUSTODY AND COURT PROCEEDINGS

SECTION 40. AMENDATORY 10 O.S. 2001, Section 7303-1.1, as amended by Section 24, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2008, 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 of the child 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 of the child 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~~ behavioral health treatment or other action in order to protect the ~~child's~~ health or welfare of the child 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~~ behavioral health treatment or other action; and

5. Pursuant to an emergency ex parte or a final protective order of the district court issued at the request of a parent or legal guardian 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 of Juvenile Affairs.

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 of the child, 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 by 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)~~ second judicial ~~days~~ day 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~~ Chapter 3 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 of the child, 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 of the child, legal guardian, legal custodian, or other person legally competent to authorize said medical treatment. The ~~child's~~ parent of the child, 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, as defined by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, may be admitted to a ~~mental health or substance abuse~~ behavioral health 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 of the child, legal guardian, legal custodian, or other person having custody and control shall be responsible for such ~~mental~~ behavioral 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~~ behavioral 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 of the child 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 of the child, 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 of the child. 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~~ subsection, whenever a child is in need of medical treatment to protect the ~~child's~~ health or welfare of the child, or whenever any other action is necessary to protect the ~~child's~~ health or welfare of the child, and the ~~child's~~ parent of the child, 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 41. AMENDATORY 10 O.S. 2001, Section 7303-1.2, as amended by Section 7, Chapter 124, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7303-1.2), is amended to read as follows:

Section 7303-1.2 A. 1. Upon the filing of a petition alleging the child to be in need of supervision, or upon the assumption of custody pursuant to ~~the provisions of~~ Section ~~7303-1.1~~ 2-2-101 of this title, the district court of the county ~~in which~~ shall have jurisdiction where 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~~.

2. The court shall have jurisdiction of the parent, ~~guardian,~~ legal custodian, legal guardian ~~or~~, stepparent of ~~said~~ the child, or any adult person living in the home of the child regardless of where the parent, ~~guardian,~~ legal custodian, legal guardian ~~or~~, stepparent, or adult person living in the home of the child 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.~~ 3. When jurisdiction ~~shall have~~ has 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~~.

B. 1. Upon the filing of a petition alleging the child to be delinquent or upon the assumption of custody pursuant to Section 2-2-101 of this title, the district court of the county where the delinquent act occurred shall have jurisdiction of the child and of the parent, legal custodian, legal guardian, stepparent of the child or any adult person living in the home of the child regardless of where the parent, legal custodian, legal guardian, stepparent, or adult person living in the home of the child is found.

2. When jurisdiction ~~shall have~~ has 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~~ Office of Juvenile ~~Justice~~ Affairs, as provided in ~~subsection B of~~ Section ~~7302-5.4~~ 2-7-504 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 juvenile proceeding may be filed before the child becomes eighteen (18) years of age or within one (1) year after the date of the eighteenth birthday of the child if the underlying act would constitute a felony if committed by an adult.

C. 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~~ 2-2-101 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~~ Except as otherwise provided in the Oklahoma Juvenile Code, a child who is charged with having violated any state statute or municipal ordinance, other than those enumerated in Section 2-5-101, 2-5-205 or 2-5-206 of this title, shall not be tried in a criminal action but in a juvenile proceeding.

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. In no event shall the child be placed in a jail, lockup, or detention facility. In no event shall the child be placed in a juvenile detention facility for more than twenty four (24) hours, excluding weekends and legal holidays, prior to an initial court appearance and for an additional twenty four (24) hours, excluding weekends and legal holidays, immediately following an initial court appearance; 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.~~

~~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 adult detention facility.~~

~~In no event shall the child be placed in a juvenile detention facility for more than twenty four (24) hours, excluding weekends and legal holidays, prior to an initial court appearance and for an additional twenty four (24) hours, excluding weekends and legal holidays, immediately following an initial court appearance; 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 of Juvenile Affairs pursuant to the applicable certification standards set by the Board of Juvenile Affairs, 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 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 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.~~

~~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~~ If, during the pendency of a criminal charge against any person, it shall be ascertained that the person was a child at the time of committing the alleged offense, the district court or municipal court shall transfer the case, together with all the papers, documents and testimony connected therewith, to the juvenile division of the district court. The division making the transfer shall order the child to be taken forthwith to the place of detention designated by the juvenile division, to that division itself, or release the child to the custody of a suitable person to be brought before the juvenile division.

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~~ Nothing in this act shall be construed to prevent the exercise of concurrent jurisdiction by another division of the district court or by the municipal courts in cases involving children wherein the child is charged with the violation of a state or municipal traffic law or ordinance.

SECTION 42. AMENDATORY 10 O.S. 2001, Section 7303-1.3, as last amended by Section 1, Chapter 176, O.S.L. 2007 (10 O.S. Supp. 2008, 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~~ A preliminary inquiry shall be conducted 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~~ intake worker 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 up to six (6) months if the child participates in a teen court program, a graduated sanctions program, 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~~ Informal adjustment may be provided to the child by the intake worker only where the facts reasonably appear to establish prima facie jurisdiction and are admitted and where consent is obtained from the district attorney, the parent of the child, legal guardian, legal custodian, or legal counsel, if any, and the child. The informal adjustment is an agreement whereby the child agrees to fulfill certain conditions in exchange for not having a petition filed against the child. The informal adjustment shall be completed within a period of time not to exceed six (6) months and shall:

1. Be voluntarily entered into by all parties;

2. Be revocable by the child at any time by a written revocation;

3. Be revocable by the intake worker in the event there is reasonable cause to believe the child has failed to carry out the terms of the informal adjustment or has committed a subsequent offense;

4. Not be used as evidence against the child at any adjudication hearing;

5. Be executed in writing and expressed in language understandable to the persons involved; and

6. Become part of the juvenile record of the child.

C. The informal adjustment agreement under this section may include, among other suitable methods, programs and procedures, the following:

1. Participation in or referral to counseling, a period of community service, drug or alcohol education or treatment, vocational training or any other legal activity which in the opinion of the intake officer would be beneficial to the child and family of the child;

2. Require the child to undergo a behavioral health evaluation and, if warranted, undergo appropriate care or treatment;

3. Restitution providing for monetary payment by the parents or child to the victim who was physically injured or who suffered loss of or damage to property as a result of the conduct alleged. Before setting the amount of restitution, the intake officer shall consult with the victim concerning the amount of damages; or

4. Informal adjustment projects, programs and services may be provided through public or private agencies.

If the intake worker has reasonable cause to believe that the child has failed to carry out the terms of the adjustment agreement or has committed a subsequent offense, in lieu of revoking the agreement, the intake worker may modify the terms of the agreement and extend the period of the agreement for an additional six (6) months from the date on which the modification was made with the consent of the child or counsel of the child, if any.

D. If an informal adjustment is agreed to pursuant to subsection B of this section, the informal adjustment 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~~ child shall remit the fee directly to the agency responsible for the monitoring and supervision of the ~~juvenile~~ child. 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 43. AMENDATORY 10 O.S. 2001, Section 7303-1.4, as amended by Section 3, Chapter 473, O.S.L. 2002 (10 O.S. Supp. 2008, Section 7303-1.4), is amended to read as follows:

Section 7303-1.4 ~~A. If a child has been taken into custody pursuant to the provisions of the Juvenile Justice Code before a petition has been filed, a petition shall be filed and a summons~~

~~issued within five (5) judicial days from the date of such assumption of custody, or custody of the child shall be relinquished to the child's parent, legal guardian, legal custodian, or other responsible adult, unless otherwise provided for in the Oklahoma Juvenile Code.~~

~~B.~~ No order of the court providing for the initial or continued removal of a child alleged or adjudicated delinquent or in need of supervision from the child’s home shall be entered unless the court finds that the continuation of the child in the home of the child is contrary to the welfare of the child. The order shall include either:

1. A determination as to whether or not reasonable efforts have been made to prevent the need for the removal of the child from the home or, as appropriate, reasonable efforts have been made to provide for the return of the child to the home; or

2. A determination as to whether or not an absence of efforts to prevent the removal of the child from the home is reasonable upon consideration of the family circumstances, the safety of the child and the protection of the public; or

3. A determination that reasonable efforts to prevent the removal of the child from the home or to reunify the child and family are not required because:

a. a court of competent jurisdiction has determined that the parent has subjected the child to one of the

following aggravated circumstances: abandonment, torture, chronic abuse, sexual abuse or chronic, life-threatening neglect of the child,

b. a court of competent jurisdiction has determined that the parent has been convicted of one of the following:

(1) murder of another child of the parent,

(2) voluntary manslaughter of another child of the parent,

(3) aiding or abetting, attempting, conspiring, or soliciting to commit such a murder or such a voluntary manslaughter, or

(4) a felony assault that results in serious bodily injury to the child or another child of the parent, or

c. the parental rights of the parent with respect to a sibling have been terminated involuntarily.

~~C. For purposes of this section and Sections 7303-1.1 and 7303-1.2 of this title, "responsible adult" means a stepparent, foster parent, person related to the juvenile in any manner who is eighteen (18) years of age or older, or any person having an obligation and authority to care for or safeguard the juvenile in another person's absence who is eighteen (18) years of age or older.~~

SECTION 44. AMENDATORY 10 O.S. 2001, Section 7303-1.5, is amended to read as follows:

Section 7303-1.5 A. If a child has been taken into custody pursuant to the provisions of the Oklahoma Juvenile Code before a petition has been filed, a petition shall be filed and summons issued within five (5) judicial days from the date of such assumption of custody, or custody of the child shall be relinquished to the parent of the child, legal guardian, legal custodian, or other responsible adult, unless otherwise provided for in the Oklahoma Juvenile Code.

B. No pleading subsequent to the petition is required, and the filing of any motion or pleading shall not delay the holding of the adjudicatory hearing.

~~B.~~ C. A petition may be amended by order of the court at any time before an order of adjudication has been made, provided that the court shall grant the parties such additional time to prepare as may be required to insure a full and fair hearing. A petition shall be deemed to have been amended to conform to the proof where the proof does not change the substance of the act, omission or circumstance alleged. However, the court shall not amend the adjudicatory category prayed for in the petition.

D. 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 law 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.

E. A copy of the petition shall be attached to and served with the summons.

SECTION 45. 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. <u>Service of summons shall be made as provided for service in civil actions.</u>

1. The court shall not hold the hearing until at least forty-eight (48) hours after the service of the summons, except with the consent of the parent or guardian of the child.

2. If the parent of the child is not served within the state, the court shall not hold the hearing until at least five (5) days after the date of mailing the summons, except with the consent of the parent.

E. 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 of Juvenile Affairs.

~~E.~~ F. 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.

G. In case the summons cannot be served, or the parties served fail to obey the same, or in any case when it shall be made to

appear to the judge that the service will be ineffectual or that the welfare of the child requires that the child should be brought into the custody of the court, a warrant may be issued against the parent or guardian or against the child.

SECTION 46. AMENDATORY 10 O.S. 2001, Section 7303-1.7, as amended by Section 26, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2008, 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 for medical issues, including behavioral health diagnoses, 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 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 47. 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 youthful offender under sixteen (16) years of age or 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 or child 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~~ Office of Juvenile ~~Justice~~ Affairs is done in the presence of the

parents, guardian, attorney, adult relative, adult caretaker, or legal custodian of the ~~child or~~ youthful offender or child. No such custodial interrogation shall commence until the youthful offender or child and the parents, guardian, attorney, adult relative, adult caretaker, or legal custodian of the youthful offender or child have been fully advised of the constitutional and legal rights of the ~~child or~~ youthful offender or child, 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 or child while that ~~child or~~ youthful offender or child is in law enforcement custody or while that ~~child or~~ youthful offender or child 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~~ Office. 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 or child 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~~ Office. 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 or child.

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~~ A custodial interrogation of a youthful offender over sixteen (16) years of age shall conform with all the requirements for the interrogation of an adult.

C. If the youthful offender or child is not otherwise represented by counsel, whenever a petition is filed pursuant to the provisions of Section ~~7303-1.3~~ 2-2-104 of this title, the court shall appoint ~~a separate~~ an attorney, who shall not be a district attorney, for the youthful offender or child regardless of any

attempted waiver by the parent or other legal custodian of the youthful offender or child of the right of the youthful offender or child to be represented by counsel. Counsel shall be appointed by the court only upon determination by the court that the parent, legal guardian or legal custodian is found to be indigent.

~~C.~~ D. 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.~~ E. 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, 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 48. AMENDATORY 10 O.S. 2001, Section 7303-4.2, is amended to read as follows:

Section 7303-4.2 A. All cases of children shall be heard separately from the trial of cases against adults. The adjudicative hearings shall be conducted according to the rules of evidence, and may be adjourned from time to time.

1. Except as provided by paragraph 2 of this subsection, the hearings shall be private unless specifically ordered by the judge to be conducted in public, and all persons having a direct interest in the case as provided in this paragraph shall be admitted. Any victim, relative, legal guardian of a victim, or a person designated by the victim who is not subject to the rule of sequestration as a witness of a ~~juvenile criminal~~ delinquent act shall be considered to have a direct interest in the case and shall be notified of all court hearings involving that particular ~~juvenile criminal~~ delinquent act as provided by Section 215.33 of Title 19 of the Oklahoma Statutes and shall be admitted to the proceedings. Stenographic notes or other transcript of the hearings shall be kept as in other cases, but they shall not be open to inspection except by order of the court or as otherwise provided by law.

2. Hearings related to the second or subsequent delinquency adjudication of a child shall be public proceedings. The

adjudications relied upon to determine whether a hearing is a public proceeding pursuant to this paragraph shall not have arisen out of the same transaction or occurrence or series of events closely related in time and location. Upon its own motion or the motion of any of the parties to the hearing and for good cause shown, the court may order specific testimony or evidence to be heard in private; provided, the court shall not exclude any relative, legal guardian of a victim, or a person designated by the victim who is not subject to the rule of sequestration as a witness from the hearing during testimony of the victim. For the purposes of this paragraph, "good cause" shall mean a showing that it would be substantially harmful to the mental or physical well-being of the child if such testimony or evidence were presented at a public hearing.

B. The child may remain silent as a matter of right in delinquency hearings and in need of supervision hearings, and before ~~he is interrogated he~~ the child testifies the child shall be so advised.

C. A decision determining a child to come within the purview of the Oklahoma Juvenile Code shall be based on sworn testimony and the child shall have the opportunity for cross-examination unless the facts are stipulated. In proceedings pursuant to the Oklahoma Juvenile Code, the court may allow mileage as in civil actions to witnesses and reimbursement for expert witnesses but such shall not

be tendered in advance of the hearing. If a child is alleged to be delinquent and the facts are stipulated, the judge shall ascertain from the child if the child agrees with the stipulation and if the child understands the consequences of stipulating the facts.

D. 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.

E. If the court finds that the allegations of the petition are not supported by the evidence, the court shall order the petition dismissed and shall order the child discharged from any detention or restriction previously ordered. The parents, legal guardian or other legal custodian of the child shall also be discharged from any restriction or other previous temporary order.

