

ENROLLED HOUSE
BILL NO. 2029

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

and

Coates and Paddock 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, as amended by Section 2 of Enrolled House Bill No. 1676 of the 1st Session of the 52nd Oklahoma Legislature, 7302-9.3, 7302-9.4 and 7302-9.6, as amended by Section 3 of Enrolled House Bill No. 1676 of the 1st Session of the 52nd Oklahoma Legislature, 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 7303-4.6), 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 1 of Enrolled Senate Bill No. 270 of the 1st Session of the 52nd Oklahoma Legislature, 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, 7306-2.10, 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; amending Section 1, Chapter 387, O.S.L. 2005, 12 O.S. 2001, Section 95, as last amended by Section 4, Chapter 99, O.S.L. 2008 and Section 2, Chapter 405, O.S.L. 2003, as amended by Section 1, Chapter 445, O.S.L. 2004 (12 O.S. Supp. 2008, Sections 39, 95 and 2611.4), which relate to civil procedure; modifying statutory references; amending 19 O.S. 2001, Sections 215.33, as last amended by Section 1, of Enrolled Senate Bill

No. 539 of the 1st Session of the 52nd Oklahoma Legislature and Section 1, Chapter 110, O.S.L. 2003, as amended by Section 1, Chapter 355, O.S.L. 2004 (19 O.S. Supp. 2008, Section 339.6), which relate to counties and county officers; modifying statutory references; amending Sections 1, Chapter 81, O.S.L. 2008 and 20 O.S. 2001, Section 1304, as amended by Section 6, Chapter 390, O.S.L. 2002 (20 O.S. Supp. 2008, Sections 128 and 1304), which relate to courts; modifying statutory references; amending 21 O.S. 2001, Sections 13.1, as last amended by Section 1, Chapter 199, O.S.L. 2007, 142.18, 567A, 701.7, as last amended by Section 2, Chapter 186, O.S.L. 2006, 852, as last amended by Section 14, Chapter 407, O.S.L. 2008, 852.1, as amended by Section 1 of Enrolled Senate Bill No. 1138 of the 1st Session of the 52nd Oklahoma Legislature, 888, as last amended by Section 9, Chapter 261, O.S.L. 2007, 1115, as last amended by Section 18, Chapter 261, O.S.L. 2007 and 1123, as last amended by Section 14, Chapter 3, O.S.L. 2008 (21 O.S. Supp. 2008, Sections 13.1, 142.18, 701.7, 852, 888, 1115 and 1123), which relate to crimes and punishments; modifying statutory references; amending 22 O.S. 2001, Sections 20, Section 3, Chapter 53, O.S.L. 2005, as amended by Section 4, Chapter 156, O.S.L. 2007, 60.4, as last amended by Section 1, Chapter 34, O.S.L. 2006, 60.6, as last amended by Section 2, Chapter 403, O.S.L. 2008, 152, as last amended by Section 1 of Enrolled House Bill No. 1008 of the 1st Session of the 52nd Oklahoma Legislature, 471.1, as amended by Section 1, Chapter 37, O.S.L. 2008, 991a, as last amended by Section 3 of Enrolled Senate Bill No. 518 of the 1st Session of the 52nd Oklahoma Legislature, and 1089.1 (22 O.S. Supp. 2008, Sections 58, 60.4, 60.6 and 471.1), which relate to criminal procedure; modifying statutory references; amending 30 O.S. 2001, Sections 1-115, as amended by Section 3, Chapter 69, O.S.L. 2005 and 2-103 (30 O.S. Supp. 2008, Section 1-115), which relate to guardian and ward; modifying statutory references; amending Section 9, Chapter 400, O.S.L. 2002 and 43 O.S. 2001, Section 112, as last amended by Section 1, Chapter 34, O.S.L. 2007 (43 O.S. Supp. 2008, Sections 104.1 and 112), which relate to marriage; modifying statutory references;

amending 43A O.S. 2001, Sections 5-502, as last amended by Section 25, Chapter 97, O.S.L. 2006, 5-504, as last amended by Section 4, Chapter 130, O.S.L. 2003, 5-507, as last amended by Section 29, Chapter 97, O.S.L. 2006, 5-510, as last amended by Section 10, Chapter 130, O.S.L. 2003 and 5-511, as last amended by Section 11, Chapter 130, O.S.L. 2003 (43A O.S. Supp. 2008, Sections 5-502, 5-504, 5-507, 5-510 and 5-511), which relate to mental health; modifying statutory references; amending 51 O.S. 2001, Section 152, as last amended by Section 1, Chapter 348, O.S.L. 2008 (51 O.S. Supp. 2008, Section 152), which relates to officers; modifying statutory references; amending 56 O.S. 2001, Section 1025.1, as last amended by Section 1, Chapter 71, O.S.L. 2008 (56 O.S. Supp. 2008, Section 1025.1), which relates to poor persons; modifying statutory references; amending 57 O.S. 2001, Sections 138, as last amended by Section 12, Chapter 358, O.S.L. 2004, 216, 582, as last amended by Section 22, Chapter 261, O.S.L. 2007, 584, as last amended by Section 28, Chapter 261, O.S.L. 2007 and Section 3, Chapter 358, O.S.L. 2004, as amended by Section 3, Chapter 162, O.S.L. 2008 (57 O.S. Supp. 2008, Sections 138, 582, 584 and 593), which relates to prisons and reformatories; modifying statutory references; amending 63 O.S. 2001, Sections 1-227.4, as last amended by Section 5, Chapter 147, O.S.L. 2007, 1-705, Section 12, Chapter 200, O.S.L. 2005, as last amended by Section 6, Chapter 161, O.S.L. 2007 and 2-503.2, as last amended by Section 8, Chapter 226, O.S.L. 2005 (63 O.S. Supp. 2008, Sections 1-227.4, 1-740.2 and 2-503.2), which relate to public health and safety; modifying statutory references; amending 70 O.S. 2001, Sections 1-113, as amended by Section 2, Chapter 453, O.S.L. 2002, 3-104, 5-144, as last amended by Section 1, Chapter 205, O.S.L. 2005, 10-106 and 10-109 (70 O.S. Supp. 2008, Sections 1-113 and 5-144), which relate to schools; modifying statutory references; amending Section 4, Chapter 348, O.S.L. 2005, and 74 O.S. 2001, Sections 85.12, as last amended by Section 77, Chapter 1, O.S.L. 2007, 85.58F, 150.5, as last amended by Section 1, Chapter 121, O.S.L. 2008, 317, as amended by Section 1, Chapter 432, O.S.L. 2004 and 1221, as amended by Section 2, Chapter 485, O.S.L.

2002 (74 O.S. Supp. 2008, Sections 18p-4, 85.12, 150.5, 317 and 1221), which relate to state government; modifying statutory references; directing the inclusion and designation of a new title in the Oklahoma Statutes and supplements; 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.~~ 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.~~ 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~~ 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~~ 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 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 nonserious 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~~ 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, as amended by Section 2 of Enrolled House Bill No. 1676 of the 1st Session of the 52nd Oklahoma Legislature, 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 Attorneys 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 Oklahoma State Bureau of Investigation, 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;

e. ~~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, as amended by Section 3 of Enrolled House Bill No. 1676 of the 1st Session of the 52nd Oklahoma Legislature, 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 Oklahoma State Bureau of Investigation, 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~~ 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. Service of summons shall be made as provided for service in civil actions.

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.~~ 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.~~ 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 eriminal 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 redispotion. 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 redispotion 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~~ removal from the program.

