

1 ENGROSSED SENATE
2 BILL NO. 270

By: Anderson of the Senate

3 and

4 Duncan of the House

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7 An Act relating to children; amending 10 O.S. 2001,
8 Section 7306-2.9, as last amended by Section 3,
9 Chapter 277, O.S.L. 2008 (10 O.S. Supp. 2008, Section
10 7306-2.9), which relates to presentence
11 investigations of youthful offenders; modifying
12 conditions for supervision by the Office of Juvenile
13 Affairs; modifying certain options of a sentencing
14 court; and providing an effective date.

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

16 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7306-2.9, as
17 last amended by Section 3, Chapter 277, O.S.L. 2008 (10 O.S. Supp.
18 2008, Section 7306-2.9), is amended to read as follows:

19 Section 7306-2.9 A. Upon a verdict of guilty or a plea of
20 guilty or nolo contendere of a youthful offender and prior to the
21 imposition of a youthful offender sentence by the court:

22 1. A youthful offender presentence investigation shall be
23 conducted unless waived by the youthful offender with approval of
24 the court or unless an investigation is conducted pursuant to
subsection C of Section 7306-2.8 of this title. Any presentence

1 investigation required by this section shall be conducted by the
2 Office of Juvenile Affairs; and

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

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

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

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

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

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

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

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

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

21 a. whether the youthful offender shall be returned to the
22 Office of Juvenile Affairs to complete a treatment
23 program, provided that the treatment program shall not
24 exceed the youthful offender's attainment of eighteen

1 (18) years of age and five (5) months. At the
2 conclusion of the treatment program, the individual
3 shall be returned to the sentencing court for a
4 determination under subparagraph b, c or d of this
5 paragraph,

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

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

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

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

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

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

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

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

7 5. In addition to or in lieu of the placement of the youthful
8 offender in the custody of or under the supervision of the Office of
9 Juvenile Affairs, the court may issue orders with regard to the
10 youthful offender as provided by law for the disposition of an
11 adjudicated juvenile delinquent as long as the age of the youthful
12 offender does not exceed eighteen (18) years and five (5) months.

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

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

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

3 SECTION 2. This act shall become effective November 1, 2009.

4 Passed the Senate the 19th day of February, 2009.

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Presiding Officer of the Senate

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8 Passed the House of Representatives the ____ day of _____,
9 2009.

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Presiding Officer of the House
of Representatives

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