SECTION 49. AMENDATORY 10 O.S. 2001, Section 7303-4.3, as amended by Section 1, Chapter 75, O.S.L. 2004 (10 O.S. Supp. 2008, Section 7303-4.3), is amended to read as follows:

Section 7303-4.3 A. ~~Except as otherwise provided in the Oklahoma Juvenile Code, a child who is charged with having violated any state statute or municipal ordinance other than those enumerated in Section 7306-1.1, 7306-2.5 or 7306-2.6 of this title, shall not be tried in a criminal action but in a juvenile proceeding. The~~

~~juvenile proceeding may be filed before the child becomes eighteen (18) years of age or within ninety (90) days after the date of the eighteenth birthday of the child. If, during the pendency of a criminal or quasi criminal charge against any person, it shall be ascertained that the person was a child at the time of committing the alleged offense, the district court or municipal court shall transfer the case, together with all the papers, documents and testimony connected therewith, to the juvenile division of the district court. The division making the transfer shall order the child to be taken forthwith to the place of detention designated by the juvenile division, to that division itself, or release the child to the custody of some suitable person to be brought before the juvenile division. However, nothing in this act shall be construed to prevent the exercise of concurrent jurisdiction by another division of the district court or by municipal courts in cases involving children wherein the child is charged with the violation of a state or municipal traffic law or ordinance.~~

~~B.~~ Except as otherwise provided by law, if a child is charged with ~~delinquency~~ a delinquent act as a result of an offense which would be a felony if committed by an adult, the court on its own motion or at the request of the district attorney shall conduct a preliminary hearing to determine whether or not there is prosecutive merit to the complaint. If the court finds that prosecutive merit exists, it shall continue the hearing for a sufficient period of

time to conduct an investigation and further hearing to determine if the child should be held accountable for acts of the child as if the child were an adult if the child should be found to have committed the alleged act or omission.

Consideration shall be given to:

1. The seriousness of the alleged offense to the community, and whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;

2. Whether the offense was against persons or property, greater weight being given to transferring the accused person to the adult criminal justice system for offenses against persons and, if personal injury resulted, the degree of personal injury;

3. The sophistication and maturity of the juvenile and capability of the juvenile of distinguishing right from wrong as determined by consideration of a psychological evaluation of the juvenile, home, environmental situation, emotional attitude and pattern of living;

4. The record and previous history of the accused person, including previous contacts with community agencies, law enforcement agencies, schools, juvenile or criminal courts and other jurisdictions, prior periods of probation or prior commitments to juvenile institutions;

5. The prospects for adequate protection of the public;

6. The likelihood of reasonable rehabilitation of the juvenile if the juvenile is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court; and

7. Whether the offense occurred while the juvenile was escaping or in an escape status from an institution for delinquent children.

After the investigation and hearing, the court may in its discretion proceed with the juvenile proceeding, or it shall state its reasons in writing and shall certify, based on clear and convincing evidence, that the child shall be held accountable for acts of the child as if the child were an adult and shall be held for proper criminal proceedings for the specific offense charged, by any other division of the court which would have trial jurisdiction of the offense if committed by an adult. The juvenile proceeding shall not be dismissed until the criminal proceeding has commenced and if no criminal proceeding commences within thirty (30) days of the date of the certification, unless stayed pending appeal, the court shall proceed with the juvenile proceeding and the certification shall lapse.

If not included in the original summons, notice of a hearing to consider whether a child should be certified for trial as an adult shall be given to all persons who are required to be served with a summons at the commencement of a juvenile proceeding, but publication in a newspaper when the address of a person is unknown

is not required. The purpose of the hearing shall be clearly stated in the notice.

~~C.~~ B. Prior to the entry of any order of ~~adjudication~~ certification, any child in custody shall have the same right to be released upon bail as would an adult under the same circumstances. Subsequent to the entry of an order that a child stand trial as an adult, the child shall have all the statutory and constitutional rights and protections of an adult accused of a crime but shall, while awaiting trial and for the duration of the trial, be detained in a jail cell or ward entirely separate from prisoners who are eighteen (18) years of age or over. Upon conviction, the juvenile may be incarcerated with the adult population. If, prior to the entry of any order of ~~adjudication~~ certification, the child becomes eighteen (18) years of age, the child may be detained in a county jail or released on bail. If a child is certified to stand trial as an adult, the court shall make every effort to avoid duplication of the adult preliminary hearing and the prosecutorial hearing in the juvenile certification process. The parties may jointly stipulate to the court that the record for the prosecutorial merit hearing in the juvenile proceeding be used for all or part of the preliminary hearing.

~~D.~~ C. Any child who has been certified to stand trial as an adult pursuant to any ~~certification procedure provided by law, or who has been tried as an adult pursuant to any reverse certification~~

~~procedure provided by law, and is subsequently convicted of the alleged offense, or against whom the imposition of judgment and sentencing has been deferred,~~ order entered by any competent court of this state or any other state shall be tried as an adult in all subsequent criminal prosecutions, and shall not be subject to the jurisdiction of the juvenile court or be eligible to be tried as a youthful offender in any further proceedings.

~~E. Any child seventeen (17) years of age or older who has been certified to stand trial as an adult pursuant to any certification procedure of any other state and subsequently convicted of the alleged offense, or who has been tried and convicted as an adult in any other state, or against whom the imposition of judgment and sentencing has been deferred, shall be tried as an adult in all subsequent criminal prosecutions, and shall not be subject to the jurisdiction of the juvenile court or be eligible to be tried as a youthful offender in any further proceedings.~~

~~F.~~ D. An order either certifying a person as a child or an adult pursuant to subsection ~~B~~ A of this section or denying such certification shall be a final order, appealable when entered and shall not be modified.

SECTION 50. AMENDATORY 10 O.S. 2001, Section 7303-4.6, as last amended by Section 8, Chapter 124, O.S.L. 2006 (10 O.S. Supp. 2008, 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; and

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. A court may defer delinquency adjudication proceedings for the duration of the juvenile drug court program if the child is participating in such a program.~~

~~D. The Teen Court program, graduated sanctions program, or juvenile drug court must be approved by the court~~.

~~E.~~ B. During such period of deferral, the court may require the following:

1. Participation in or referral to counseling, a period of community service, drug or alcohol education or treatment, vocational training or any other legal activity which would be beneficial to the child and the family of the child;

2. Require the child to undergo a behavioral health evaluation and, if warranted by the mental condition of the child, undergo appropriate care or treatment;

3. Restitution providing for monetary payment by the parents or child, or both, to the victim who was physically injured or who suffered loss of or damage to property as a result of the conduct alleged;

4. An alternative diversion program; or

5. Any other programs and services that may be provided through public or private agencies and as approved by the court.

C. 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, graduated sanctions program or a juvenile drug court has~~ requirements of the court have been successfully completed.

~~F. 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.~~

~~G. 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.~~

~~H. 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 counseling 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 counseling 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.~~

~~I.~~ D. As used in this section~~:~~

~~1. "Alternative~~, "alternative diversion ~~programs for first time offenders~~ program" means ~~programs~~ a program 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~~ contract with the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, by organizations designated as youth services agencies by law~~;~~

~~2. "Graduated sanctions program" means a program administered by the Office of Juvenile Affairs as defined in Section 7301-1.3 of this title or as otherwise approved by the court;~~

~~3. "Juvenile drug court", "juvenile drug court program" or "program" means a highly structured judicial intervention process for substance abuse treatment of eligible juveniles as set forth in Section 7303-5.5 of this title;~~

~~4. "Supervising staff" means a community provider assigned to monitor juveniles in the program, a state or local agency~~

~~representative or a certified treatment provider participating in the program, or a person designated by the judge to perform drug court investigations; and~~

~~5. "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~~.

SECTION 51. AMENDATORY 10 O.S. 2001, Section 7303-5.1, is amended to read as follows:

Section 7303-5.1 A. After making an order of adjudication, the court shall hold a dispositional hearing, at which all evidence helpful in determining the proper disposition best serving the interest of the child and the public, including but not limited to oral and written reports, may be admitted and may be relied upon to the extent of its probative value, even though not competent for the purposes of the adjudicatory hearing.

B. Before making an order of disposition, the court shall advise the district attorney, the parents, guardian, custodian or

responsible relative, and their counsel, of the factual contents and the conclusion of reports prepared for the use of the court and considered by it, and afford fair opportunity, if requested, to controvert them. An order of disposition shall include a specific finding and order of the court relative to the liability and accountability of the parents for the care and maintenance of the child as authorized by Section ~~7303-7.6~~ 2-2-706 of this title, unless custody is placed with the parent or parents of the child.

C. On its own motion or that of the district attorney, or of the parent, guardian, custodian, responsible relative or counsel, the court may adjourn the hearing for a reasonable period to receive reports or other evidence and, in such event, shall make an appropriate order for detention of the child, or release of the child from detention subject to supervision by the court, during the period of the continuance.

D. In scheduling investigations and hearings, the court shall give priority to proceedings in which a child is in detention, or has otherwise been removed from his home, before an order of disposition has been made.

SECTION 52. AMENDATORY 10 O.S. 2001, Section 7303-5.2, as amended by Section 27, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2008, Section 7303-5.2), is amended to read as follows:

Section 7303-5.2 A. An individual treatment and service plan shall be filed with the court within the thirty (30) days after any

child has been adjudicated to be delinquent or in need of supervision. Said plan shall be filed by the person, department or agency responsible for the supervision of the case or by the legal custodian if the child has been removed from the custody of its lawful parent or parents. The treatment and service plan shall be based on a comprehensive assessment and evaluation of the child and family and include but not be limited to:

1. A history of the child and family, including identification of the problems leading to the adjudication;

2. Identification of the specific services available to the child to remediate or alleviate the conditions that led to the adjudication, including but not limited to educational, vocational-educational, medical, drug or alcohol abuse treatment or counseling or other treatment services;

3. Identification of the services to be provided to the parent, legal guardian, legal custodian, stepparent, other adult person living in the home or other family members, to remediate or alleviate the conditions that led to the adjudication, including services needed to assist the family to provide proper care and supervision of the child;

4. Performance criteria that will measure the progress of the child and family toward completion of the treatment and service plan;

5. A projected date for the completion of the treatment and service plan; and

6. The name and business address of the attorney representing the child, if any.

B. The individual treatment and service plan shall be amended as necessary and appropriate to reflect the disposition of the court. The amended plan shall be filed with the court within thirty (30) days of the order of disposition removing the child from the home and shall state:

1. The reasons for such placement and a statement as to the unavailability or inappropriateness of local placement, or other good cause, for any placement more than ~~forty (40)~~ fifty (50) miles from the home of the child;

2. The services to be provided to the child while in such placement and the projected date of discharge;

3. The services necessary to assist the child to reintegrate with the family of the child or other community-based placement; and

4. If the child is age sixteen (16) or older, the services necessary to make the transition from community placement to independent living.

C. Whenever a child who is subject to the provisions of this section is committed for inpatient mental health or substance abuse treatment pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, the individual treatment and service

plan shall be amended as necessary and appropriate, including but not limited to identification of the treatment and services to be provided to the child and his family upon discharge of the child from inpatient mental health or substance abuse treatment.

SECTION 53. AMENDATORY 10 O.S. 2001, Section 7303-5.3, as last amended by Section 9, Chapter 124, O.S.L. 2006 (10 O.S. Supp. 2008, 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~~ with or without 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 of Juvenile Affairs.

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

6. 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~~ Office or other person or agency receiving custody of the child.

7. 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 child, the parent or parents ~~or custodial parent~~ of the child, legal guardian of ~~any~~ the 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~~, or both the child and the parent or parents of the child or legal guardian at the time of the ~~criminal or~~ delinquent act of the child to ~~remit the amount of~~ make full or partial 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~~ to the victim of the offense which resulted in property damage or personal injury.

(1) The court shall notify the victim of the dispositional hearing. The court may consider a verified statement from the victim concerning damages for injury or loss of property and actual expenses of medical treatment for personal injury, excluding pain and suffering. If contested, a restitution hearing to determine the liability of the child, the parent or parents of the child, or legal guardian shall be held not later than thirty (30) days after the disposition hearing and may be extended by the court for good cause. The parent or parents of the child or legal guardian may be represented by an attorney

in the matter of the order for remittance of the restitution by the parent or parents of the child or legal guardian. The burden of proving that the amount indicated on the verified statement is not fair and reasonable shall be on the person challenging the fairness and reasonableness of the amount.

(2) Restitution may consist of monetary reimbursement for the damage or injury in the form of a lump sum or installment payments after the consideration of the court of the nature of the offense, the age, physical and mental condition of the child, the earning capacity of the child, the parent or parents of the child, or legal guardian, or the ability to pay, as the case may be. The payments shall be made to such official designated by the court for distribution to the victim. The court may also consider any other hardship on the child, the parent or parents of the child, or legal guardian and, if consistent with the welfare of the child, require community service in lieu of restitution or require both community service and full or partial restitution for the acts of delinquency by the child.

(3) A child who is required to pay restitution and who is not in willful default of the payment of restitution may at any time request the court to modify the method of payment. If the court determines that payment under the order will impose a manifest hardship on the child, the parent or parents of the child, or legal guardian, the court may modify the method of payment.

(4) If the restitution is not being paid as ordered, the official designated by the court to collect and disburse the restitution ordered shall file a written report of the violation with the court. The report shall include a statement of the amount of the arrearage and any reasons for the arrearage that are known by the official. A copy of the report shall be provided to all parties and the court shall promptly take any action necessary to compel compliance.

(5) Upon the juvenile attaining eighteen (18) years of age, the court shall determine whether the restitution order has been satisfied. If the restitution order has not been satisfied, the court shall enter a judgment of restitution in

favor of each person entitled to restitution for the unpaid balance of any restitution ordered pursuant to this subparagraph. The clerk of the court shall send a copy of the judgment of restitution to each person who is entitled to restitution. The judgment shall be a lien against all property of the individual or individuals ordered to pay restitution and may be enforced by the victim or any other person or entity named in the judgment to receive restitution in the same manner as enforcing monetary judgments. The restitution judgment does not expire until paid in full and is deemed to be a criminal penalty for the purposes of a federal bankruptcy involving the child,

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 or the juvenile bureau for such purpose for up to five (5) days~~;~~, order 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.

8. The court may order the child to participate in the Juvenile Drug Court Program.

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

~~9.~~ 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~~ A of Section ~~7303-1.4~~ 2-2-105 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 of the child, or that efforts to reunite the family are not required as provided in subsection ~~B~~ A of Section ~~7303-1.4~~ 2-2-105 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). If the parent, guardian, or custodian of a child adjudicated a delinquent child asserts that the child has approval not to attend school pursuant to Section 10-105 of Title 70 of the Oklahoma Statutes, the court or

the Office of Juvenile Affairs may require the parent to provide a copy of the written, joint agreement to that effect between the school administrator of the school district where the child attends school and the parent, guardian, or custodian of the child.

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 of Juvenile Affairs 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~~ secure facility.

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~~ 2-2-102 of this title.

F. The court may revoke or modify a disposition order and may order redisposition. 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~~ on behalf of the child and to be confronted by witnesses against the child. Any revocation, modification or redisposition 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.