3. Any ~~revocation removal~~ 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~~ 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~~ 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~~ 2-4-108 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 1 of Enrolled Senate Bill No. 270 of the 1st Session of the 52nd Oklahoma Legislature, 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 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 placed in 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~~ 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~~ 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. AMENDATORY Section 1, Chapter 387, O.S.L. 2005 (12 O.S. Supp. 2008, Section 39), is amended to read as follows:

Section 39. A. Beginning July 1, 2005, no court clerk shall post on a court-controlled web site any document that contains a charge in Sections 886 and 888 of Title 21 of the Oklahoma Statutes, if the offense involved the detestable and abominable crime against nature with mankind, or a charge in Section ~~7115~~ 843.5 of Title ~~10~~ 21 of the Oklahoma Statutes, or Section 644, 741, 843.1, 885, 1021, 1021.2, 1021.3, 1040.13a, 1081, 1085, 1087, 1088, Sections 1111 through 1116 or Section 1123 of Title 21 of the Oklahoma Statutes.

B. Nothing in this section shall be construed to prohibit access to any original document as provided by law.

SECTION 111. AMENDATORY 12 O.S. 2001, Section 95, as last amended by Section 4, Chapter 99, O.S.L. 2008 (12 O.S. Supp. 2008, Section 95), is amended to read as follows:

Section 95. A. Civil actions other than for the recovery of real property can only be brought within the following periods, after the cause of action shall have accrued, and not afterwards:

1. Within five (5) years: An action upon any contract, agreement, or promise in writing;

2. Within three (3) years: An action upon a contract express or implied not in writing; an action upon a liability created by statute other than a forfeiture or penalty; and an action on a foreign judgment;

3. Within two (2) years: An action for trespass upon real property; an action for taking, detaining, or injuring personal property, including actions for the specific recovery of personal property; an action for injury to the rights of another, not arising on contract, and not hereinafter enumerated; an action for relief on the ground of fraud - the cause of action in such case shall not be deemed to have accrued until the discovery of the fraud;

4. Within one (1) year: An action for libel, slander, assault, battery, malicious prosecution, or false imprisonment; an action upon a statute for penalty or forfeiture, except where the statute imposing it prescribes a different limitation;

5. An action upon the official bond or undertaking of an executor, administrator, guardian, sheriff, or any other officer, or upon the bond or undertaking given in attachment, injunction, arrest, or in any case whatever required by the statute, can only be brought within five (5) years after the cause of action shall have accrued;

6. An action based on intentional conduct brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse incidents or exploitation as defined by Section ~~7102~~ 1-1-105 of Title ~~10~~ 10A of the Oklahoma Statutes or incest can only be brought within the latter of the following periods:

- a. within two (2) years of the act alleged to have caused the injury or condition, or
- b. within two (2) years of the time the victim discovered or reasonably should have discovered that the injury or condition was caused by the act or that the act caused the injury for which the claim is brought.

Provided, however, that the time limit for commencement of an action pursuant to this paragraph is tolled for a child until the child reaches the age of eighteen (18) years or until five (5) years after the perpetrator is released from the custody of a state, federal or local correctional facility or jail, whichever is later. No action may be brought against the alleged perpetrator or the

estate of the alleged perpetrator after the death of such alleged perpetrator, unless the perpetrator was convicted of a crime of sexual abuse involving the claimant. An action pursuant to this paragraph must be based upon objective verifiable evidence in order for the victim to recover damages for injuries suffered by reason of such sexual abuse, exploitation, or incest. The evidence should include both proof that the victim had psychologically repressed the memory of the facts upon which the claim was predicated and that there was corroborating evidence that the sexual abuse, exploitation, or incest actually occurred. The victim need not establish which act in a series of continuing sexual abuse incidents, exploitation incidents, or incest caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse, exploitation, or incest. Provided further, any action based on intentional conduct specified in paragraph 7 of this section must be commenced within twenty (20) years of the victim reaching the age of eighteen (18);

7. An action based on intentional conduct brought by any person for recovery of damages for injury suffered as a result of criminal actions, as defined by the Oklahoma Statutes, may be brought against any person incarcerated or under the supervision of a state, federal or local correctional facility on or after November 1, 2003:

- a. at any time during the incarceration of the offender for the offense on which the action is based, or
- b. within five (5) years after the perpetrator is released from the custody of a state, federal or local correctional facility, if the defendant was serving time for the offense on which the action is based;

8. An action to establish paternity and to enforce support obligations can be brought any time before the child reaches the age of eighteen (18);

9. An action to establish paternity can be brought by a child in accordance with Section 7700-606 of Title 10 of the Oklahoma Statutes;

10. Court-ordered child support is owed until it is paid in full and it is not subject to a statute of limitations;

11. All actions filed by an inmate or by a person based upon facts that occurred while the person was an inmate in the custody of one of the following:

- a. the State of Oklahoma,
- b. a contractor of the State of Oklahoma, or
- c. a political subdivision of the State of Oklahoma,

to include, but not be limited to, the revocation of earned credits and claims for injury to the rights of another, shall be commenced within one (1) year after the cause of action shall have accrued; and

12. An action for relief, not hereinbefore provided for, can only be brought within five (5) years after the cause of action shall have accrued.

B. Collection of debts owed by inmates who have received damage awards pursuant to Section 566.1 of Title 57 of the Oklahoma Statutes shall be governed by the time limitations imposed by that section.

SECTION 112. AMENDATORY Section 2, Chapter 405, O.S.L. 2003, as amended by Section 1, Chapter 445, O.S.L. 2004 (12 O.S. Supp. 2008, Section 2611.4), is amended to read as follows:

Section 2611.4 As used in the Uniform Child Witness Testimony by Alternative Methods Act:

1. "Alternative method" means a method by which a child witness testifies which does not include all of the following:

- a. having the child testify in person in an open forum,
- b. having the child testify in the presence and full view of the finder of fact and presiding officer, and
- c. allowing all of the parties to be present, to participate, and to view and be viewed by the child;

2. "Child witness" means an individual under thirteen (13) years of age who has been or will be called to testify in a proceeding;

3. "Criminal proceeding" means a deposition, conditional examination ordered pursuant to Section 765 of Title 22 of the Oklahoma Statutes, trial or hearing before a court in a prosecution of a person charged with violating a criminal law of this state, a juvenile certified to stand trial as an adult pursuant to Section ~~7303-4.3~~ 2-2-403 of Title ~~10~~ 10A of the Oklahoma Statutes, a juvenile prosecuted as an adult pursuant to Section ~~7306-1.1~~ 2-5-101 of Title ~~10~~ 10A of the Oklahoma Statutes, or a youthful offender prosecuted pursuant to the Youthful Offender Act; and

4. "Noncriminal proceeding" means a deposition, trial or hearing before a court or an administrative agency of this state having judicial or quasi-judicial powers, other than a criminal proceeding.