G. 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.

SECTION 54. AMENDATORY 10 O.S. 2001, Section 7303-5.4, as amended by Section 6, Chapter 473, O.S.L. 2002 (10 O.S. Supp. 2008, 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 of the child. 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.

4. If authorized by the court, review hearings held pursuant to this section may be conducted via teleconference communication; provided, the attorney representing the child shall be present at the hearing. For purposes of this paragraph, "teleconference communication" means participation by the child and facility staff in the hearing by interactive telecommunication among the necessary participants, the court and the child. The permanency hearing provided for in this section shall not be conducted via teleconference communication.

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 of the child thereto, a report on the ~~child's~~ progress of the child 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 of Juvenile Affairs 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 of the child, 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 of the child. 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~~ Office of Juvenile ~~Justice~~ Affairs 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~~ Office 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~~ Office of Juvenile ~~Justice~~ Affairs 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 55. AMENDATORY 10 O.S. 2001, Section 7303-5.5, as amended by Section 2, Chapter 226, O.S.L. 2005 (10 O.S. Supp. 2008, Section 7303-5.5), is amended to read as follows:

Section 7303-5.5 A. The court is hereby authorized to establish a juvenile drug court ~~similar to the authority of the Oklahoma Drug Court Act~~ for the purpose of treating ~~alleged or~~ adjudicated juveniles who have a substance abuse disorder. The Department of Mental Health and Substance Abuse Services shall assist in the establishment of juvenile drug courts.

B. At the disposition hearing to ~~defer delinquency adjudication proceedings for consideration of a juvenile for a juvenile drug court program~~ set disposition of a case, the ~~district judge shall~~ court may determine whether~~:~~

~~1. Any~~ there are any statutory ~~preclusion~~ preclusions, other ~~prohibition~~ prohibitions, or program ~~limitation exists~~ limitations

that exist and ~~is~~ are applicable to considering the juvenile for participation in the drug court program~~;~~

~~2. The person responsible for the health or welfare of the juvenile, as defined by Section 7301-1.3 of this title, will actively support the participation of the juvenile in the program; and~~

~~3. The juvenile and the person responsible for the health or welfare of the juvenile consent to treatment as part of the juvenile's participation in a juvenile drug court program, including residential treatment, if residential treatment is deemed necessary and appropriate by the drug court team~~.

C. ~~The district attorney may object to the consideration of a juvenile for the juvenile drug court program at the initial hearing.~~

~~D. If the juvenile and the person responsible for the health or welfare of the juvenile voluntarily consent to be considered for the juvenile drug court program and have signed and filed the required form requesting consideration, the court may refer the juvenile for a~~ A juvenile drug court investigation ~~as provided in Section 3 of this act and~~ shall be ordered by the court, upon the motion of the district attorney, the juvenile, or the judge, once the requirements of subsection B of this section are met. The court shall set a date for a hearing to determine final eligibility for admittance into the program.

~~E. As a condition of participation in the juvenile drug court program, the juvenile shall stipulate to the facts of the case and the plea agreement shall specify the provisions and conditions of traditional processing should the juvenile be revoked from the drug court program.~~

~~F.~~ D. Upon denial for consideration in the juvenile drug court program at the initial hearing, the case shall proceed as authorized by the Juvenile Code.

SECTION 56. AMENDATORY Section 3, Chapter 226, O.S.L. 2005 (10 O.S. Supp. 2008, Section 7303-5.6), is amended to read as follows:

Section 7303-5.6 A. When directed by the ~~juvenile drug~~ court ~~judge~~, the treatment staff for the juvenile drug court program shall make an investigation of the juvenile under consideration to determine whether the juvenile is a person who:

1. Would benefit from the juvenile drug court program; and

2. ~~Is otherwise appropriate for the juvenile drug court program~~ Committed a delinquent act wherein the underlying act or cause of the underlying act involved alcohol or substance abuse.

B. 1. The juvenile drug court investigation shall be conducted through a standardized screening test, personal interview, and home study. A more comprehensive assessment may take place at the time the juvenile enters the treatment portion of the program and may

take place at any time after placement in the juvenile drug court program.

2. The investigation shall determine the original treatment plan which the ~~offender~~ juvenile will be required to follow if admitted to the program. Any subsequent assessments or evaluations by the treatment provider, if the juvenile is admitted to the program, may be used to determine modifications needed to the original treatment plan.

3. The investigation shall include, but not be limited to, the following information:

a. the age and physical condition of the juvenile,

b. employment,

c. educational background and literacy level,

d. community and family relations,

e. prior and current drug and alcohol use,

f. ~~mental~~ behavioral health and medical treatment history, ~~including substance abuse treatment history,~~

g. demonstrable motivation of the juvenile and family of the juvenile,

h. the willingness of the person responsible for the health or welfare of the juvenile, as defined in Section ~~7301-1.3~~ 2-1-103 of ~~Title 10 of the Oklahoma Statutes~~ this title, to actively support the participation of the juvenile in the program, and

i. other mitigating or aggravating factors.

4. A written treatment plan, which is subject to modification at any time during the program, shall include, but is not limited to:

a. describing the strong linkage between participating agencies,

b. access by all participating parties of a case to information on the progress of the juvenile,

c. vigilant supervision and monitoring procedures,

d. random substance abuse testing,

e. provisions for noncompliance, modification of the treatment plan and revocation proceedings,

f. availability of residential treatment facilities and outpatient services,

g. reparation to the victim, community and state, and

h. methods for measuring application of disciplinary sanctions, including provisions for:

(1) increased supervision,

(2) urinalysis testing,

(3) intensive treatment,

(4) short-term confinement not to exceed five (5) days,

(5) reinstating the juvenile into the program after a disciplinary action for a violation of the treatment plan, and

(6) revocation from the program.

C. 1. ~~The juvenile drug court investigation shall be conducted after the initial hearing and before the hearing for final determination of eligibility for the juvenile drug court program.~~

~~2.~~ When a juvenile is determined to be appropriate for admittance to the program, regardless of whether the juvenile is in the custody of the Office of Juvenile Affairs, the treatment staff shall make a recommendation for the treatment program or programs that are available in the jurisdiction and which would benefit the juvenile and accept the juvenile.

~~3.~~ 2. Prior to the next scheduled hearing, the investigation findings and recommendations for program placement shall be reported to the ~~juvenile drug~~ court ~~judge~~, the district attorney, the juvenile and the person responsible for the health or welfare of the juvenile, as defined in Section ~~7301 1.3~~ 2-1-103 of ~~Title 10 of the Oklahoma Statutes~~ this title, and the ~~defense~~ attorney of the juvenile.

D. ~~1. The district attorney and the defense attorney for the juvenile shall independently review the findings and recommendations of the juvenile drug court investigation report.~~

~~2. For a juvenile to remain eligible for consideration in the program, both the district attorney and the defense attorney must accept the recommended treatment plan and shall negotiate the terms of the written plea agreement with all rehabilitation provisions specified before the scheduled hearing date for determining final eligibility.~~

~~3. Upon failure of the district attorney and defense attorney to negotiate the plea agreement, the case shall be withdrawn from the juvenile drug court program and processed in the traditional manner.~~

~~4. The rehabilitation provisions of the plea agreement shall emphasize reparation to the victim, community, and state.~~

~~E.~~ The hearing to determine final eligibility shall be set not less than three (3) ~~workdays~~ judicial days nor more than seven (7) ~~workdays~~ judicial days from the date of the initial hearing for consideration, unless extended by the court.

E. 1. Any statement made by the juvenile to any supervising staff during the course of any drug court investigation or subsequent to the admission of the juvenile to the juvenile drug court program, as well as any report of findings and recommendations, shall not be admissible in any case pending against the juvenile, nor shall such be grounds for the revocation of a juvenile from the program.

2. The restrictions provided in this section shall not preclude the admissibility of statements or evidence obtained by the state from independent sources.

SECTION 57. AMENDATORY Section 5, Chapter 226, O.S.L. 2005 (10 O.S. Supp. 2008, Section 7303-5.8), is amended to read as follows:

Section 7303-5.8 A. The juvenile drug court judge shall conduct a hearing to determine final eligibility of the juvenile for the juvenile drug court program by considering:

1. Whether the juvenile ~~and the person responsible for the health or welfare of the juvenile, as defined in Section 7301-1.3 of Title 10 of the Oklahoma Statutes, have voluntarily consented to the program requirements~~ is appropriate for placement in drug court, as provided in subsection A of Section 2-2-506 of this title;

2. The findings and recommendations of the juvenile drug court investigation;

3. ~~Whether there is a plea agreement, and if so, whether the terms and conditions of the plea agreement among the district attorney, the defense attorney, the juvenile and the person responsible for the health or welfare of the juvenile, as defined in Section 7301-1.3 of Title 10 of the Oklahoma Statutes, are appropriate and consistent with the provisions and conditions of other similar cases;~~

~~4.~~ Whether there is an appropriate treatment program available to the juvenile and whether there is a recommended treatment plan; and

~~5.~~ 4. Any information relevant to determining eligibility. A juvenile shall not be denied admittance to any juvenile drug court program based upon the inability of the juvenile and the person responsible for the health or welfare of the juvenile, as defined in Section ~~7301 1.3~~ 2-1-103 of ~~Title 10 of the Oklahoma Statutes~~ this title, to pay court costs or other costs or fees.

B. ~~At the hearing to determine final eligibility of the juvenile for the juvenile drug court program, the judge shall not grant a juvenile admission to the program if:~~

~~1. The required treatment plan and adjudication agreement have not been completed;~~

~~2. The program funding or availability of treatment has been exhausted;~~

~~3. The treatment program is unwilling to accept the juvenile;~~

~~4. The juvenile was ineligible for consideration because of the nature of the offense at the time of arrest pursuant to subsection A of Section 471.2 of Title 22 of the Oklahoma Statutes and the charge was modified to meet the eligibility criteria of the program; or~~

~~5. The juvenile is inappropriate for admission to the program, in the discretion of the judge.~~

~~C.~~ The judge shall require the person responsible for the health or welfare of the juvenile, as defined in Section ~~7301-1.3 of Title 10~~ 2-1-103 of ~~the Oklahoma Statutes~~ this title, to demonstrate support for the participation of the juvenile in the program. In order for the juvenile to be admitted to the program, every person responsible for the health or welfare of the juvenile shall accept the personal jurisdiction of the court. Any adult who establishes a permanent residence in the home where the juvenile resides after the juvenile has been admitted to the program shall also accept the personal jurisdiction of the court. Failure of the adult responsible for the health or welfare of the juvenile or the adult who resides in the home with the juvenile to accept personal jurisdiction of the court shall result in either contempt of court proceedings for the adult, removal of the juvenile from the home, or both. A juvenile shall not be removed from the drug court program based solely on the failure of the adult to comply with the provisions of this subsection.

~~D. 1. At the final eligibility hearing, if evidence is presented that was not discovered by the juvenile drug court investigation, the district attorney or the defense attorney may make an objection and may ask the court to withdraw the plea agreement previously negotiated or the court may continue the issue to a subsequent hearing.~~

~~2. The court shall determine whether to proceed and overrule the objection, to sustain the objection and transfer the case for traditional processing, or to require further negotiations of the plea agreement. The decision of the judge for or against eligibility and admission shall be final.~~

~~E.~~ C. When the court accepts the treatment plan ~~and plea agreement~~, the juvenile~~, upon entering the plea as agreed by the parties, shall be ordered immediately into the program. The juvenile~~ and the person responsible for the health or welfare of the juvenile, as defined in Section ~~7301 1.3~~ 2-1-103 of ~~Title 10 of the Oklahoma Statutes~~ this title, must have voluntarily signed the necessary court documents before the juvenile may be admitted to treatment. The court documents shall include:

1. ~~Waiver of the right of the juvenile to a speedy trial;~~

~~2. A plea agreement which sets forth the offense charged;~~

~~3.~~ A written treatment plan which is subject to modification at any time during the program, as set forth in paragraph 4 of subsection B of Section 2-2-506 of this title;

~~4.~~ 2. A statement requiring the juvenile to enter the treatment program as directed by the court and to participate until completion, withdrawal, or removal by the court; and

~~5.~~ 3. A statement signed voluntarily by the person or persons responsible for the health or welfare of the juvenile that such person will comply with the orders of the court and any conditions

of the treatment program and supervising staff for as long as the juvenile participates in the juvenile drug court program.

~~F. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the juvenile presents satisfactory evidence that the juvenile drug court program has been successfully completed.~~

~~G.~~ D. If admission into the juvenile drug court program is denied, the case shall be returned to the traditional juvenile docket and shall proceed as provided for any other juvenile case.

~~H.~~ E. At the time a juvenile is admitted to the juvenile drug court program, any bond, bail or undertaking on behalf of the juvenile shall be exonerated.

~~I.~~ F. 1. ~~The period of time during which a~~ A juvenile ~~may~~ shall actively participate in ~~the active~~ treatment ~~portion of the juvenile drug court program shall be~~ for a period of not less than six (6) months ~~nor more than twenty four (24) months and may include a period of supervision not less than six (6) months nor more than one (1) year following the treatment portion of~~ while participating in the juvenile drug court program. Any person admitted to a juvenile drug court program who becomes eighteen (18) years of age shall be eligible to complete the drug court program.

2. All participating treatment providers shall be certified by the Department of Mental Health and Substance Abuse Services and shall be selected and evaluated for performance-based effectiveness

annually by the Department of Mental Health and Substance Abuse Services. Treatment programs shall be designed to be completed within twelve (12) months and shall have relapse prevention and evaluation components.

SECTION 58. AMENDATORY Section 6, Chapter 226, O.S.L. 2005 (10 O.S. Supp. 2008, Section 7303-5.9), is amended to read as follows:

Section 7303-5.9 A. The ~~juvenile drug~~ court ~~judge~~ shall make all judicial decisions concerning any case assigned to the juvenile drug court docket or program. The ~~judge~~ court shall require progress reports and a periodic review of each juvenile during their period of participation in the drug court program or for purposes of collecting costs and fees after completion of the treatment portion of the program. Reports from the treatment providers and the supervising staff shall be presented to the ~~drug~~ court ~~judge~~ as specified by the treatment plan or as ordered by the court.

B. ~~Upon the written or oral motion of the treatment provider, the district attorney, the defense attorney, the juvenile, the person responsible for the health or welfare of the juvenile, as defined in Section 7301-1.3 of Title 10 of the Oklahoma Statutes, or the supervising staff, the juvenile drug court judge shall set a date for a hearing to review the progress of the juvenile and the treatment plan. Notice shall be given to the juvenile and the person responsible for the health or welfare of the juvenile, as~~

~~defined in Section 7301-1.3 of Title 10 of the Oklahoma Statutes, and the other parties participating in the drug court case three (3) days before the hearing may be held.~~

~~C.~~ The ~~judge~~ court may establish a regular schedule for progress hearings for any juvenile in the drug court program. The district attorney shall not be required to attend regular progress hearings, but shall be required to be present upon the motion of any party to a drug court case.

~~D.~~ C. The treatment provider, the supervising staff, the district attorney, and the ~~defense~~ attorney for the juvenile shall be allowed access to all information in the drug court case file of the juvenile and all information presented to the ~~judge~~ court at any periodic review or progress hearing.

~~E.~~ D. 1. The ~~drug~~ court ~~judge~~ shall recognize relapses and restarts in the program which are considered to be part of the rehabilitation and recovery process.

2. The ~~judge~~ court shall ~~accomplish monitoring and juvenile accountability by ordering~~ order progressively increasing sanctions or ~~providing~~ provide incentives, rather than removing the juvenile from the program when relapse occurs, except when the conduct of the juvenile requires ~~revocation~~ removal from the program.

3. Any ~~revocation~~ removal from the drug court program shall require notice to the juvenile and the person responsible for the health or welfare of the juvenile, as defined in Section ~~7301-1.3 of~~

~~Title 10 of the Oklahoma Statutes~~ 2-1-103 of this title, and other participating parties in the case and a ~~revocation~~ hearing.

4. At the ~~revocation~~ hearing, if the juvenile is found to have violated the conditions of the ~~plea agreement~~ treatment plan and disciplinary sanctions have been insufficient to gain compliance, the juvenile shall be ~~revoked~~ removed from the program ~~and be sent to adjudication for the offense as provided in the plea agreement~~, returned to the regular juvenile court docket and set for redisposition.

~~F.~~ E. Upon application of any participating party to a drug court case, the ~~judge~~ court may modify a treatment plan at any hearing when it is determined that the treatment is not beneficial to the juvenile. The primary objective of the ~~judge~~ court in monitoring the progress of the juvenile and the treatment plan shall be to keep the juvenile in treatment for a sufficient time to change behaviors and attitudes. Modification of the treatment plan requires a consultation with the treatment provider, supervising staff, district attorney, and the ~~defense~~ attorney of the juvenile in open court.

~~G. The judge shall be prohibited from amending the written plea agreement after a juvenile has been admitted to the drug court program. Nothing in this provision shall be construed to limit the authority of the judge to remove a juvenile from the program and proceed with adjudication or traditional processing of the juvenile~~

~~as stated in the plea agreement after application, notice, and hearing.~~

~~H.~~ F. The ~~juvenile drug~~ court ~~judge~~ shall be authorized to modify the responsibilities of any person responsible for the health and welfare of the juvenile, as defined in Section ~~7301-1.3 of Title 10 of the Oklahoma Statutes~~ 2-1-103 of this title, for noncompliance with any condition established by the court. The ~~juvenile drug~~ court ~~judge~~ is also authorized to sanction the person responsible for the health and welfare of the juvenile or any adult residing with the juvenile, for noncompliance of such person with any condition established in the court.

SECTION 59. AMENDATORY Section 7, Chapter 226, O.S.L. 2005 (10 O.S. Supp. 2008, Section 7303-5.10), is amended to read as follows:

Section 7303-5.10 A. 1. The ~~juvenile drug~~ court ~~judge shall~~ may order the juvenile or the person responsible for the health or welfare of the juvenile, as defined in Section ~~7301-1.3~~ 2-1-103 of ~~Title 10 of the Oklahoma Statutes~~ this title, to pay court costs, treatment costs, drug-testing costs, ~~a program user fee,~~ and supervision fees ~~unless~~. The court shall order the juvenile ~~and~~ or the person responsible for the health or welfare of the juvenile ~~are indigent~~ to pay a program user fee, not to exceed Twenty Dollars ($20.00) per month.

2. The ~~juvenile drug~~ court ~~judge shall~~ may establish a schedule for the payment of costs and fees.

B. 1. ~~There is hereby created~~ If the court orders the juvenile and the person responsible for the health or welfare of the juvenile to pay the above-enumerated costs, there shall be created with the county treasurer of each county within this state a cash fund to be designated as the "Juvenile Drug Court Revolving Fund".

2. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received and any other monies designated by law for deposit into the fund.

3. All monies accruing to the credit of the fund are hereby appropriated and shall be expended by the juvenile drug court coordinator for the benefit and administration of the juvenile drug court program.

4. Claims against the fund shall include only expenses incurred for the administration of the juvenile drug court program and payment may be made after the claim is approved by the juvenile drug court team.

5. The necessary forms and procedures to account for the monies shall be developed and implemented by the Office of the State Auditor and Inspector.

C. 1. The cost for treatment, drug testing~~,~~ and supervision ~~and program user~~ fees shall be set by the juvenile drug court team and shall reflect actual expenses or rates established by the

Department of Mental Health and Substance Abuse Services and made part of the ~~court's~~ order of the court for payment.

2. The costs for drug testing~~,~~ and supervision~~, and program user~~ fees shall be paid to the juvenile drug court coordinator for deposit into the county Juvenile Drug Court Revolving Fund.

3. The costs for treatment shall be paid to the respective juvenile drug court treatment provider or providers.

4. The court clerk shall collect all other costs and fees ordered.

D. 1. No court order for costs and fees shall be limited by any term of supervision, treatment, or extension thereof.

2. Court orders for costs and fees shall remain an obligation of the juvenile and the person responsible for the health or welfare of the juvenile, as defined in Section ~~7301 1.3~~ 2-1-103 of ~~Title 10 of the Oklahoma Statutes~~ this title, with court monitoring until fully paid.

SECTION 60. AMENDATORY 10 O.S. 2001, Section 7303-6.2, is amended to read as follows:

Section 7303-6.2 A. Any interested party aggrieved by any order or decree may appeal to the ~~Supreme Court in the same manner as other appeals are taken to the Supreme Court of this state; provided, however, that appeals taken from a trial court's decision in a proceeding for an adjudication of juvenile delinquency or in a proceeding certifying a juvenile to stand trial as an adult or~~

~~denying such certification shall be taken to the~~ Court of Criminal Appeals in the same manner as other appeals are taken to the Court of Criminal Appeals of this state~~, and provided further that an order either certifying a juvenile to stand trial as an adult or denying such certification shall be a final order, appealable when entered~~.

B. The record on appeal of an order of adjudication or of an order certifying or denying certification of a juvenile to stand trial as an adult shall be completed and the appeal perfected within sixty (60) days after the date of the order.

C. The pendency of an appeal thus taken shall not suspend the order of the district court regarding a child, nor shall it discharge the child from the custody of that court or of the person, institution or agency to whose care such child has been committed, unless the ~~Supreme Court or the~~ Court of Criminal Appeals shall so order. The pendency of an appeal from an order of adjudication shall not prevent the district court from holding a dispositional hearing unless the appellate court shall so order. The pendency of an appeal from an order certifying a juvenile to stand trial as an adult shall not prevent the commencement of criminal proceedings against the juvenile unless stayed by the judge who issued the order of certification or by the appellate court. If the ~~Supreme Court or the~~ Court of Criminal Appeals does not dismiss the proceedings and discharge the child, it shall affirm or modify the order of the

district court and remand the child to the jurisdiction of that court for supervision and care; and thereafter the child shall be and remain under the jurisdiction of the district court in the same manner as if such court had made such order without an appeal having been taken.

D. In the opinions of the appellate courts of this state in juvenile proceedings under the Oklahoma Juvenile Code, the initial of the surname of the child shall be used rather than the surname of the child.

SECTION 61. AMENDATORY 10 O.S. 2001, Section 7303-7.4, is amended to read as follows:

Section 7303-7.4 A willful violation of any provision of an order of the court issued under the provisions of the Oklahoma Juvenile Code shall constitute indirect contempt of court and shall be punishable as such. Punishment for any such act of contempt shall not exceed a fine of Three Hundred Dollars ($300.00), or imprisonment for not more than thirty (30) days in the county jail if the violator is an adult, or placement in a juvenile detention center for not more than ten (10) days if the violator is a juvenile, or both such fine and imprisonment or detention.

SECTION 62. AMENDATORY 10 O.S. 2001, Section 7303-7.5, is amended to read as follows:

Section 7303-7.5 A. Any judge who is assigned to hear juvenile cases in counties having a population in excess of ~~one hundred~~

~~thousand (100,000)~~ eighty thousand (80,000), and where county funding is available, may appoint a suitable person or persons to act as referee or referees, to hold office at the pleasure of the judge. Such referees shall be lawyers and shall be specially qualified for their duties. ~~The judge may direct that any case, or all cases of a class or within a county to be designated by the judge, shall be heard in the first instance by a referee in the manner provided for the hearing of cases by the court. Upon the conclusion of the hearing in each case, the referee shall transmit to the court all papers relating to the case, together with the referee's findings of fact and conclusions of law, and recommendations in writing~~ Reasonable compensation shall be fixed by the presiding judge of the administrative district.

B. ~~Notice of the referee's findings and recommendations shall be given to the parent, guardian or custodian of the child or to any other person concerned whose case has been heard by the referee. A hearing by the court shall be allowed upon the filing with the court of a request for such hearing, if the request is filed within three (3) days after the service of such notice. In case no hearing by the court is requested, the findings and recommendations of the referee, when confirmed by an order of the court, shall become the decree of the court~~ All referees are subject to the administrative authority and assignment power of the chief judge of the juvenile court of the county. No referee may hear a contested trial,

hearing, motion or petition if a party or attorney for a party objects in writing to the assignment of a referee to hear the matter. The duties and powers of referees shall be to hear and report all matters assigned by the chief juvenile judge and to recommend findings of fact, conclusions of law, temporary and interim orders, and final orders of judgment. All recommended orders and findings of a referee shall be subject to confirmation by the judge.

C. 1. Upon the conclusion of the hearing in each case, the referee shall transmit to the judge the recommended findings and orders in writing. The recommended findings and orders of a referee become the findings and orders of the court when confirmed by the judge. The order of the court shall be proof of such confirmation and also of the fact that the matter was duly referred to the referee. A copy of the order entered by the referee shall be served upon the parties and counsel without delay or as provided in Section 696.2 of Title 12 of the Oklahoma Statutes.

2. A rehearing by the judge shall be allowed if any party files a written motion for review or upon motion by the court within three (3) judicial days after notice of the order of the referee. The motion for review shall specify the grounds for review and the specific provisions of the recommended findings or orders disputed and the court, upon receipt of a motion for review, shall set a time and place for a review hearing. The objecting party shall serve the

motion for review and notice of hearing upon all parties to the action. Failure to timely file the motion for review shall waive any and all objections to the findings and order of the referee and said order shall become the decree of the court.

3. The court shall accept the findings of fact of the referee unless the findings are clearly erroneous. The court, after a hearing, may adopt the report, modify the report in whole or in part, receive further evidence, or recommit the report with further instructions.

D. All orders and findings recommended by a referee become an effective order when countersigned by the court and remain effective during the pendency of a review, including a remand to the referee, unless the court:

1. Expressly stays the effect of the order;

2. Changes the order during the pendency of the review; or

3. Changes or vacates the order upon completion of the review.

SECTION 63. 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~~ If, after notice to the parent or parents of the child or other persons legally obligated to care for and support the child, and after affording said person or persons an opportunity to be heard, the court ~~determines~~ finds that the parent or parents of the child or other person 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~~ all or part of the costs and expenses set forth in paragraphs 1 through 4 of this subsection, the court may order the person or persons to pay the same and prescribe the method of payment, as follows:

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~~ behavioral 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 for the period of time the child is in the custody of the Department of Juvenile Justice;~~

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

~~5.~~ 4. 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 Oklahoma Juvenile ~~Justice~~ Code. The court may also order the assignment of benefits of medical insurance coverage for the child to the Office of Juvenile Affairs for the period of time the child is in the custody of the Office of Juvenile Affairs.

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 indirect civil 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, upon conducting an evidentiary hearing, 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 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.~~

SECTION 64. AMENDATORY 10 O.S. 2001, Section 7303-8.1, as amended by Section 28, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2008, 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~~ The 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~~ behavioral health care or treatment, to the person, institution, agency or 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~~ behavioral health services provided to any child in the custody of the Office of Juvenile Affairs.

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~~ 2-2-107 and ~~7303-5.1~~ 2-2-501 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 65. 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~~ Office of Juvenile ~~Justice~~ Affairs, the Executive Director of the Office of Juvenile Affairs 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 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 66. AMENDATORY 10 O.S. 2001, Section 7303-8.3, is amended to read as follows:

Section 7303-8.3 A. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs shall review and assess each child committed to the ~~Department~~ Office 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 environment, and any physical or mental examinations considered necessary.

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

SECTION 67. AMENDATORY 10 O.S. 2001, Section 7303-8.4, as amended by Section 29, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2008, Section 7303-8.4), is amended to read as follows:

Section 7303-8.4 A. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs may provide for the care of a child who is in the custody of the Office of Juvenile Affairs 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 designee. 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~~ behavioral health care and the treatment of children in its custody, the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs 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 68. AMENDATORY 10 O.S. 2001, Section 7303-8.6, as amended by Section 10, Chapter 124, O.S.L. 2006 (10 O.S. Supp. 2008, 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~~ Office of Juvenile ~~Justice~~ Affairs 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~~ 2-3-103 of this title to an institution, or other place, designated by the ~~Department~~ Office, and the cost of transportation shall be paid from the ~~county's~~ general fund of the county. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs shall not be ordered to provide transportation as provided for in this section for a juvenile who has been committed to the custody of the ~~Department~~ Office and is destined for a secure institution.

SECTION 69. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Sections 2-3-101 through 2-3-104 of Title 10A of the Oklahoma Statutes shall constitute Chapter 3 of Article 2.

CHAPTER 3 - DETENTION

SECTION 70. AMENDATORY 10 O.S. 2001, Section 7304-1.1, as last amended by Section 9, Chapter 3, O.S.L. 2003 (10 O.S. Supp. 2008, 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)~~ fifteen (15) 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)~~ fifteen (15) 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 minor in need of treatment as defined by the Inpatient Mental Health and Substance Abuse Treatment of Minors 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 minor in need of 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 minor in need of treatment, a ~~mental~~ behavioral health ~~or substance abuse~~ treatment facility in accordance with the provisions of the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, or released to the custody of the ~~child's~~ parents of the child 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~~ any criminal offense that would constitute a felony if committed by an adult or a 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~~ 2-2-503 of this title may be placed into an Office-of-Juvenile-Affairs-designated sanction detention bed or an Office-of-Juvenile-Affairs-approved sanction program.

D. ~~A child shall be detained in secure~~ Priority shall be given to the use of juvenile detention ~~only in accordance with the guidelines adopted pursuant to Section 7302-9.3 of this title~~ facilities for the detention of 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.

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 of the child 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~~ 2-3-103 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~~ an Office of Juvenile ~~Justice~~ Affairs 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~~ 2-3-102 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~~ 2-3-102 of this title and if, during the time of detention, the person is detained in a facility meeting the requirements of ~~7304-1.3~~ Section 2-3-103 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~~ the liability of a county 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~~ Office of Juvenile ~~Justice~~ Affairs.

SECTION 71. 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~~ Office of Juvenile ~~Justice~~ Affairs shall not be ordered to provide detention unless said ~~Department~~ Office has designated and is operating detention services or facilities.