SECTION 113. AMENDATORY 19 O.S. 2001, Section 215.33, as last amended by Section 1 of Enrolled Senate Bill No. 539 of the 1st Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 215.33 A. The district attorney's office shall inform the victims and witnesses of crimes of the following rights:

1. To be notified that a court proceeding to which a victim or witness has been subpoenaed will or will not go on as scheduled, in order to save the person an unnecessary trip to court;

2. To receive protection from harm and threats of harm arising out of the cooperation of the person with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available and how to access protection;

3. To be informed of financial assistance and other social services available as a result of being a witness or a victim, including information on how to apply for the assistance and services;

4. To be informed of the procedure to be followed in order to apply for and receive any witness fee to which the victim or witness is entitled;

5. To be informed of the procedure to be followed in order to apply for and receive any restitution to which the victim is entitled;

6. To be provided, whenever possible, a secure waiting area during court proceedings that does not require close proximity to defendants and families and friends of defendants;

7. To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis and property the ownership of which is disputed, shall be returned to the person;

8. To be provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize the loss of pay and other benefits of the employee resulting from court appearances;

9. To have the family members of all homicide victims afforded all of the services under this section, whether or not the person is to be a witness in any criminal proceedings;

10. To be informed of any plea bargain negotiations;

11. To have victim impact statements filed with the judgment and sentence;

12. To be informed if a sentence is overturned, remanded for a new trial or otherwise modified by the Oklahoma Court of Criminal Appeals;

13. To be informed in writing of all statutory rights;

14. To be informed that when any family member is required to be a witness by a subpoena from the defense, there must be a showing that the witness can provide relevant testimony as to the guilt or innocence of the defendant before the witness may be excluded from the proceeding by invoking the rule to remove potential witnesses;

15. To be informed that the Oklahoma Constitution allows upon the recommendation of the Pardon and Parole Board and the approval of the Governor the commutation of any sentence, including a sentence of life without parole;

16. To receive written notification of how to access victim rights information from the interviewing officer or investigating detective; and

17. To a speedy disposition of the charges free from unwarranted delay caused by or at the behest of the defendant or minor. In determining a date for any criminal trial or other important criminal or juvenile justice hearing, the court shall consider the interests of the victim of a crime to a speedy resolution of the charges under the same standards that govern the right to a speedy trial for a defendant or a minor. In ruling on any motion presented on behalf of a defendant or minor to continue a previously established trial or other important criminal or juvenile justice hearing, the court shall inquire into the circumstances requiring the delay and consider the interests of the victim of a crime to a speedy resolution of the case. If a continuance is granted, the court shall enter into the record the specific reason for the continuance and the procedures that have been taken to avoid further delays.

B. Victim-witness coordinators may inform the crime victim of an offense committed by a juvenile of the name and address of the juvenile found to have committed the crime, and shall notify the crime victim of any offense listed in Section ~~7306-1.1~~ 2-5-101 of Title ~~10~~ 10A of the Oklahoma Statutes of all court hearings involving that particular juvenile act. If the victim is not available, the victim-witness coordinator shall notify an adult relative of the victim of said hearings.

C. Victim-witness coordinators shall inform victims of violent crimes, as defined in Section 984 of Title 22 of the Oklahoma Statutes, and members of the immediate family of such victims of their rights under Sections 984.1 and 984.2 of Title 22 of the Oklahoma Statutes and Section 332.2 of Title 57 of the Oklahoma Statutes.

D. In any felony case involving a violent crime or a sex offense, the victim-witness coordinator shall inform the victim, as soon as practicable, or an adult member of the immediate family of the victim if the victim is deceased, incapacitated, or incompetent, of the progress of pretrial proceedings which could substantially delay the prosecution of the case.

E. All victim-witness coordinators appointed to perform the services specified in subsection A of this section shall complete a

minimum of twelve (12) hours in-service training annually. Said training shall be conducted pursuant to the direction of the District Attorneys Council and the Crime Victims Compensation Board.

SECTION 114. AMENDATORY Section 1, Chapter 110, O.S.L. 2003, as amended by Section 1, Chapter 355, O.S.L. 2004 (19 O.S. Supp. 2008, Section 339.6), is amended to read as follows:

Section 339.6 A. The board of county commissioners of any county of this state having a population of more than five hundred thousand (500,000) persons according to the last federal decennial census, by resolution, may determine a curfew for juveniles that will apply to all unincorporated areas of the county. The parameters of the curfew shall be determined by the board and all penalty provisions shall comply with the provisions of Title ~~10~~ 10A of the Oklahoma Statutes and federal law concerning detention and custody of juveniles.

B. The board shall provide public notice of the curfew in a newspaper of general circulation in the county. The notice shall be published once weekly for a period of four (4) continuous weeks.

C. The county shall correspond and work in conjunction with any appropriate state agency, if assistance is required in producing signs and posting the curfew.

D. The county shall post curfew information, as determined pursuant to subsections A through C of this section, on the county line marker where any state highway enters a county and at all off-ramps where interstate highways or turnpikes enter a county, unless a state agency has such jurisdiction to properly post signs. The appropriate board of county commissioners shall reimburse any state agency that may assist for the full cost of the required signage.

E. Any person convicted of a curfew violation pursuant to this section shall be fined an amount not exceeding Twenty-five Dollars (\$25.00). Any person convicted of a second or subsequent curfew violation shall be fined an amount not exceeding One Hundred Dollars (\$100.00), or assigned not more than thirty (30) hours of community service, or both such fine and community service hours.

SECTION 115. AMENDATORY Section 1, Chapter 81, O.S.L. 2008 (20 O.S. Supp. 2008, Section 128), is amended to read as follows:

Section 128. A. Juvenile court case managers may be appointed in any county pursuant to subsection C of this section.

B. The duties of the juvenile court case managers shall be:

1. To assist judges with juvenile docket responsibilities in the appointing county by insuring that juvenile cases proceed through the court process in a timely and effective manner by accurately tracking cases, insuring consistent data entry, conducting review of open cases and monitoring open case reports to insure compliance with all federal and state statutory requirements;

2. To increase the amount of information available to the court for its consideration by acting as liaison between parties, attorneys and other professionals and the judges;

3. To encourage accountability and communication among professionals, parties, participants and attorneys; and

4. To perform any other duties necessary to assist the court in carrying out its judicial functions under Title ~~10~~ 10A of the Oklahoma Statutes.

C. Juvenile court case managers shall be selected by the chief of the juvenile division of the district court subject to the approval of the Chief Justice of the Oklahoma Supreme Court. Juvenile court case managers shall serve at the pleasure of the chief of the juvenile division.

D. To be eligible for appointment as a juvenile court case manager, a person shall possess at least one of the following minimum qualifications:

1. Be an attorney licensed to practice law in this state with at least two (2) years experience in juvenile or family law; or

2. Hold a bachelor's degree in the social sciences or related field from an accredited college or university and three (3) years experience working with court procedures, juvenile law or social work. A master's degree in social sciences may substitute for one year of the required experience.

E. Each juvenile court case manager shall receive a salary to be determined by the Chief Justice of the Oklahoma Supreme Court to be paid from the local court fund pursuant to paragraph 21 of

subsection B of Section 1304 of ~~Title 20 of the Oklahoma Statutes~~
this title.

F. The juvenile divisions of the district courts located in two or more adjoining counties may enter into an agreement to employ a single juvenile court case manager to serve the needs of the juvenile court judges in those counties. Such juvenile court case manager shall be employed and serve in the same manner as those employed for individual counties.

SECTION 116. AMENDATORY 20 O.S. 2001, Section 1304, as amended by Section 6, Chapter 390, O.S.L. 2002 (20 O.S. Supp. 2008, Section 1304), is amended to read as follows:

Section 1304. A. Claims against the court fund shall include only expenses lawfully incurred for the operation of the court in each county. Payment of the expenses may be made after the claim is approved by the district judge who is a member of the governing board of the court fund and either the local court clerk or the local associate district judge who is a member of the governing board. No expenditures falling into any category listed in paragraphs 1, 5, 6, 7 and 13 of subsection B of this section, may be made without prior written approval of the Chief Justice of the Supreme Court. The Supreme Court may provide by rule the manner in which expenditures in the restricted categories shall be submitted for approval. When allowing the expenditures in paragraphs 6 and 7 of subsection B of this section, the Chief Justice shall direct that resort first be had to the surplus funds in the court fund in the county involved.

B. The term "expenses" shall include the following items and none others:

1. Compensation of bailiffs and employees of the court fund;
2. Juror fees and mileage, as well as overnight accommodation and food expense for jurors kept together as set out in Section 81 et seq. of Title 28 of the Oklahoma Statutes;
3. Witness fees and mileage for witnesses subpoenaed by the defense as set out in Section 81 et seq. of Title 28 of the Oklahoma Statutes, except that expert witnesses for county indigent defenders shall be paid a reasonable fee for their services;
4. Office supplies, books for records, postage, and printing;

5. Furniture, fixtures, and equipment;
6. Renovating, remodeling, and maintenance of courtrooms, judge's chambers, clerk's offices, and other areas primarily used for judicial functions;
7. Rent for courtroom facilities outside the courthouse;
8. Judicial robes;
9. Attorney fees for indigents in the trial court and on appeal;
10. Compensation or reimbursement for services provided in connection with an adult guardianship proceeding as provided by Section 4-403 of Title 30 of the Oklahoma Statutes. Compensation from the court fund for attorneys appointed pursuant to the Oklahoma Guardianship Act shall be substantially the same as for attorneys appointed in juvenile proceedings pursuant to Title ~~10~~ 10A of the Oklahoma Statutes. The compensation, if any, for guardians ad litem appointed pursuant to the Oklahoma Guardianship Act shall not exceed One Hundred Dollars (\$100.00);
11. Transcripts ordered by the court;
12. Necessary telephone expenses, gas, water, and electrical utilities for the part of the county courthouse occupied by the court and other areas used for court functions;
13. Security expenses for the part of the county courthouse occupied by the court and other areas used for court functions;
14. The cost of publication notice in juvenile proceedings as provided in Section ~~7003-3.5~~ 1-4-304 of Title ~~10~~ 10A of the Oklahoma Statutes and in termination of parental rights proceedings brought by the state as provided in Section ~~7006-1.2~~ 1-4-905 of Title ~~10~~ 10A of the Oklahoma Statutes;
15. Interpreter fees;
16. Necessary travel expenses of the office of county indigent defender approved by the court fund governing board;

17. Rent for county indigent defender's office outside of the county courthouse;

18. Computer equipment for county indigent defender's office;

19. Reasonable compensation for expert, investigative, or other services authorized by the court for indigent defendants not represented by a county indigent defender or the Oklahoma Indigent Defense System, if requested;

20. Necessary training for the judges and court personnel on the court integrated computer system; and

21. Any other expenses now or hereafter expressly authorized by statute.

C. Nothing in Section 1301 et seq. of this title shall prevent the construction of additional courtrooms within existing courthouse facilities, from funds other than the court fund.

D. Items of equipment, furniture, fixtures, printing, or supplies that are available in the quantities desired from a contract vendor's list for order or purchase by the court fund through the facilities of the Central Purchasing Division of the Department of Central Services may not be purchased by any court fund at prices higher than those approved by the Director of Central Purchasing.

SECTION 117. AMENDATORY 21 O.S. 2001, Section 13.1, as last amended by Section 1, Chapter 199, O.S.L. 2007 (21 O.S. Supp. 2008, Section 13.1), is amended to read as follows:

Section 13.1 Persons convicted of:

1. First degree murder as defined in Section 701.7 of this title;

2. Second degree murder as defined by Section 701.8 of this title;

3. Manslaughter in the first degree as defined by Section 711 of this title;

4. Poisoning with intent to kill as defined by Section 651 of this title;

5. Shooting with intent to kill, use of a vehicle to facilitate use of a firearm, crossbow or other weapon, assault, battery, or assault and battery with a deadly weapon or by other means likely to produce death or great bodily harm, as provided for in Section 652 of this title;
6. Assault with intent to kill as provided for in Section 653 of this title;
7. Conjoint robbery as defined by Section 800 of this title;
8. Robbery with a dangerous weapon as defined in Section 801 of this title;
9. First degree robbery as defined in Section 797 of this title;
10. First degree rape as provided for in Section 1115 of this title;
11. First degree arson as defined in Section 1401 of this title;
12. First degree burglary as provided for in Section 1436 of this title;
13. Bombing as defined in Section 1767.1 of this title;
14. Any crime against a child provided for in Section ~~7115~~ 843.5 of ~~Title 10 of the Oklahoma Statutes~~ this title;
15. Forcible sodomy as defined in Section 888 of this title;
16. Child pornography as defined in Section 1021.2, 1021.3 or 1024.1 of this title;
17. Child prostitution as defined in Section 1030 of this title;
18. Lewd molestation of a child as defined in Section 1123 of this title;

19. Abuse of a vulnerable adult as defined in Section 10-103 of Title 43A of the Oklahoma Statutes who is a resident of a nursing facility; or

20. Aggravated trafficking as provided for in subsection C of Section 2-415 of Title 63 of the Oklahoma Statutes,

shall be required to serve not less than eighty-five percent (85%) of any sentence of imprisonment imposed by the judicial system prior to becoming eligible for consideration for parole. Persons convicted of these offenses shall not be eligible for earned credits or any other type of credits which have the effect of reducing the length of the sentence to less than eighty-five percent (85%) of the sentence imposed.

SECTION 118. AMENDATORY 21 O.S. 2001, Section 142.18, is amended to read as follows:

Section 142.18 A. In addition to the imposition of any costs, penalties or fines imposed pursuant to law, any person convicted of, pleading guilty to or agreeing to a deferred judgment procedure under the provisions set forth in the Oklahoma Statutes for a felony involving criminally injurious conduct shall be ordered to pay a victim compensation assessment of at least Fifty Dollars (\$50.00), but not to exceed Ten Thousand Dollars (\$10,000.00), for each crime for which the person was convicted or for which the person agreed to a deferred judgment procedure. In imposing this penalty, the court shall consider factors such as the severity of the crime, the prior criminal record, the expenses of the victim of the crime, and the ability of the defendant to pay, as well as the economic impact of the victim compensation assessment on the dependents of the defendant.

B. In addition to the imposition of any costs, penalties or fines imposed pursuant to law, any person convicted of, pleading guilty to or agreeing to a deferred judgment procedure under the provisions set forth in the Oklahoma Statutes for a felony or misdemeanor offense, not including traffic offenses and not including misdemeanor offenses of the Oklahoma Wildlife Conservation Code or statutes relating to water safety, not described in subsection A of this section, the court shall levy a victim compensation assessment of at least Forty-five Dollars (\$45.00), but not to exceed One Thousand Dollars (\$1,000.00) for each felony and at least Thirty Dollars (\$30.00), but not to exceed Three Hundred Dollars (\$300.00) for each misdemeanor upon every fine, penalty, and

forfeiture imposed and collected. When a cash bond is posted for any offense included in this subsection, the bond shall also include a sufficient amount to cover the minimum amount for victim compensation assessment.

C. A victim compensation assessment of at least Thirty Dollars (\$30.00), but not to exceed Two Thousand Dollars (\$2,000.00), shall be levied by the court at the time a child has been adjudicated by the court as a delinquent child, provided the child is committed to the Department of Juvenile Justice, as defined in Sections ~~7301-1.3~~ 2-1-103 and ~~7302-5.3~~ 2-7-503 of Title ~~10~~ 10A of the Oklahoma Statutes.

D. All monies collected pursuant to this section shall be forwarded monthly by the court clerk to the Victims Compensation Revolving Fund.