B. County sheriffs, their designee, private contractors under contract with the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs 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~~ Office. No private contract for transportation services shall be entered into by the ~~Department~~ Office unless the private contractor demonstrates to the satisfaction of the ~~Department~~ Office that such contractor is able to obtain insurance or provide self-insurance to indemnify the ~~Department~~ Office against possible lawsuits and meets the requirements of subparagraphs a, b and d of paragraph 4 of subsection C of this section. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs shall not be ordered to provide transportation for a juvenile who is detained in or is destined for secure detention. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs 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~~ Office of Juvenile ~~Justice~~ Affairs 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 of the sheriff.

C. 1. All juvenile detention facilities shall be certified by the Office of Juvenile Affairs. To be certified, a juvenile detention facility shall be required to meet standards for certification promulgated by the Board of Juvenile Affairs. ~~Until such standards are promulgated, the standards promulgated by the Oklahoma Commission for Human Services 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~~ 2-7-608 of this title. The boards of county commissioners are hereby authorized to create multicounty 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~~ 2-7-608 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~~ Office 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~~ Office of Juvenile ~~Justice~~ Affairs.

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~~ 2-3-101 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 Board of Juvenile Affairs, 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 Board, the plan adopted by the Oklahoma Commission for Human Services shall remain in effect.

1. The Board of Juvenile Affairs 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~~ 2-7-401 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 Board, the procedures established by the Commission for Human Services shall remain in effect.~~

2. The Board of Juvenile Affairs 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.

E. The State Department of Health, with the assistance of the Office of Juvenile Affairs, 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 of Juvenile Affairs at least every six (6) months in a form approved by the Board of Juvenile Affairs.

SECTION 72. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Sections 2-4-101 through 2-4-110 of Title 10A of the Oklahoma Statutes shall constitute Chapter 4 of Article 2.

CHAPTER 4 - JUVENILE BUREAUS

SECTION 73. AMENDATORY 10 O.S. 2001, Section 7305-1.1, as last amended by Section 1, Chapter 385, O.S.L. 2008 (10 O.S. Supp. 2008, Section 7305-1.1), is amended to read as follows:

Section 7305-1.1 A. In each county having a population of eighty thousand (80,000) or more, as shown by the last preceding Federal Decennial Census, there is created a juvenile bureau and a citizens' advisory committee. For legal representation purposes only, the juvenile bureau and all facilities operated by the juvenile bureau are designated as a department of the county.

B. In each county having a duly constituted juvenile bureau as of January 1, 2005, 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.

~~C. The Department of Juvenile Justice 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 74. 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 Board of Juvenile Affairs and implemented by the ~~Department of Juvenile Justice of the~~ Office of Juvenile Affairs.

~~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 75. AMENDATORY 10 O.S. 2001, Section 7305-1.7, as last amended by Section 2, Chapter 385, O.S.L. 2008 (10 O.S. Supp. 2008, Section 7305-1.7), is amended to read as follows:

Section 7305-1.7 A. 1. The salary of the director and other employees of the bureau and any detention home established pursuant to Section ~~7305-1.8~~ <u>2-4-108</u> of this title shall be fixed by the judge of the Juvenile Division, subject to the general administrative authority of the county commissioners of the

contracting county. The salary of the director shall not exceed ninety percent (90%) of salaries of county Class A officers. ~~The salary of a referee shall not be greater than that of the associate district judge of the county.~~

2. The salary of supervisors with intake or ~~intake-probational~~ probation duties shall not ~~be less than Twelve Thousand Three Hundred Dollars ($12,300.00) per year, and not more than~~ exceed eighty-five percent (85%) of Class A county officers.

3. The salary of employees with case, probation, counseling or juvenile duties shall not ~~be less than Ten Thousand Five Hundred Dollars ($10,500.00) per year, and not more than~~ exceed eighty percent (80%) of Class A county officers.

B. The judge of the Juvenile Division, subject to the general administrative authority of the county commissioners of the contracting county, may fix a limit on the amount of expenses that may be incurred by the director and assistants to the director, such limit to be in the judgment of the judge adequate to care for the expenses necessary to carrying out the orders of the court in an efficient and expedient manner. The director and assistants to the director and other personnel of the court shall keep and maintain their offices at the place where the office of the judge of the court is kept, unless the judge of the Juvenile Division, subject to the general administrative authority of the county commissioners of the contracting county, shall direct otherwise. The offices of the

director and assistants to the director shall contain adequate equipment, desk space and consultation rooms necessary for appropriate office procedure.

C. In addition to their salaries, the director and assistants to the director shall be reimbursed at the same rate as state employees for mileage traveled by them in the investigation of court cases and in supervising probationers~~; with the approval of the judge in charge of the Juvenile Division, the~~. The director and assistants may also receive reimbursement, at the rate and in the manner applicable to other county officers, for actual and necessary expenses incurred by them in attending conferences, meetings, seminars or official business of the court either within or outside of the State of Oklahoma.

D. In all counties having a juvenile bureau, the budget of the juvenile bureau for salaries and expenses of the director, counselors and other employees shall be established and funded as follows:

1. All expenses incurred in complying with the provisions of this article shall be a county charge;

2. The salaries and other compensation of all employees of the juvenile bureau shall be fixed by the judge within the limit of the total appropriations therefor; and

3. It is made the duty of the county excise board to make the necessary appropriation and levy for the payment of salaries of the

director and all other employees, together with the expenses of administering the bureau, consistent with the duty to do likewise with the budget estimates of other county officers under the board's jurisdiction, as required by the Constitution and laws of this state.

4. Except in instances where it is entitled to representation because of insurance coverage, the district attorney of the county in which the juvenile bureau is located shall represent the juvenile bureau and any employee who was acting in his or her official capacity at the time of the act or omission complained of in any lawsuit. If the district attorney has a conflict of interest or otherwise declines to represent the juvenile bureau or its employees, the county commissioners may request the assistance of the Attorney General or authorize the employment of private counsel for the juvenile bureau and its employees in their official capacity.

~~E. All expenses incurred by the director and counselor in carrying out the orders of the judge of the court shall be reported to the judge of the Juvenile Division under oath, and such expenses shall not be paid by the board of county commissioners until such judge shall, by order entered of record, approve such accounts, and such judge may hear testimony as to the correctness thereof. A certified copy of the order of approval shall be filed in the office of the county clerk and shall be authority to the board of county~~

~~commissioners to disburse the necessary funds in payment thereof, provided payment of the same comes within the budgetary provisions of the bureau as established in subsection D of this section.~~

SECTION 76. AMENDATORY 10 O.S. 2001, Section 7305-1.10, is amended to read as follows:

Section 7305-1.10 The provisions of this article shall govern the appointment of all personnel for the Juvenile Docket of the district court in any county referred to in Section ~~7305-1.1~~ 2-4-101 of this title. Provided, employees now holding positions in a Juvenile or Children's Court shall remain in similar positions in the juvenile bureau until such time as the judge of the Juvenile Division, subject to the general administrative authority of the Presiding Judge of the Judicial Administrative District, shall otherwise direct, and any balances in appropriations for the maintenance and operation of the administrative personnel and organization under a Juvenile Court Act or Children's Court Act shall continue to be appropriated and shall be used for the operation of the juvenile bureau in the performance of duties set forth in this article.

SECTION 77. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Sections 2-5-101 through 2-5-301 of Title 10A of the Oklahoma Statutes shall constitute Chapter 5 of Article 2.

CHAPTER 5 - TREATMENT OF SERIOUS ACTS

SECTION 78. AMENDATORY 10 O.S. 2001, Section 7306-1.1, is amended to read as follows:

Section 7306-1.1. A. Any person sixteen (16) or seventeen (17) years of age who is charged with murder, kidnapping, robbery with a dangerous weapon, robbery in the first degree if personal injury results, rape in the first degree, rape by instrumentation, use of firearm or other offensive weapon while committing a felony, arson in the first degree, burglary with explosives, burglary in the first or second degree after three or more adjudications for committing either burglary in the first degree or burglary in the second degree, shooting with intent to kill, discharging a firearm, crossbow or other weapon from a vehicle pursuant to subsection B of Section 652 of Title 21 of the Oklahoma Statutes, intimidating a witness, manslaughter in the first degree, sodomy, trafficking in illegal drugs, manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, or dispense a controlled dangerous substance, or assault and battery with a deadly weapon, shall be considered as an adult.

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

C. Upon the arrest and detention, such accused person shall have all the statutory and constitutional rights and protections of an adult accused of a crime, but shall be detained in a jail cell or

ward entirely separate from prisoners who are eighteen (18) years of age or over.

D. 1. Upon the filing of an information against such accused person, 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, to have an attorney present and to make application for certification of such accused person as a child to the juvenile division of the district court. The warrant shall be personally served together with a certified copy of the information on the accused person and on a custodial parent, guardian or next friend of the accused person.

2. When personal service of a custodial parent, guardian or next friend of the accused person cannot be effected, service may be made by certified mail to ~~such person's~~ the last-known address of the person, 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.

3. Before service by publication is ordered, the court shall conduct an inquiry to determine whether a distinct and meaningful search has been made of all reasonably available sources to ascertain the whereabouts of any party for whom notice by publication is sought.

E. The accused person shall file a motion for certification as a child before the start of the criminal preliminary hearing. 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.

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.

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

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

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

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

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

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

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

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

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

SECTION 79. AMENDATORY 10 O.S. 2001, Section 7306-2.1, is amended to read as follows:

Section 7306-2.1 Sections ~~7306-2.1~~ 2-5-201 through ~~7306-2.13~~ 2-5-213 of this title shall be known and may be cited as the "Youthful Offender Act". The Youthful Offender Act shall be implemented beginning January 1, 1998.

SECTION 80. AMENDATORY 10 O.S. 2001, Section 7306-2.2, as last amended by Section 1, Chapter 277, O.S.L. 2008 (10 O.S. Supp. 2008, 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) or fourteen (14) 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~~ 2-5-205 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~~ 2-5-206 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~~ 2-5-206 of this title,

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

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~~ 2-5-209 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; and

3. "Next friend" means an individual or executive of an organization who has assumed a parental role without formal legal proceedings, but to all objective observers is readily identified as custodian or guardian in fact.

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 for the purpose of accessing the rehabilitative programs provided by that Office.

SECTION 81. AMENDATORY 10 O.S. 2001, Section 7306-2.3, is amended to read as follows:

Section 7306-2.3 A. 1. A child who is charged with having violated any state statute or municipal ordinance other than as provided in Sections ~~7306-2.5~~ 2-5-205 and ~~7306-2.6~~ 2-5-206 of this title shall not be tried in a criminal action as an adult or a youthful offender, but in a juvenile proceeding, unless certified as an adult pursuant to Section ~~7303-4.3~~ 2-2-403 of this title.

2. However, when multiple offenses occur within the same course of conduct within the same county and the person is prosecuted for at least one offense as a youthful offender pursuant to Section ~~7306-2.5~~ 2-5-205 or ~~7306-2.6~~ 2-5-206 of this title, then all the charges may be prosecuted under the same action pursuant to the provisions of the Youthful Offender Act, if so ordered by the court. The decision to join the cases shall not be appealable as a final order. If the offense listed in Section ~~7306-2.5~~ 2-5-205 or Section ~~7306-2.6~~ 2-5-206 of this title is subsequently dismissed for any reason, then any remaining pending charges shall be transferred to the juvenile court.

B. If, during the pendency of a criminal or quasi-criminal charge against any person, it shall be ascertained that the person was a child at the time of committing the alleged offense, the district court or municipal court shall transfer the case, together with all the papers, documents and testimony connected therewith, to the juvenile division of the district court. The division making such transfer shall order the child to be taken forthwith to the

place of detention designated by the juvenile division, to that division itself, or release such child to the custody of some suitable person to be brought before the juvenile division.

C. Nothing in this section shall be construed to prevent the exercise of concurrent jurisdiction by another division of the district court or by municipal courts in cases involving children wherein the child is charged with the violation of a state or municipal traffic law or ordinance.

SECTION 82. AMENDATORY 10 O.S. 2001, Section 7306-2.4, as last amended by Section 2, Chapter 277, O.S.L. 2008 (10 O.S. Supp. 2008, 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~~ 2-5-206 of this title, or who is certified as a youthful offender pursuant to Section ~~7306-2.5~~ 2-5-205 of this title, shall be charged by information in the same manner as provided for adults.

B. If the child is not otherwise represented by counsel and requests an attorney prior to or during interrogation, or whenever charged by information, as provided in subsection A of this section, the court shall appoint an attorney, who shall not be a district attorney, for the child regardless of any attempted waiver by the parent, legal guardian, or other legal custodian of the child of the right of the child to be represented by counsel. Counsel shall be

appointed by the court only upon determination by the court that the parent, legal guardian or legal custodian is found to be indigent.

C. 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~~ Chapter 6 of the Oklahoma Juvenile Code.

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

~~D.~~ E. Upon arrest and detention of a person subject to the provisions of Section ~~7306-2.5~~ 2-5-205 or ~~7306-2.6~~ 2-5-206 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 by sight and sound 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. The sheriff, chief of police, or juvenile or adult detention facility operator shall forthwith notify the Office of Juvenile Affairs of any such arrest and detention.

~~E.~~ F. Upon certification for the imposition of an adult sentence, 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~~ 2-5-208 of this title, the person may be detained as an adult and, if incarcerated, may be incarcerated with the adult population.

~~F.~~ G. 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 as a juvenile delinquent 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 and is subsequently convicted of the alleged offense or against whom the imposition of judgment and sentence has been deferred; or

2. The youthful offender has been certified for the imposition of an adult sentence as provided by Section ~~7306-2.8~~ 2-5-208 of this title and is subsequently convicted of the alleged offense or against whom the imposition of judgment and sentencing has been deferred.

~~G.~~ H. Except as otherwise provided in the Youthful Offender Act, a person who has been certified 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.

SECTION 83. AMENDATORY 10 O.S. 2001, Section 7306-2.5, as last amended by Section 11, Chapter 1, O.S.L. 2007 (10 O.S. Supp. 2008, Section 7306-2.5), is amended to read as follows:

Section 7306-2.5 A. Any person thirteen (13) or fourteen (14) years of age who is charged with murder in the first degree shall be held accountable for the act as if the person were an adult; provided, the person may be certified as a youthful offender or a juvenile as provided by this section, unless the person is subject to the provisions of subsection ~~F~~ G of Section ~~7306-2.4~~ 2-5-204 of this title.

B. Any person fifteen (15), sixteen (16) or seventeen (17) years of age who is charged with murder in the first degree at that time shall be held accountable for his or her act as if the person was an adult and shall not be subject to the provisions of the Youthful Offender Act or the provisions of the Juvenile Code for certification as a juvenile. The person shall have all the statutory 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. A person having

been convicted as an adult pursuant to this paragraph shall be tried as an adult for every subsequent offense.

C. 1. Upon the filing of an adult criminal information against such accused person, 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, to have an attorney present and to make application for certification of such accused person as a youthful offender to the district court for the purpose of prosecution as a youthful offender.

2. The warrant shall be personally served together with a certified copy of the information on the accused person and on a custodial parent, guardian or next friend of the accused person. The court may inquire of the accused as to the whereabouts of his or her parents, guardian, or next friend in order to avoid unnecessary delay in the proceedings.