E. In any municipal court of record in which the defendant is ordered by the court to pay municipal court costs as a result of a crime involving violence, the threat of violence, or sexual assault, the court shall levy and collect a victims compensation assessment of Thirty-five Dollars (\$35.00). The municipal court clerk collecting said assessment is authorized to deduct ten percent (10%) of the amount collected from said Thirty-five Dollars (\$35.00) for administrative costs. In any municipal court of record in which the defendant is ordered by the court to pay municipal court costs as a result of driving under the influence of alcohol or other intoxicating substance, or both alcohol and other intoxicating substance, the court shall levy and collect a victims compensation assessment of Twenty-five Dollars (\$25.00). The municipal court clerk collecting said assessment is authorized to deduct ten percent (10%) of the amount collected from said Twenty-five Dollars (\$25.00) for administrative costs. All victims compensation assessments collected by the municipal court clerk shall be forwarded to the Crime Victims Compensation Fund on a quarterly basis.

F. Beginning July 1, 1996, the fee provided for in Section 991d of Title 22 of the Oklahoma Statutes shall be deposited with the State Treasurer and transferred to the Department of Corrections Revolving Fund. There shall be a three-year statute of limitation from the date of receipt of all restitution funds made payable to the Department of Corrections. All restitution funds which have not been disbursed in three (3) years shall be transferred to the Oklahoma Crime Victims Compensation Fund by the 15th of the month following the end of each quarter. The statute of limitations

applies to funds currently on the books of the Department of Corrections which have not been disbursed as of July 1, 1993, and July 1st of every year thereafter. Any funds being held since the repeal of Section 991e of Title 22 of the Oklahoma Statutes, which was effective July 1, 1995, shall be transferred to the Oklahoma Crime Victims Compensation Fund by July 31, 1996. Any restitution collected through a county restitution program and deposited in a county treasury account shall also be forwarded to the Victims Compensation Fund using the same three-year statute of limitations.

SECTION 119. AMENDATORY 21 O.S. 2001, Section 567A, is amended to read as follows:

Section 567A. A. Any parent or other person who violates an order of any court of this state granting the custody of a child under the age of eighteen (18) years to any person, agency, institution, or other facility, with the intent to deprive the lawful custodian of the custody of the child, shall be guilty of a felony. The fine for a violation of this subsection shall not exceed Five Thousand Dollars (\$5,000.00).

B. The offender shall have an affirmative defense if the offender reasonably believes that the act was necessary to preserve the child from physical, mental, or emotional danger to the child's welfare and the offender notifies the local law enforcement agency nearest to the location where the custodian of the child resides.

C. If a child is removed from the custody of the child's lawful custodian pursuant to the provisions of this section any law enforcement officer may take the child into custody without a court order and, unless there is a specific court order directing a law enforcement officer to take the child into custody and release or return the child to a lawful custodian, the child shall be held in emergency or protective custody pursuant to the provisions of Section ~~7003-2.1~~ 1-4-201 of Title ~~10~~ 10A of the Oklahoma Statutes.

SECTION 120. AMENDATORY 21 O.S. 2001, Section 701.7, as last amended by Section 2, Chapter 186, O.S.L. 2006 (21 O.S. Supp. 2008, Section 701.7), is amended to read as follows:

Section 701.7 A. A person commits murder in the first degree when that person unlawfully and with malice aforethought causes the death of another human being. Malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.

B. A person also commits the crime of murder in the first degree, regardless of malice, when that person or any other person takes the life of a human being during, or if the death of a human being results from, the commission or attempted commission of murder of another person, shooting or discharge of a firearm or crossbow with intent to kill, intentional discharge of a firearm or other deadly weapon into any dwelling or building as provided in Section 1289.17A of this title, forcible rape, robbery with a dangerous weapon, kidnapping, escape from lawful custody, eluding an officer, first degree burglary, first degree arson, unlawful distributing or dispensing of controlled dangerous substances, or trafficking in illegal drugs.

C. A person commits murder in the first degree when the death of a child results from the willful or malicious injuring, torturing, maiming or using of unreasonable force by said person or who shall willfully cause, procure or permit any of said acts to be done upon the child pursuant to Section ~~7115~~ 843.5 of ~~Title 10 of the Oklahoma Statutes~~ this title. It is sufficient for the crime of murder in the first degree that the person either willfully tortured or used unreasonable force upon the child or maliciously injured or maimed the child.

D. A person commits murder in the first degree when that person unlawfully and with malice aforethought solicits another person or persons to cause the death of a human being in furtherance of unlawfully manufacturing, distributing or dispensing controlled dangerous substances, as defined in the Uniform Controlled Dangerous Substances Act, unlawfully possessing with intent to distribute or dispense controlled dangerous substances, or trafficking in illegal drugs.

E. A person commits murder in the first degree when that person intentionally causes the death of a law enforcement officer or correctional officer while the officer is in the performance of official duties.

SECTION 121. AMENDATORY 21 O.S. 2001, Section 852, as last amended by Section 14, Chapter 407, O.S.L. 2008 (21 O.S. Supp. 2008, Section 852), is amended to read as follows:

Section 852. A. Unless otherwise provided for by law, any parent, guardian, or person having custody or control of a child as defined in Section ~~7001-1.3~~ 1-1-105 of Title ~~10~~ 10A of the Oklahoma

Statutes who willfully omits, without lawful excuse, to furnish necessary food, clothing, shelter, monetary child support, medical attendance, payment of court-ordered day care or payment of court-ordered medical insurance costs for such child which is imposed by law, upon conviction, is guilty of a misdemeanor; provided, any person obligated to make child support payments who willfully and without lawful excuse becomes delinquent in said child support payments after September 1, 1993, and such delinquent child support accrues without payment by the obligor for a period of one (1) year, or exceeds Five Thousand Dollars (\$5,000.00) shall, upon conviction thereof, be guilty of a felony which is punishable in the same manner as any subsequent conviction pursuant to the provisions of this section. Any subsequent conviction pursuant to this section shall be a felony, punishable by imprisonment for not more than four (4) years in the custody of the Department of Corrections or by the imposition of a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. As used in this section, the duty to furnish medical attendance shall mean that the parent or person having custody or control of a child must furnish medical treatment in such manner and on such occasions as an ordinarily prudent person, solicitous for the welfare of a child, would provide; such parent or person having custody or control of a child is not criminally liable for failure to furnish medical attendance for every minor or trivial complaint with which the child may be afflicted.

B. Any person who leaves the state to avoid providing necessary food, clothing, shelter, court-ordered monetary child support, or medical attendance for such child, upon conviction, shall be guilty of a felony punishable by imprisonment for not more than four (4) years in the custody of the Department of Corrections or by the imposition of a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

C. Nothing in this section shall be construed to mean a child is endangered for the sole reason the parent, guardian or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child; provided, that medical care shall be provided where permanent physical damage could result to such child; and that the laws, rules, and regulations relating to communicable diseases and sanitary matters are not violated.

D. Nothing contained in this section shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect the health or welfare of the child.

E. Psychiatric and psychological testing and counseling are exempt from the provisions of this section.

F. If any parent of a child in cases in which the Department of Human Services is providing services pursuant to Section 237 of Title 56 of the Oklahoma Statutes is determined by the Department to be willfully violating the provisions of this section, the Department may refer the case to the proper district attorney for prosecution. The Department shall provide assistance to the district attorneys in such prosecutions. Any child support or arrears payments made pursuant to this section shall be made payable to the Department and paid through the Centralized Support Registry pursuant to Section 413 of Title 43 of the Oklahoma Statutes.

G. Except for a third or subsequent conviction, all felony convictions herein shall be administered under the provisions of the Community Sentencing Act.

H. It is the duty of any parent having legal custody of a child who is an alcohol-dependent person or a drug-dependent person, as such terms are defined by Section 3-403 of Title 43A of the Oklahoma Statutes, to provide for the treatment, as such term is defined by Section 3-403 of Title 43A of the Oklahoma Statutes, of such child. Any parent having legal custody of a child who is an alcohol-dependent person or a drug-dependent person who without having made a reasonable effort fails or willfully omits to provide for the treatment of such child shall be guilty of a misdemeanor. For the purpose of this subsection, the duty to provide for such treatment shall mean that the parent having legal custody of a child must provide for the treatment in such manner and on such occasions as an ordinarily prudent person, solicitous for the welfare of a child, would provide.

I. Venue is proper in prosecutions for violations of this section in:

1. Any county where the child resides;

2. The county in which the court-ordered support was entered or registered pursuant to the provisions of the Uniform Interstate Family Support Act; or

3. The county in which the defendant resides.

SECTION 122. AMENDATORY 21 O.S. 2001, Section 852.1, as amended by Section 1 of Enrolled Senate Bill No. 1138 of the 1st Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 852.1 A. A person who is the parent, guardian, or person having custody or control over a child as defined in Section ~~7001-1.3~~ 1-1-105 of Title ~~10~~ 10A of the Oklahoma Statutes, commits child endangerment when the person:

1. Knowingly permits physical or sexual abuse of a child;

2. Knowingly permits a child to be present at a location where a controlled dangerous substance is being manufactured or attempted to be manufactured as defined in Section 2-101 of Title 63 of the Oklahoma Statutes;

3. Knowingly permits a child to be present in a vehicle when the person knows or should have known that the operator of the vehicle is impaired by or is under the influence of alcohol or another intoxicating substance; or

4. Is the driver, operator, or person in physical control of a vehicle in violation of Section 11-902 of Title 47 of the Oklahoma Statutes while transporting or having in the vehicle such child or children.

However, it is an affirmative defense to this paragraph if the person had a reasonable apprehension that any action to stop the physical or sexual abuse or deny permission for the child to be in the vehicle with an intoxicated person would result in substantial bodily harm to the person or the child.

B. The provisions of this section shall not apply to any parent, guardian or other person having custody or control of a child for the sole reason that the parent, guardian or other person in good faith selects and depends upon spiritual means or prayer for the treatment or cure of disease or remedial care for such child. This subsection shall in no way limit or modify the protections

afforded said child in Section 852 of this title or Section ~~7006-1.1~~
1-4-904 of Title ~~10~~ 10A of the Oklahoma Statutes.

C. Any person convicted of violating any provision of this section shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of not more than four (4) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

SECTION 123. AMENDATORY 21 O.S. 2001, Section 888, as last amended by Section 9, Chapter 261, O.S.L. 2007 (21 O.S. Supp. 2008, Section 888), is amended to read as follows:

Section 888. A. Any person who forces another person to engage in the detestable and abominable crime against nature, pursuant to Section 886 of this title, upon conviction, is guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a period of not more than twenty (20) years. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this subsection shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment. Any person convicted of a second violation of this section, where the victim of the second offense is a person under sixteen (16) years of age, shall not be eligible for probation, suspended or deferred sentence. Any person convicted of a third or subsequent violation of this section, where the victim of the third or subsequent offense is a person under sixteen (16) years of age, shall be punished by imprisonment in the custody of the Department of Corrections for a term of life or life without parole, in the discretion of the jury, or in case the jury fails or refuses to fix punishment then the same shall be pronounced by the court. Any person convicted of a violation of this subsection after having been twice convicted of a violation of subsection A of Section 1114 of this title, a violation of Section 1123 of this title or sexual abuse of a child pursuant to Section ~~7115~~ 843.5 of Title ~~10~~ of the Oklahoma Statutes this title, or of any attempt to commit any of these offenses or any combination of said offenses, shall be punished by imprisonment in the custody of the Department of Corrections for a term of life or life without parole.

B. The crime of forcible sodomy shall include:

1. Sodomy committed by a person over eighteen (18) years of age upon a person under sixteen (16) years of age; or

2. Sodomy committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime; or

3. Sodomy accomplished with any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the victim or the person committing the crime; or

4. Sodomy committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state; or

5. Sodomy committed upon a person who is at least sixteen (16) years of age but less than twenty (20) years of age and is a student of any public or private secondary school, junior high or high school, or public vocational school, with a person who is eighteen (18) years of age or older and is employed by the same school system.

SECTION 124. AMENDATORY 21 O.S. 2001, Section 1115, as last amended by Section 18, Chapter 261, O.S.L. 2007 (21 O.S. Supp. 2008, Section 1115), is amended to read as follows:

Section 1115. Rape in the first degree is a felony punishable by death or imprisonment in the custody of the Department of Corrections, for a term of not less than five (5) years, life or life without parole. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment. Any person convicted of a second or subsequent violation of subsection A of Section 1114 of this title shall not be

eligible for any form of probation. Any person convicted of a third or subsequent violation of subsection A of Section 1114 of this title or of an offense under Section 888 of this title or an offense under Section 1123 of this title or sexual abuse of a child pursuant to Section ~~7115~~ 843.5 of ~~Title 10 of the Oklahoma Statutes~~ this title, or any attempt to commit any of these offenses or any combination of these offenses shall be punished by imprisonment in the custody of the Department of Corrections for life or life without parole.

SECTION 125. AMENDATORY 21 O.S. 2001, Section 1123, as last amended by Section 14, Chapter 3, O.S.L. 2008 (21 O.S. Supp. 2008, Section 1123), is amended to read as follows:

Section 1123. A. It is a felony for any person to knowingly and intentionally:

1. Make any oral, written or electronically or computer-generated lewd or indecent proposal to any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, for the child to have unlawful sexual relations or sexual intercourse with any person; or

2. Look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any lewd or lascivious manner by any acts against public decency and morality, as defined by law; or

3. Ask, invite, entice, or persuade any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, to go alone with any person to a secluded, remote, or secret place, with the unlawful and willful intent and purpose then and there to commit any crime against public decency and morality, as defined by law, with the child; or

4. In any manner lewdly or lasciviously look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any indecent manner or in any manner relating to sexual matters or sexual interest; or

5. In a lewd and lascivious manner and for the purpose of sexual gratification:

- a. urinate or defecate upon a child under sixteen (16) years of age,
- b. ejaculate upon or in the presence of a child,
- c. cause, expose, force or require a child to look upon the body or private parts of another person,
- d. force or require any child under sixteen (16) years of age or other individual the person believes to be a child under sixteen (16) years of age, to view any obscene materials, child pornography or materials deemed harmful to minors as such terms are defined by Sections 1024.1 and 1040.75 of this title,
- e. cause, expose, force or require a child to look upon sexual acts performed in the presence of the child, or
- f. force or require a child to touch or feel the body or private parts of said child or another person.

Any person convicted of any violation of this subsection shall be punished by imprisonment in the custody of the Department of Corrections for not less than three (3) years nor more than twenty (20) years, except when the child is under twelve (12) years of age at the time the offense is committed, and in such case the person shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for not less than twenty-five (25) years. The provisions of this subsection shall not apply unless the accused is at least three (3) years older than the victim. Any person convicted of a second or subsequent violation of this subsection shall be guilty of a felony punishable as provided in this subsection and shall not be eligible for probation, suspended or deferred sentence. Any person convicted of a third or subsequent violation of this subsection shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of life or life without parole, in the discretion of the jury, or in case the jury fails or refuses to fix punishment then the same shall be pronounced by the court. Any person convicted of a violation of this subsection after having been twice convicted of a violation of subsection A of Section 1114 of this title, Section 888 of this title, sexual abuse of a child pursuant to Section ~~7115~~ 843.5 of ~~Title 10 of the Oklahoma Statutes~~ this title, or of any attempt to commit any of these offenses or any combination of convictions pursuant to these sections shall be punished by

imprisonment in the custody of the Department of Corrections for a term of life or life without parole.