3. When personal service of a custodial parent, guardian or next friend of the accused person 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 thorough 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.

D. 1. The accused person shall file any motions for certification as a youthful offender or a juvenile before the start of the criminal preliminary hearing. If both a motion for certification as a youthful offender and a motion for certification as a juvenile are filed, they shall both be heard at the same time. No motion for certification as a youthful offender or certification as a juvenile may be filed after the time specified in this subsection. 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.

2. The court shall commence a preliminary hearing within ninety (90) days of the filing of the information, pursuant to Section 258 of Title 22 of the Oklahoma Statutes, to determine whether the crime was committed and whether there is probable cause to believe the accused person committed a crime. If the preliminary hearing is not commenced within ninety (90) days of the date the accused person is charged, the district court shall hold a hearing to determine the reasons for delay utilizing the procedure set out in Section 812.2 of Title 22 of the Oklahoma Statutes, to ensure the preliminary hearing is expedited. If the whereabouts of the accused are unknown at the time of the filing of the information or if the accused is a fugitive, the State of Oklahoma shall make reasonable efforts to locate the accused in order to commence the proceedings. An accused who flees the jurisdiction of the court or purposely avoids apprehension for the charges, waives the right to have the preliminary hearing commenced within ninety (90) days of the filing of the information. An accused who fails to cooperate with providing information in locating the parents of the accused, guardian, or next friend for purpose of notice waives the right to have the preliminary hearing commence within ninety (90) days of the filing of the information.

3. At the conclusion of the state's case at the criminal preliminary hearing, the state and the accused person may offer

evidence to support or oppose the motions for certification as a youthful offender or an alleged juvenile delinquent.

E. The court shall rule on any motions for certification as a youthful offender or an alleged juvenile delinquent before ruling on whether to bind the accused over for trial. When ruling on a motion for certification as a youthful offender or juvenile, the court shall give consideration to the following guidelines with greatest weight to be given to paragraphs 1, 2 and 3:

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

2. Whether the offense was against persons, and, if personal injury resulted, the degree of personal injury;

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

4. The sophistication and maturity of the accused person and the capability of distinguishing right from wrong as determined by consideration of the person’s psychological evaluation, home, environmental situation, emotional attitude and pattern of living;

5. The prospects for adequate protection of the public if the accused person is processed through the youthful offender system or the juvenile system;

6. The reasonable likelihood of rehabilitation of the accused person if such person is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court; and

7. Whether the offense occurred while the accused person was escaping or on escape status from an institution for youthful offenders or delinquent children.

The court, in its decision on a motion for certification as a youthful offender or juvenile, 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.

F. The order certifying a person as a youthful offender or an alleged juvenile delinquent or denying the request for certification as either a youthful offender or an alleged juvenile delinquent shall be a final order, appealable to the Court of Criminal Appeals when entered.

G. An order certifying the accused person as a youthful offender or an alleged juvenile delinquent shall not be reviewable by the trial court.

H. If the accused person is prosecuted as an adult and is subsequently convicted of the alleged offense or against whom the imposition of judgment and sentencing has been deferred, the person

may be incarcerated with the adult population and shall be prosecuted as an adult in all subsequent criminal proceedings.

SECTION 84. AMENDATORY 10 O.S. 2001, Section 7306-2.6, as amended by Section 5, Chapter 286, O.S.L. 2006 (10 O.S. Supp. 2008, 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;

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; or

11. Any offense in violation of Section 652 of Title 21 of the Oklahoma Statutes,

shall be held accountable for ~~his~~ such 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. Battery or assault and battery on a state employee or contractor while in the custody or supervision of the Office of Juvenile Affairs;

3. Aggravated assault and battery of a police officer;

4. Intimidating a witness;

5. Trafficking in or manufacturing illegal drugs;

6. Assault or assault and battery with a deadly weapon;

7. Maiming;

8. 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;

9. Rape in the second degree; or

10. Use of a firearm while in commission of a felony,

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

C. 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. The district attorney shall notify the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs upon the filing of youthful offender charges.

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~~ the last-known address of the person, 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. The court shall commence a preliminary hearing within ninety (90) days of the filing of the information pursuant to Section 258 of Title 22 of the Oklahoma Statutes, to determine whether the crime was committed and whether there is probable cause to believe the accused person committed the crime. If the preliminary hearing is not commenced within ninety (90) days, the state shall be prohibited from seeking an adult sentence unless the ninety-day requirement is waived by the defendant. If the whereabouts of the accused are unknown at the time of the filing of the information or if the accused is a fugitive, the State of Oklahoma shall make reasonable efforts to locate the accused in order to commence the proceedings. An accused who flees the jurisdiction of the court or purposely avoids apprehension for the charges, waives the right to have the preliminary hearing commenced within ninety (90) days of the filing of the information. An accused who fails to cooperate with providing information in locating the accused parent, guardian, or next friend for purpose of notice waives the right to have the

preliminary hearing commence within ninety (90) days of the filing of the information.

F. 1. The accused person may file a motion for certification to the juvenile justice 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 justice 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 with the greatest weight given to subparagraphs a, b and c:

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

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

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

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

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

f. the reasonable likelihood of rehabilitation of the accused person if the accused 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 youthful offenders or juvenile delinquents.

4. In its decision on the motion for certification as an alleged juvenile delinquent, 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 justice 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~~ 2-5-209 of this title. If the youthful offender sentence is imposed as an adult sentence as provided by Section ~~7306-2.8~~ 2-5-208 of this title, the convicted person may be incarcerated with the adult population.

SECTION 85. AMENDATORY Section 2, Chapter 239, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7306-2.7a), is amended to read as follows:

Section 7306-2.7a It is the intent of the Legislature to fully utilize the Youthful Offender Act as a means to protect the public while rehabilitating and holding youth accountable for serious crimes. The Legislature finds that eligible seventeen-year-olds should have the opportunity to be processed as youthful offenders as provided by law and held accountable through the various provisions

of the Youthful Offender Act for custody, institutional placement, supervision, extended jurisdiction within the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, and the ability to transfer youthful offenders to the Department of Corrections when incarceration or additional supervision is required beyond the maximum age allowed in the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs. No older youth should be deemed ineligible or denied consideration as a youthful offender who is otherwise lawfully eligible based upon the ~~youth's~~ age of the youth being seventeen (17) years. To deny access to an otherwise eligible older youth without cause is to circumvent the original intent of the Legislature in creating the Youthful Offender Act.

SECTION 86. AMENDATORY 10 O.S. 2001, Section 7306-2.8, as amended by Section 6, Chapter 286, O.S.L. 2006 (10 O.S. Supp. 2008, 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 and such motion will be ruled upon by the trial court; or the district attorney may file the motion to impose adult sentence fourteen (14) days prior to the start of the preliminary hearing and the preliminary hearing magistrate will rule on that motion. The district attorney must elect when to file the motion for adult sentence and if the motion is filed and argued to the magistrate, it cannot again be filed and argued to the trial court after arraignment; or

2. If, prior to that time, the accused person indicates to the court that the accused person wishes to plead guilty or nolo contendere, 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~~ Office of Juvenile ~~Justice~~ Affairs.

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

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

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

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

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

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

f. the reasonable likelihood of rehabilitation of the accused person if the accused person 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 on escape status from an institution 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~~ Office of Juvenile ~~Justice~~ Affairs of not less than Twenty-five Dollars ($25.00), nor more than Five Hundred Dollars ($500.00), 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 87. AMENDATORY 10 O.S. 2001, Section 7306-2.9, as last amended by Section 3, Chapter 277, O.S.L. 2008 (10 O.S. Supp. 2008, 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~~ 2-5-208 of this title. Any presentence investigation required by this section shall be conducted by the Office of Juvenile Affairs; and

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

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

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

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

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

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

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

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

B. 1. After the hearing and consideration of the report of the presentence investigation, the court shall impose sentence as a youthful offender, and such youthful offender shall be subject to the same type of sentencing procedures and duration of sentence, except for capital offenses, including suspension or deferment, as an adult convicted of a felony offense, except that any sentence imposed upon the youthful offender shall be served in the custody or under the supervision of the Office of Juvenile Affairs until the expiration of the sentence, ~~the youthful offender is paroled,~~ the youthful offender is discharged, or the youthful offender reaches eighteen (18) years of age, whichever first occurs. If an individual sentenced as a youthful offender attains eighteen (18) years of age prior to the expiration of the sentence, such individual shall be returned to the sentencing court. At that time, the sentencing court shall make one of the following determinations:

a. whether the youthful offender shall be returned to the Office of Juvenile Affairs to complete a treatment program, provided that the treatment program shall not exceed the youthful offender's attainment of eighteen (18) years of age and five (5) months. At the conclusion of the treatment program, the individual

shall be returned to the sentencing court for a determination under subparagraph b, c or d of this paragraph,

b. whether the youthful offender shall be ~~incarcerated~~ placed in ~~an institution operated by~~ the custody of the Department of Corrections,

c. whether the youthful offender shall be placed on probation with the Department of Corrections, or

d. whether the youthful offender shall be discharged from custody.

2. The sentence imposed shall not exceed the maximum sentence already imposed in the originating sentence.

3. If a youthful offender has attained eighteen (18) years of age but less than eighteen (18) years of age and five (5) months prior to sentencing, that individual shall be returned to the sentencing court upon attaining the age of eighteen (18) years and five (5) months if that individual has been sentenced to a period of placement or treatment with the Office of Juvenile Affairs. The court shall have the same dispositional options as provided in subparagraphs b, c and d of paragraph 1 of this subsection.

4. Any period of probation required by the sentencing court to be served shall be supervised by:

a. the Office of Juvenile Affairs or designated representative, if the youthful offender is under eighteen (18) years of age, or

b. the Department of Corrections or designated representative, upon the youthful offender attaining eighteen (18) years of age.

5. 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, the court may issue orders with regard to the youthful offender as provided by law for the disposition of an adjudicated juvenile delinquent as long as the age of the youthful offender does not exceed eighteen (18) years and five (5) months.

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

7. The Office of Juvenile Affairs may make recommendations to the court concerning the disposition of the youthful offender.

C. A youthful offender who is seventeen (17) or eighteen (18) years of age or older and who has been sentenced to the custody of the Office of Juvenile Affairs may be detained in a county jail pending placement in an Office of Juvenile Affairs facility, provided the county jail meets the jail standards promulgated by the State Department of Health for juvenile offenders. Said youthful

offender who is eighteen (18) years of age or older may be held in the general population of the county jail.

SECTION 88. AMENDATORY 10 O.S. 2001, Section 7306-2.10, as last amended by Section 4, Chapter 277, O.S.L. 2008 (10 O.S. Supp. 2008, Section 7306-2.10), is amended to read as follows:

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

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

2. Identification of the specific services and programs that will be provided to the youthful offender by the Office of Juvenile Affairs to assist the youthful offender in achieving the measurable objectives to be reached, including, but not limited to, diagnostic testing consistent with the current standards of medical practice.

B. The court shall schedule an annual review hearing in open court for every youthful offender in the custody of the Office of Juvenile Affairs. Such hearing may be scheduled either upon the

court's own motion or upon a motion filed by the Office of Juvenile Affairs. Each annual review hearing shall be scheduled and completed within the thirty-day period immediately preceding the date the sentence was imposed upon the youthful offender. Notice shall be given to the youthful offender, the ~~youthful offender's~~ counsel, parent or guardian of the youthful offender, the district attorney, and the Office of Juvenile Affairs at the time the motion for review is made or filed. The court, at its discretion, may schedule other review hearings as the court deems necessary, after notice to the parties. The court shall hold a review hearing for good cause shown, upon any motion filed by the district attorney, the Office of Juvenile Affairs, or the youthful offender for the purpose of making a determination to:

1. Order the youthful offender discharged from the custody of the Office of Juvenile Affairs 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 judgment of guilt and the charge has been dismissed with prejudice as provided in this paragraph, upon the

motion of the youthful offender and the passage of three (3) years after the date of such discharge and dismissal, the court may, in addition, order any law enforcement agency over which the court has jurisdiction to produce all files and records pertaining to the arrest and conviction of the youthful offender, and shall order the clerk of the court to destroy the entire file and record of the case, including docket sheets, index entries, court records, summonses, warrants or records in the office of the clerk or which have been produced by a law enforcement agency in which the name of the youthful offender is mentioned. The court may order probation officers and counselors of the Office of Juvenile Affairs to destroy all records, reports, and social and clinical studies relating to the youthful offender that are in the possession of the Office of Juvenile Affairs, except when the documents are necessary to maintain state or federal funding;

2. Revoke an order of probation and place the youthful offender in the custody of the Office of Juvenile Affairs if such offender is less than eighteen (18) years of age;

3. Place the youthful offender on probation under the supervision of the age-appropriate agency;

4. Place the youthful offender if less than eighteen (18) years of age in a sanction program operated or contracted for by the Office of Juvenile Affairs community placement, if the youthful offender fails to comply with a written plan of rehabilitation or

fails substantially to achieve reasonable treatment objectives while in community or other nonsecure programs; or

5. Transfer the youthful offender to the custody or supervision of the Department of Corrections if the court finds by clear and convincing evidence that the youthful offender has:

a. after certification as a youthful offender, seriously injured or endangered the life or health of another person by such person's violent behavior,

b. escaped from the facility from which the youthful offender is being held,

c. committed a felony crime while in the custody or under the supervision of the Office of Juvenile Affairs 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. committed battery or assault and battery on a state employee or contractor of a juvenile facility while in the custody of such facility,

e. caused disruption in the facility, smuggled contraband into the facility, caused contraband to be smuggled into the facility, or engaged in other types of behavior which have endangered the life or health of other residents or staff of the facility, or

f. ~~has~~ established a pattern of disruptive behavior not conducive to the established policies and procedures of the program.

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

C. An order transferring custody of a youthful offender to the Department of Corrections shall be deemed an adult conviction and shall be recorded as such in the court records and criminal history records of the offender. Such order shall be a final order, appealable when entered. In addition to a judgment and sentence for an adult conviction, the court shall provide to the Department of Corrections a detailed memorandum or historical statement of the Youthful Offender Act as applied to the offender being transferred to the Department of Corrections, including the date of the offense, the date of the adjudication as a youthful offender, the date of the filing of the motion to transfer custody of the offender to the adult criminal system, and the date of the imposition of the adult sentence.

D. The court shall grant time-served credits against the adult sentence imposed for any youthful offender transferred to the Department of Corrections. 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, the offender shall receive day-for-day credit for the time spent in the custody or under the supervision of the Office of Juvenile Affairs. Upon commitment to the Department of Corrections, a youthful offender shall also receive other credits as provided by law for an adult inmate.

E. If authorized by the court, review hearings, other than those scheduled for determinations as provided in paragraphs 1 through 5 of subsection B of this section, may be conducted via teleconference communications; provided, the attorney representing the youthful offender shall be present at the hearing. For purposes of this subsection, "teleconference communication" means participation by the youthful offender and facility staff in the hearing by interactive telecommunication devices which permit both visual and auditory communication among the necessary participants, the court, and the youthful offender.