B. No person shall commit sexual battery on any other person. "Sexual battery" shall mean the intentional touching, mauling or feeling of the body or private parts of any person sixteen (16) years of age or older, in a lewd and lascivious manner and without the consent of that person or when committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state.

C. Any person convicted of a violation of subsection B of this section shall be deemed guilty of a felony and shall be punished by imprisonment in the custody of the Department of Corrections for not more than ten (10) years.

D. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense pursuant to this section shall not constitute a defense to a prosecution under this section.

E. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this section shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

SECTION 126. AMENDATORY 22 O.S. 2001, Section 20, is amended to read as follows:

Section 20. A. When any person is convicted of an offense against the laws of this state and is sentenced to imprisonment to be served in a county jail or a state correctional institution, the judge of the district court shall inquire whether such person is a single custodial parent of any minor child. If such person is a single custodial parent, the judge shall inquire into the arrangements that have been made for the care and custody of the child during the period of incarceration of the custodial parent. If the judge finds that such arrangements are not appropriate or in

the best interests of the child, the court shall order the parent to execute the necessary powers of attorney, guardianship, or other appropriate legal documents or legal proceeding to place the child in order to ensure adequate and appropriate care and custody of the child during the absence of the parent. The parent may place the child with:

1. The other parent of the child involved, if such parent's rights have not been terminated. If the custodial parent has custody of the child pursuant to an order of a court in a divorce proceeding, the court having jurisdiction over the divorce proceeding shall determine whether a modification of the custody order placing the child in the custody of the other parent is appropriate and in the best interests of the child. The court shall notify the sentencing judge whether the custody order has been modified to place custody with the other parent. If the custody order is not modified, the judge shall order the parent to make other appropriate arrangements for the child;

2. A relative within the fourth degree when the judge determines such placement to be suitable for the child;

3. The Department of Human Services in accordance with the rules of the Department for the voluntary placement of children, or a child welfare agency duly licensed or recognized pursuant to the Oklahoma Child Care Facilities Licensing Act; or

4. Some other individual with the written assent of the court.

B. When the custody of the child is placed with the other parent pursuant to a modification of a custody order by the court having jurisdiction over the divorce proceeding, the provisions of subsection C of this section shall not apply. Provided, upon the recommendation of such court, the sentencing judge may require the parent to whom custody is transferred to comply with the provisions of subsections D and E of this section.

C. 1. Except as provided by subsection B of this section, when the parent proposes to place the child with an individual specified by paragraph 1, 2 or 4 of subsection A of this section, the court shall require a placement investigation and report be made to the court. The person making the investigation and report to the court shall be a person qualified by training or experience as designated by the court; provided, the court shall give preference to designating an appropriately licensed or certified individual or

agency to complete the investigation. The placement investigation shall include inquiry to determine whether the proposed home is a suitable one for the child and any other circumstances and conditions which may have a bearing on the health, safety and welfare of the child. The report shall become a part of the files in the case and shall contain a definite recommendation for or against the proposed placement and the reason therefor.

2. If suitable placement is not found pursuant to the provisions of this subsection, or the single custodial parent refuses or is unwilling to make appropriate arrangements for such child to the satisfaction of the court, the court shall order the district attorney to determine whether a petition alleging the child to be a deprived child is warranted and, if warranted by the facts in the case, to file such petition. When such petition is filed, the court may issue temporary orders for the care and custody of the child as otherwise provided by Title ~~10~~ 10A of the Oklahoma Statutes. If the child is found by the court to be a deprived child, the provisions of Title ~~10~~ 10A of the Oklahoma Statutes related to deprived children shall apply.

D. Except when the child is found by a court to be a deprived child or as otherwise provided by subsection B of this section, when the child is placed as provided by this section or the period of incarceration of the custodial parent is less than six (6) months, the judge shall transfer matters related to the placement of the child to the judge of the district court having juvenile docket responsibilities and review the placement and circumstances of the child at least once every six (6) months until such time as the child is returned to the parent or the child reaches eighteen (18) years of age.

1. The person or agency with whom the child has been placed shall submit a report to the judge prior to each review at such time and in such manner as ordered by the judge.

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 facility where the child has been placed and the adjustment of the child to said home or facility, the child's attendance and progress in school, and any contact or involvement of the child with the courts or law enforcement other than the supervision of the placement of the child by the sentencing judge.

3. When a change in the placement of the child is desired or proposed by the person or agency with whom the child has been placed, the sentencing judge shall be notified and the placement of the child shall not be changed except with the approval of said judge. The judge shall approve any subsequent placement of the child as otherwise provided by this section and the person or agency with whom the child is subsequently placed shall be subject to the provisions of this subsection.

E. Failure to file a report or to notify the judge of a desired or proposed change in the placement of the child shall be deemed to be contempt of court and is punishable as otherwise provided by law.

SECTION 127. AMENDATORY Section 3, Chapter 53, O.S.L. 2005, as amended by Section 4, Chapter 156, O.S.L. 2007 (22 O.S. Supp. 2008, Section 58), is amended to read as follows:

Section 58. A. Criminally injurious conduct, as defined by the Oklahoma Crime Victims Compensation Act, which appears to be or is reported by the victim to be domestic abuse, as defined in Section 60.1 of this title, or domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child, as defined in Section 644 of Title 21 of the Oklahoma Statutes, shall be reported according to the standards for reporting as set forth in subsection B of this section.

B. ~~Except as provided for in Section 7104 of Title 10 of the Oklahoma Statutes, any~~ Any physician, surgeon, resident, intern, ~~physician's~~ physician assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be domestic abuse or is reported by the victim to be domestic abuse, as defined in Section 60.1 of this title, or domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child, as defined in Section 644 of Title 21 of the Oklahoma Statutes, shall not be required to report any incident of what appears to be or is reported to be domestic abuse, domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child if:

1. Committed upon the person of an adult who is over the age of eighteen (18) years; and

2. The person is not an incapacitated adult.

C. Any physician, surgeon, resident, intern, ~~physician's~~ physician assistant, registered nurse, or any other health care professional examining, attending, or treating a victim shall be required to report any incident of what appears to be or is reported to be domestic abuse, domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child, if requested to do so either orally or in writing by the victim. A report of any incident shall be promptly made orally or by telephone to the nearest law enforcement agency in the county wherein the domestic abuse occurred or, if the location where the conduct occurred is unknown, the report shall be made to the law enforcement agency nearest to the location where the injury is treated.

D. In all cases of what appears to be or is reported to be domestic abuse, the physician, surgeon, resident, intern, ~~physician's~~ physician assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be domestic abuse shall clearly and legibly document the incident and injuries observed and reported, as well as any treatment provided or prescribed.

E. In all cases of what appears to be or is reported to be domestic abuse, the physician, surgeon, resident, intern, ~~physician's~~ physician assistant, registered nurse, or any other health care professional examining, attending or treating the victim of what appears to be domestic abuse shall refer the victim to domestic violence and victim services programs, including providing the victim with the twenty-four-hour statewide telephone communication service established by Section 18p-5 of Title 74 of the Oklahoma Statutes.

F. Every physician, surgeon, resident, intern, ~~physician's~~ physician assistant, registered nurse, or any other health care professional making a report of domestic abuse pursuant to this section or examining a victim of domestic abuse to determine the likelihood of domestic abuse, and every hospital or related institution in which the victim of domestic abuse was examined or treated shall, upon the request of a law enforcement officer conducting a criminal investigation into the case, provide copies of the results of the examination or copies of the examination on which the report was based, and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to the investigating law enforcement officer.