SECTION 89. AMENDATORY Section 1, Chapter 144, O.S.L. 2006, as amended by Section 5, Chapter 277, O.S.L. 2008 (10 O.S. Supp. 2008, Section 7306-2.10a), is amended to read as follows:

Section 7306-2.10a When committing a person who is, or has been, certified as a youthful offender and is certified eligible for the imposition as an adult sentence pursuant to Section ~~7306-2.8~~ 2-5-208 of this title, or certified as a youthful offender and is

being transferred to the Department of Corrections for custody or supervision pursuant to Section ~~7306-2.10~~ 2-5-210 of this title, or sentenced as an adult after previously being certified as a youthful offender, the judgment and sentence shall clearly identify such person as a youthful offender, or previous youthful offender, and detail the history of the applications of the Youthful Offender Act to such person that resulted in the current commitment to the Department of Corrections.

SECTION 90. AMENDATORY 10 O.S. 2001, Section 7306-2.11, as last amended by Section 6, Chapter 277, O.S.L. 2008 (10 O.S. Supp. 2008, 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, the Office of Juvenile Affairs may:

1. Place the youthful offender in a state training school or other institution or facility maintained by the state for delinquents or youthful offenders;

2. Place the youthful offender in a group home or community residential facility for delinquents or 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 Office of Juvenile Affairs may place a youthful offender in his or her 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. Placement of the youthful offender pursuant to this section or any other provision of law shall be the responsibility of the Office of Juvenile Affairs and shall occur as soon as reasonably possible but not more than forty-five (45) days following the filing and adoption of the written rehabilitation plan as provided in Section ~~7306-2.10~~ 2-5-210 of this title. This placement time period may be extended upon the declaration of an emergency by the ~~Office~~ Board of Juvenile Affairs ~~Board of Directors~~. For the purposes of this section, "emergency" means any situation that places the health, safety and well-being of the residents or staff in imminent peril. The court shall not have authority to require specific placement of a youthful offender in a time frame which would require

the removal of any other juvenile or youthful offender from such placement.

~~B.~~ C. The Office of Juvenile Affairs 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. The medical care, surgery and extraordinary care shall be charged to the appropriate agency where the youthful offender qualifies for the 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. A youthful offender placed in the custody of the Office of Juvenile Affairs who has attained eighteen (18) years of age or older may authorize and consent to the medical care sought on behalf of the youthful offender by the Office of Juvenile Affairs and to be provided to the youthful offender by a qualified health care professional. No state employee shall be liable for the costs of

any medical care or ~~mental~~ behavioral health services provided to any child in the custody of the Office of Juvenile Affairs.

~~C.~~ D. A youthful offender in the custody of the Office of Juvenile Affairs shall:

1. Be entitled to the rights afforded juvenile delinquents pertaining to any due process afforded delinquents in regard to movement from a nonsecure to a secure placement; and

2. 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 91. AMENDATORY 10 O.S. 2001, Section 7306-2.12, as amended by Section 10, Chapter 286, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7306-2.12), is amended to read as follows:

Section 7306-2.12 A. Upon the motion of a person who has been convicted and sentenced as a youthful offender and who has been subsequently transferred to the adult system pursuant to Section ~~7306-2.10~~ 2-5-210 of this title, with the recommendation of the sentencing court, the Governor may grant a full and complete pardon and restore citizenship to any person who has been convicted and sentenced as a youthful offender and who has completed the sentence or been discharged from parole.

B. Upon the motion of a person convicted as a youthful offender, and three (3) years after the expiration of the sentence of the youthful offender, the court may set aside the conviction if:

1. The court has previously found that the person has reasonably complied with the rehabilitation plan and objectives;

2. The person was discharged from supervision by the Office of Juvenile Affairs, or was granted early discharge from such supervision by the court; or

3. The person has completed the sentence imposed as a result of his first conviction as a youthful offender and has no subsequent convictions.

If a conviction is set aside pursuant to this subsection, the youthful offender shall thereafter be released from all penalties and disabilities resulting from the offense for which such person was convicted, including but not limited to, any disqualification for any employment or occupational license, or both, created by any other provision of law. The court may in addition order any law enforcement agency over whom the court has jurisdiction to produce all files and records pertaining to said 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, summons, 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 to destroy all records, reports, and social and clinical studies relating to said youthful offender that are in their possession except when said documents are necessary to maintain state or federal funding.

SECTION 92. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Sections 2-6-101 through 2-6-110 of Title 10A of the Oklahoma Statutes shall constitute Chapter 6 of Article 2.

CHAPTER 6 - RECORDS

SECTION 93. AMENDATORY 10 O.S. 2001, Section 7307-1.1, is amended to read as follows:

Section 7307-1.1 A. The court shall make and keep records of all cases brought before the court pursuant to the Oklahoma Juvenile Code~~, Section 7301-1.1 et seq. of this title~~. The court shall devise and cause to be printed such forms for social and legal records and such other papers as may be required.

B. As used in the Oklahoma Juvenile Code:

1. "Records" or "record" shall include but not be limited to written or printed documents, papers, logs, reports, files, case notes, films, photographs, audio or visual tape recordings pertaining to a juvenile proceeding or a child, and shall include information entered into and maintained in an automated or computerized information system;

2. "Juvenile court record" means legal and social records other than adoption records, including but not limited to agency, law enforcement and district attorney's records, filed with the court that are related to a child who is the subject of a court proceeding pursuant to the Oklahoma Juvenile Code;

3. "Agency record" means records prepared, obtained or maintained by a public or private agency with regard to a child who is or has been under its care, custody or supervision or with regard to a family member or other person living in the home of such child and shall include but not be limited to:

a. any study, plan, recommendation, assessment or report made or authorized to be made by such agency for the purpose of determining or describing the history, diagnosis, custody, condition, care or treatment of such child, or

b. any records made in the course of any investigation or inquiry conducted by an agency to determine whether a child is a delinquent child or a child in need of supervision;

4. "District attorney's records" means any records prepared or obtained by an office of a district attorney relating to a juvenile case and any records prepared or obtained for the prosecution of crimes against children that constitute a legal or social record of a child;

5. "Law enforcement records" means any contact, incident or similar reports, arrest records, disposition records, detention records, fingerprints, or photographs related to a child and shall include but not be limited to reports of investigations or inquiries conducted by a law enforcement agency to determine whether a child is or may be subject to the provisions of this chapter as a delinquent child or a child in need of supervision. Law enforcement records pertaining to juveniles shall be maintained separately from records pertaining to adults;

6. "Nondirectory education records" means any records maintained by a public or private school, including a technology center school, regarding a child who is or has been a student at the school which are categorized as private or confidential records pursuant to the federal Family Educational Rights and Privacy Act of 1974 and any rules promulgated pursuant to the act;

7. "Legal record" means any petition, docket, motion, finding, order, judgment, pleading, paper or other document, other than social records, filed with the court;

8. "Social record" means family social ~~studies and~~ histories, medical reports, psychological and psychiatric evaluations or assessments, clinical or other treatment reports ~~or studies~~, educational records ~~and agency records other than legal records filed with the court~~, or home studies, even if attached to court reports prepared by the agency; and

9. "Participating agency" means any public or private agency that has entered into a contract or an interagency agreement under the Interlocal Cooperation Act in accordance with the rules and guidelines adopted pursuant to Section 620.6 of ~~this title~~ Title 10 of the Oklahoma Statutes or the ~~Serious and Habitual~~ Juvenile Offender ~~Act~~ Tracking Program for the purpose of accessing and sharing information necessary for the care, treatment, and supervision of children and youth.

SECTION 94. AMENDATORY 10 O.S. 2001, Section 7307-1.2, as last amended by Section 2, Chapter 324, O.S.L. 2008 (10 O.S. Supp. 2008, 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 charging or certification of a juvenile as an adult ~~pursuant to Section 7303-4.3 of this title~~ or youthful offender;

2. Upon the charging of an individual pursuant to Section ~~7306-1.1~~ 2-5-101 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;

7. To a violation of the Prevention of Youth Access to Tobacco Act; or

8. Whenever a juvenile is accepted for placement or treatment in a facility or private treatment facility within this state as a result of or following a conviction or adjudication for an out-of-state offense that would qualify the juvenile as a youthful offender, as defined in Section ~~7306-2.2~~ 2-5-202 of this title, had the crime occurred within this state. The facility shall provide any law enforcement agency or peace officer all prior criminal offense, conviction, and adjudication information. If a juvenile flees or is otherwise absent from the facility without permission, the facility shall provide any law enforcement agency or peace officer all prior criminal offense, conviction, and adjudication information. Any law enforcement agency or peace officer shall have the authority to review or copy any records concerning the juvenile, including prior criminal offense, conviction, or adjudication information.

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~~ Title 10 of the Oklahoma Statutes 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 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~~ Title 10 of the Oklahoma Statutes 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~~ Tracking Program and Section 620.6 of ~~this title~~ Title 10 of the Oklahoma Statutes:

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~~ Title 10 of the Oklahoma Statutes 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~~ Office of Juvenile ~~Justice~~ Affairs 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 or has been presented for enrollment. 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 in writing, digitally, or by delivery to a secure facsimile line, the requested information to the school district within five (5) business days upon receipt of the request. 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.

N. The records of a case for which a petition is not filed shall be subject to the provisions of Chapter 6 of the Oklahoma Juvenile Code.

SECTION 95. 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~~ Tracking Program and Section 620.6 of ~~this title~~ Title 10 of the Oklahoma Statutes, the confidential records listed in subsection A of Section ~~7307-1.2~~ 2-6-102 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~~ Office of Juvenile ~~Justice~~ Affairs 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 96. AMENDATORY 10 O.S. 2001, Section 7307-1.4, as last amended by Section 2, Chapter 156, O.S.L. 2007 (10 O.S. Supp. 2008, 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~~ Title 10 of the Oklahoma Statutes. In addition to juvenile court records, any member of such review boards may inspect, without a court order, information including but not 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~~ 2-6-102 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~~ Office of Juvenile ~~Justice~~ Affairs 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~~ Office of Juvenile ~~Justice~~ Affairs or other public or private agency or any individual having court-ordered custody or custody pursuant to ~~Department~~ Office of Juvenile ~~Justice~~ Affairs 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;

18. Employees of the Department of Corrections in the course of their official duties;

19. Employees of the United States Probation Office, in the course of their official duties; and

20. Domestic violence and sexual assault advocates employed by a certified domestic violence or sexual assault program pursuant to Section 18p-6 of Title 74 of the Oklahoma Statutes, working within a law enforcement agency or court in the course of their assigned 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 97. AMENDATORY 10 O.S. 2001, Section 7307-1.5, as amended by Section 2, Chapter 191, O.S.L. 2007 (10 O.S. Supp. 2008, Section 7307-1.5), is amended to read as follows:

Section 7307-1.5 A. The Office of Juvenile 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~~ 2-6-102 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 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 Office of Juvenile 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~~ Office 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, 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 98. 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~~ Office of Juvenile ~~Justice~~ Affairs or a juvenile bureau of final discharge of such person from the supervision of the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs 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~~ Office of Juvenile ~~Justice~~ Affairs 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~~ 2-2-403 or ~~7306-1.1~~ 2-5-101 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 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~~ Tracking Program and Section 620.6 of ~~this title~~ Title 10 of the Oklahoma Statutes, 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 99. AMENDATORY 10 O.S. 2001, Section 7307-1.8, as amended by Section 13, Chapter 434, O.S.L. 2003 (10 O.S. Supp. 2008, Section 7307-1.8), is amended to read as follows:

Section 7307-1.8 A. A person who is the subject of ~~an open~~ a juvenile court record, that is not confidential as provided by law, 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~~ Office of Juvenile ~~Justice~~ Affairs, 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~~ Office of Juvenile ~~Justice~~ Affairs, 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.

M. A person who has attained eighteen (18) years of age or older may petition the district or municipal court in which the juvenile court record is located for an order to expunge all or any part of the record pertaining to matters involving truancy provided the person has met the criteria set forth in paragraphs 2 through 4 of subsection A of this section. The petition shall be reviewed by the district or municipal judge with primary responsibility over the juvenile court docket.

SECTION 100. AMENDATORY 10 O.S. 2001, Section 7307-1.9, is amended to read as follows:

Section 7307-1.9 The Office of Juvenile Affairs 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~~ 2-6-102 of this title. 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 101. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Sections 2-8-101 through 2-8-112 of Title 10A of the Oklahoma Statutes shall constitute Chapter 8 of Article 2.

CHAPTER 8 - JUVENILE SEX OFFENDER REGISTRATION ACT

SECTION 102. AMENDATORY 10 O.S. 2001, Section 7308-1.1, is amended to read as follows:

Section 7308-1.1 This act shall be known and ~~may be~~ cited as the "Juvenile Sex Offender Registration Act".

SECTION 103. AMENDATORY 10 O.S. 2001, Section 7308-1.3, as amended by Section 2, Chapter 164, O.S.L. 2002 (10 O.S. Supp. 2008, Section 7308-1.3), is amended to read as follows:

Section 7308-1.3 The Office of Juvenile Affairs 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~~ 2-8-104 of this title.

SECTION 104. AMENDATORY 10 O.S. 2001, Section 7308-1.4, as amended by Section 3, Chapter 164, O.S.L. 2002 (10 O.S. Supp. 2008, 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~~ 2-8-102 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. 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 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. 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 105. AMENDATORY 10 O.S. 2001, Section 7308-1.5, as amended by Section 4, Chapter 164, O.S.L. 2002 (10 O.S. Supp. 2008, Section 7308-1.5), is amended to read as follows:

Section 7308-1.5 On ~~and~~ or after ~~the effective date of this act~~ 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~~ 2-8-104 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 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 106. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Sections 2-9-101 through 2-9-114 of Title 10A of the Oklahoma Statutes shall constitute Chapter 9 of Article 2.

CHAPTER 9 - INTERSTATE COMPACT FOR JUVENILES ACT

SECTION 107. AMENDATORY Section 1, Chapter 147, O.S.L. 2004 (10 O.S. Supp. 2008, Section 7309-1.1), is amended to read as follows:

Section 7309-1.1 This act shall be known and ~~may be~~ cited as the "Interstate Compact for Juveniles Act".

SECTION 108. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-2-103 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. 1. A municipality with a population of at least twenty-five thousand (25,000) may, by written resolution filed with the district court, assume jurisdiction of cases involving children under eighteen (18) years of age charged with violating any municipal ordinance identified in the resolution.

2. Any other municipality may enter into an interlocal agreement with the district court pursuant to the Interlocal Cooperation Act, 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.

3. The chief juvenile judge of the district court judicial district, or if there is no chief judge then the presiding judge of the judicial administrative district, is hereby authorized to enter into the interlocal 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.

B. 1. 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.

2. 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 care of a peace officer or other person employed by a police department only until the parent of the child, 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. The temporary custody provided for by this paragraph shall be utilized as a means of returning the child to the home of the child or other place of shelter.

3. In no event shall the child be placed in a jail, lockup or adult detention facility. In no event shall the child be placed in a juvenile detention facility for more than twenty-four (24) hours, excluding weekends and holidays, prior to an initial court appearance and for an additional twenty-four (24) hours excluding weekends and holidays, immediately following an initial court appearance; provided, however, this provision shall not restrict or prohibit placing a child in a community intervention center pursuant to Section 9 of this act.

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 section, but only pursuant to the following conditions:

a. the municipality shall immediately take all reasonable steps to attempt to locate the parent of the child, legal guardian, legal custodian, attorney or another responsible adult and determine if the 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 release of the child from such facility,

b. the child shall be released to the personal custody of the parent of the child, 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. 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 parent of the child, 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 40 of this act,

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.

C. 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 the temporary detention of juveniles as authorized by the provisions of this section.

1. A municipal juvenile facility shall be certified by the Office of Juvenile Affairs pursuant to the applicable certification

standards. The Office of Juvenile Affairs is directed to and shall establish standards for certification of municipal juvenile facilities to include but not be limited to the conditions set forth in subparagraphs a through g of paragraph 4 of subsection B of this section.

2. Each member of the staff of the municipal juvenile facility shall have satisfactorily completed a training program provided or approved by the Office of Juvenile Affairs. The Office of Juvenile Affairs is directed to and shall provide or approve an appropriate training program for staff members of such facilities.

3. A municipality may contract with an independent public or private facility properly certified by the Office of Juvenile Affairs for performance of the detention services authorized by the provisions of this section.

4. The provisions of this section shall not restrict or limit the use of municipal juvenile facilities for detention of juveniles who are detained pursuant to other provisions of law.

5. In no event shall a juvenile be held in an adult facility that does not meet the definition of a municipal juvenile facility.

D. 1. A child less than eighteen (18) years of age may be charged, prosecuted and, if convicted, fined for violating a municipal ordinance; provided, that the maximum fine which may be imposed shall not exceed the maximum fine authorized by law.

2. 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. The court may also impose costs as authorized by law.

3. 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 equal to the number of community service hours that are not completed by the child multiplied by the hourly minimum wage amount.

4. 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, 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.

E. 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.

F. 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 parent of the child, 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 the parent of the child, 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.

G. 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 Chapter 6 of this Code and Section 620.6 of Title 10 of the Oklahoma Statutes. Municipal conviction records involving children less than eighteen (18) years of age convicted of violating municipal ordinances shall be open to public inspection.

H. Funds generated from fines paid pursuant to an interlocal agreement between a municipality and the district court 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 this section;

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

5. To fund the costs of community intervention centers authorized pursuant to Section 9 of this act.

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 109. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-6-103 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. 1. Social records, as defined by Section 93 of this act, shall not be filed in the court record unless so ordered by the

court. If filed in the court record, the records shall be placed in confidential envelopes in the court file and may only be accessed by the person who is the subject of the record, or the attorney for such person.

2. The person or the attorney for the person may obtain a copy of any social record used during the pendency of the delinquent proceedings that has been distributed to any of the parties during the proceedings.

B. Nothing in this section shall prohibit the disclosure of confidential records as permitted by the provisions of Chapter 6 of this Code or any other applicable law.

SECTION 110. REPEALER 10 O.S. 2001, Section 7302-2.5, is hereby repealed.

SECTION 111. REPEALER 10 O.S. 2001, Sections 7303-2.1, 7303-2.2, 7303-4.5, Section 4, Chapter 226, O.S.L. 2005, 7303-6.1, 7303-6.3, 7303-7.1, 7303-7.2, 7303-7.3 and 7303-8.5, as amended by Section 30, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2008, Sections 7303-5.7 and 7303-8.5), are hereby repealed.

SECTION 112. RECODIFICATION 10 O.S. 2001, Sections 7301-1.1 and 7301-1.2, as amended by Sections 2 and 3 of this act, and 7301-1.3, as last amended by Section 4 of this act, shall be recodified as Sections 2-1-101, 2-1-102 and 2-1-103 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 113. RECODIFICATION 10 O.S. 2001, Section 7302-1.1, as last amended by Section 6 of this act, shall be recodified as Section 2-7-101 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 114. RECODIFICATION 10 O.S. 2001, Sections 7302-2.1, as last amended by Section 1, Chapter 341, O.S.L. 2008, 7302-2.2, as last amended by Section 1, Chapter 61, O.S.L. 2007, 7302-2.3 and 7302-2.4 (10 O.S. Supp. 2008, Sections 7302-2.1 and 7302-2.2), shall be recodified as Sections 2-7-201, 2-7-202, 2-7-203 and 2-7-204 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 115. RECODIFICATION 10 O.S. 2001, Sections 7302-3.1, as last amended by Section 7 of this act, 7302-3.2, as amended by Section 8 of this act, 7302-3.3, as amended by Section 6, Chapter 320, O.S.L. 2006, 7302-3.4, as amended by Section 7, Chapter 320, O.S.L. 2006, and 7302-3.5, as last amended by Section 9 of this act (10 O.S. Supp. 2008, Sections 7302-3.3 and 7302-3.4), shall be recodified as Sections 2-7-301, 2-7-302, 2-7-303, 2-7-304 and 2-7-305 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering. Section 4, Chapter 4, O.S.L. 2002 (10 O.S. Supp. 2008, Section 7302-3.6a), as last amended by Section 10 of this act, shall be recodified as Section 2-7-306 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering. Sections 7302-3.7, as amended by Section 10, Chapter

320, O.S.L. 2006, 7302-3.8, as last amended by Section 11 of this act, 7302-3.9, as amended by Section 12, Chapter 320, O.S.L. 2006, 7302-3.10, as amended by Section 13, Chapter 320, O.S.L. 2006 and 7302-3.11, as last amended by Section 12 of this act (10 O.S. Supp. 2008, Sections 7302-3.7, 7302-3.9 and 7302-3.10), shall be recodified as Sections 2-7-307, 2-7-308, 2-7-309, 2-7-310 and 2-7-311 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 116. RECODIFICATION 10 O.S. 2001, Sections 7302-4.1, as amended by Section 13 of this act and 7302-4.2, shall be recodified as Sections 2-7-401 and 2-7-402 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 117. RECODIFICATION 10 O.S. 2001, Sections 7302-5.1, 7302-5.2, 7302-5.3 and 7302-5.4, as last amended by Sections 14, 15, 16 and 17 of this act, shall be recodified as Sections 2-7-501, 2-7-502, 2-7-503 and 2-7-504 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 118. RECODIFICATION 10 O.S. 2001, Sections 7302-6.1, 7302-6.2 and 7302-6.3, as last amended by Sections 18, 19 and 20 of this act, 7302-6.4 and 7302-6.5, as amended by Sections 21 and 22 of this act, 7302-6.6, as last amended by Section 23 of this act, 7302-6.7 and 7302-6.8, as amended by Sections 24 and 25 of this act, 7302-6.9, as last amended by Section 26 of this act and 7302-6.10,

as amended by Section 27 of this act, shall be recodified as Sections 2-7-601, 2-7-602, 2-7-603, 2-7-604, 2-7-605, 2-7-606, 2-7-607, 2-7-608, 2-7-609 and 2-7-610 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 119. RECODIFICATION 10 O.S. 2001, Sections 7302-7.1, 7302-7.2, 7302-7.3, 7302-7.4 and 7302-7.5, as last amended by Sections 28, 29, 30, 31 and 32 of this act, shall be recodified as Sections 2-7-701, 2-7-702, 2-7-703, 2-7-704 and 2-7-705 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 120. RECODIFICATION 10 O.S. 2001, Section 7302-8.1, as amended by Section 33 of this act, shall be recodified as Section 2-7-801 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 121. RECODIFICATION 10 O.S. 2001, Sections 7302-9.1, 7302-9.2, 7302-9.3, 7302-9.4 and 7302-9.6, as amended by Sections 34, 35, 36, 37 and 38 of this act, shall be recodified as Section 2-7-901, 2-7-902, 2-7-903, 2-7-904 and 2-7-905 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 122. RECODIFICATION 10 O.S. 2001, Sections 7303-1.1, 7303-1.2, 7303-1.3 and 7303-1.4, as last amended by Sections 40, 41, 42 and 43 of this act, 7303-1.5 and 7303-1.6, as amended by Sections 44 and 45 of this act, and 7303-1.7, as last amended by

Section 46 of this act, shall be recodified as Sections 2-2-101, 2-2-102, 2-2-104, 2-2-105, 2-2-106, 2-2-107 and 2-2-108 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 123. RECODIFICATION 10 O.S. 2001, Section 7303-3.1, as amended by Section 47 of this act, shall be recodified as Section 2-2-301 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 124. RECODIFICATION 10 O.S. 2001, Sections 7303-4.1, 7303-4.2, as amended by Section 48 of this act, and 7303-4.3 and 7303-4.6, as last amended by Sections 49 and 50 of this act, shall be recodified as Sections 2-2-401, 2-2-402, 2-2-403 and 2-2-404 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 125. RECODIFICATION 10 O.S. 2001, Sections 7303-5.1, as amended by Section 51 of this act, and 7303-5.2, 7303-5.3, 7303-5.4 and 7303-5.5, as last amended by Sections 52, 53, 54 and 55 of this act, shall be recodified as Sections 2-2-501, 2-2-502, 2-2-503, 2-2-504 and 2-2-505 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering. Sections 3, 5, 6 and 7, Chapter 226, O.S.L. 2005 (10 O.S. Supp. 2008, Sections 7303-5.6, 7303-5.8, 7303-5.9 and 7303-5.10), as amended by Sections 56, 57, 58 and 59 of this act, shall be recodified as Sections 2-2-

506, 2-2-507, 2-2-508 and 2-2-509 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 126. RECODIFICATION 10 O.S. 2001, Section 7303-6.2, as amended by Section 60 of this act, shall be recodified as Section 2-2-601 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 127. RECODIFICATION 10 O.S. 2001, Sections 7303-7.4, 7303-7.5 and 7303-7.6, as amended by Sections 61, 62 and 63 of this act, shall be recodified as Sections 2-2-701, 2-2-702 and 2-2-703 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 128. RECODIFICATION 10 O.S. 2001, Sections 7303-8.1, as last amended by Section 64 of this act, 7303-8.2 and 7303-8.3, as amended by Sections 65 and 66 of this act, and 7303-8.4 and 7303-8.6, as last amended by Sections 67 and 68 of this act, shall be recodified as Sections 2-2-801, 2-2-802, 2-2-803, 2-2-804 and 2-2-805 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 129. RECODIFICATION 10 O.S. 2001, Sections 7304-1.1, as last amended by Section 70 of this act, 7304-1.2, 7304-1.3, as amended by Section 71 of this act and 7304-1.4, shall be recodified as Sections 2-3-101, 2-3-102, 2-3-103 and 2-3-104 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 130. RECODIFICATION 10 O.S. 2001, Sections 7305-1.1, as last amended by Section 73 of this act, 7305-1.2, as amended by Section 2, Chapter 176, O.S.L. 2007, 7305-1.3, as amended by Section 74 of this act, 7305-1.4, 7305-1.5, 7305-1.6, 7305-1.7, as last amended by Section 75 of this act, 7305-1.8, 7305-1.9 and 7305-1.10, as amended by Section 76 of this act (10 O.S. Supp. 2008, Section 7305-1.2), shall be recodified as Sections 2-4-101, 2-4-102, 2-4-103, 2-4-104, 2-4-105, 2-4-106, 2-4-107, 2-4-108, 2-4-109 and 2-4-110 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 131. RECODIFICATION 10 O.S. 2001, Section 7306-1.1, as amended by Section 78 of this act, shall be recodified as Section 2-5-101 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 132. RECODIFICATION 10 O.S. 2001, Sections 7306-2.1, as amended by Section 79 of this act, 7306-2.2, as last amended by Section 80 of this act, 7306-2.3, as amended by Section 81 of this act, and 7306-2.4, 7306-2.5 and 7306-2.6, as last amended by Sections 82, 83 and 84 of this act, shall be recodified as Sections 2-5-201, 2-5-202, 2-5-203, 2-5-204, 2-5-205 and 2-5-206 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering. Section 2, Chapter 239, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7306-2.7a), as amended by Section 85 of this act, shall be recodified as Section 2-5-207 of Title 10A of the Oklahoma Statutes,

unless there is created a duplication in numbering. 10 O.S. 2001, Sections 7306-2.8, 7306-2.9 and 7306-2.10, as last amended by Sections 86, 87 and 88 of this act, shall be recodified as Sections 2-5-208, 2-5-209 and 2-5-210 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering. Section 1, Chapter 144, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7306-2.10a), as last amended by Section 89 of this act, shall be recodified as Section 2-5-211 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering. Sections 7306-2.11 and 7306-2.12, as last amended by Sections 90 and 91 of this act, shall be recodified as Sections 2-5-212 and 2-5-213 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 133. RECODIFICATION Section 11, Chapter 286, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7306-3.1), shall be recodified as Section 2-5-301 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 134. RECODIFICATION 10 O.S. 2001, Sections 7307-1.1, as amended by Section 93 of this act, 7307-1.2, as last amended by Section 94 of this act, 7307-1.3, as amended by Section 95 of this act, 7307-1.4 and 7307-1.5, as last amended by Sections 96 and 97 of this act, 7307-1.6, 7307-1.7, as amended by Section 98 of this act, 7307-1.8, as last amended by Section 99 of this act and 7307-1.9, as amended by Section 100 of this act, shall be recodified as

Sections 2-6-101, 2-6-102, 2-6-104, 2-6-105, 2-6-106, 2-6-107, 2-6-108, 2-6-109 and 2-6-110 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 135. RECODIFICATION 10 O.S. 2001, Sections 7308-1.1, as amended by Section 102 of this act, 7308-1.2, as amended by Section 1, Chapter 164, O.S.L. 2002, 7308-1.3, 7308-1.4 and 7308-1.5, as last amended by Sections 103, 104 and 105 of this act, 7308-1.7, 7308-1.8, 7308-1.9, as amended by Section 5, Chapter 164, O.S.L. 2002, 7308-1.10, 7308-1.11, 7308-1.12 and 7308-1.13 (10 O.S. Supp. 2008, Sections 7308-1.2 and 7308-1.9), shall be recodified as Sections 2-8-101, 2-8-102, 2-8-103, 2-8-104, 2-8-105, 2-8-106, 2-8-107, 2-8-108, 2-8-109, 2-8-110, 2-8-111 and 2-8-112 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 136. RECODIFICATION Section 1, Chapter 147, O.S.L. 2004 (10 O.S. Supp. 2008, Section 7309-1.1), as amended by Section 107 of this act, shall be recodified as Section 2-9-101 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering. Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, Chapter 147, O.S.L. 2004 (10 O.S. Supp. 2008, Sections 7309-1.2, 7309-1.3, 7309-1.4, 7309-1.5, 7309-1.6, 7309-1.7, 7309-1.8, 7309-1.9, 7309-1.10, 7309-1.11, 7309-1.12, 7309-1.13 and 7309-1.14), shall be recodified as Sections 2-9-102, 2-9-103, 2-9-104, 2-9-105, 2-9-106, 2-9-107, 2-9-108, 2-9-109, 2-9-110, 2-9-111,

2-9-112, 2-9-113 and 2-9-114 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 137. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 2nd day of March, 2009.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2009.

_____
Presiding Officer of the Senate