SECTION 128. AMENDATORY 22 O.S. 2001, Section 60.4, as last amended by Section 1, Chapter 34, O.S.L. 2006 (22 O.S. Supp. 2008, Section 60.4), is amended to read as follows:

Section 60.4 A. 1. A copy of a petition for a protective order, notice of hearing and a copy of any emergency ex parte order issued by the court shall be served upon the defendant in the same manner as a bench warrant. In addition, if the service is to be in another county, the court clerk may issue service to the sheriff by facsimile or other electronic transmission for service by the sheriff. Any fee for service of a petition for protective order, notice of hearing, and emergency ex parte order shall only be charged pursuant to subsection C of Section 60.2 of this title and, if charged, shall be the same as the sheriff's service fee plus mileage expenses.

2. Emergency ex parte orders shall be given priority for service and can be served twenty-four (24) hours a day when the location of the defendant is known. When service cannot be made upon the defendant by the sheriff, the sheriff may contact another law enforcement officer or a private investigator or private process server to serve the defendant.

3. An emergency ex parte order, a petition for protective order, and a notice of hearing shall have statewide validity and may be transferred to any law enforcement jurisdiction to effect service upon the defendant.

4. The return of service shall be submitted to the sheriff's office in the court where the petition, notice of hearing or order was issued.

5. When the defendant is a minor child who is ordered removed from the residence of the victim, in addition to those documents served upon the defendant, a copy of the petition, notice of hearing and a copy of any ex parte order issued by the court shall be delivered with the child to the caretaker of the place where such child is taken pursuant to Section ~~7303-1.1~~ 2-2-101 of Title ~~10~~ 10A of the Oklahoma Statutes.

B. 1. Within twenty (20) days of the filing of the petition for a protective order, the court shall schedule a full hearing on the petition, if the court finds sufficient grounds within the scope of the Protection from Domestic Abuse Act stated in the petition to hold such a hearing, regardless of whether an emergency ex parte

order has been previously issued, requested or denied. Provided, however, when the defendant is a minor child who has been removed from the residence pursuant to Section ~~7303-1.1~~ 2-2-101 of Title ~~10~~ 10A of the Oklahoma Statutes, the court shall schedule a full hearing on the petition within seventy-two (72) hours, regardless of whether an emergency ex parte order has been previously issued, requested or denied.

2. The court may schedule a full hearing on the petition for a protective order within seventy-two (72) hours when the court issues an emergency ex parte order suspending child visitation rights due to physical violence or threat of abuse.

3. If service has not been made on the defendant at the time of the hearing, the court shall, at the request of the petitioner, issue a new emergency order reflecting a new hearing date and direct service to issue.

4. A petition for a protective order shall, upon the petitioner's request, renew every twenty (20) days with a new hearing date assigned until the defendant is served. A petition for a protective order shall not expire unless the petitioner fails to appear at the hearing or fails to request a new order. A petitioner may move to dismiss the petition and emergency or final order at any time, however, a protective order must be dismissed by court order.

5. Failure to serve the defendant shall not be grounds for dismissal of a petition or an ex parte order unless the victim requests dismissal or fails to appear for the hearing thereon.

C. 1. At the hearing, the court may impose any terms and conditions in the protective order that the court reasonably believes are necessary to bring about the cessation of domestic abuse against the victim or stalking or harassment of the victim or the victim's immediate family and may order the defendant to obtain domestic abuse counseling or treatment in a program certified by the Attorney General at the defendant's expense pursuant to Section 644 of Title 21 of the Oklahoma Statutes.

2. If the court grants a protective order and the defendant is a minor child, the court shall order a preliminary inquiry in a juvenile proceeding to determine whether further court action pursuant to the Oklahoma Juvenile Code should be taken against a juvenile defendant.

D. Final protective orders authorized by this section shall be on a standard form developed by the Administrative Office of the Courts.

E. 1. After notice and hearing, protective orders authorized by this section may require the plaintiff or the defendant or both to undergo treatment or participate in the court-approved counseling services necessary to bring about cessation of domestic abuse against the victim pursuant to Section 644 of Title 21 of the Oklahoma Statutes.

2. Either party or both may be required to pay all or any part of the cost of such treatment or counseling services. The court shall not be responsible for such cost.

F. When necessary to protect the victim and when authorized by the court, protective orders granted pursuant to the provisions of this section may be served upon the defendant by a peace officer, sheriff, constable, or policeman or other officer whose duty it is to preserve the peace, as defined by Section 99 of Title 21 of the Oklahoma Statutes.

G. 1. Any protective order issued on or after November 1, 1999, pursuant to subsection C of this section shall be for a fixed period not to exceed a period of three (3) years unless extended, modified, vacated or rescinded upon motion by either party or if the court approves any consent agreement entered into by the plaintiff and defendant.

2. The court shall notify the parties at the time of the issuance of the protective order of the duration of the protective order.

3. Upon the filing of a motion by either party to modify, extend, or vacate a protective order, a hearing shall be scheduled and notice given to the parties. At the hearing, the issuing court may take such action as is necessary under the circumstances.

4. If a child has been removed from the residence of a parent or custodial adult because of domestic abuse committed by the child, the parent or custodial adult may refuse the return of such child to the residence, unless upon further consideration by the court in a juvenile proceeding, it is determined that the child is no longer a threat and should be allowed to return to the residence.

H. 1. It shall be unlawful for any person to knowingly and willfully seek a protective order against a spouse or ex-spouse pursuant to the Protection from Domestic Abuse Act for purposes of harassment, undue advantage, intimidation, or limitation of child visitation rights in any divorce proceeding or separation action without justifiable cause.

2. The violator shall, upon conviction thereof, be guilty of a misdemeanor punishable by imprisonment in the county jail for a period not exceeding one (1) year or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

3. A second or subsequent conviction under this subsection shall be a felony punishable by imprisonment in the custody of the Department of Corrections for a period not to exceed two (2) years, or by a fine not to exceed Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

I. 1. A protective order issued under the Protection from Domestic Abuse Act shall not in any manner affect title to real property, purport to grant to the parties a divorce or otherwise purport to determine the issues between the parties as to child custody, visitation or visitation schedules, child support or division of property or any other like relief obtainable pursuant to Title 43 of the Oklahoma Statutes, except child visitation orders may be temporarily suspended or modified to protect from threats of abuse or physical violence by the defendant or a threat to violate a custody order.

2. When granting any protective order for the protection of a minor child from violence or threats of abuse, the court shall allow visitation only under conditions that provide adequate supervision and protection to the child while maintaining the integrity of a divorce decree or temporary order.

J. 1. A court shall not issue any mutual protective orders.

2. If both parties allege domestic abuse by the other party, the parties shall do so by separate petitions. The court shall review each petition separately, in an individual or a consolidated hearing and grant or deny each petition on its individual merits. If the court finds cause to grant both motions, the court shall do so by separate orders and with specific findings justifying the issuance of each order.

3. The court may only consolidate a hearing if:
 - a. the court makes specific findings that:
 - (1) sufficient evidence exists of domestic abuse, stalking, harassment or rape against each party, and
 - (2) each party acted primarily as aggressors, and
 - b. the defendant filed a petition with the court for a protective order no less than three (3) days, not including weekends or holidays, prior to the first scheduled full hearing on the petition filed by the plaintiff, and
 - c. the defendant had no less than forty-eight (48) hours' notice prior to the full hearing on the petition filed by the plaintiff.

K. The court may allow a plaintiff or victim to be accompanied by a victim support person at court proceedings. A victim support person shall not make legal arguments, however, a victim support person who is not a licensed attorney may offer the plaintiff or victim comfort or support and may remain in close proximity to the plaintiff or victim.

SECTION 129. AMENDATORY 22 O.S. 2001, Section 60.6, as last amended by Section 2, Chapter 403, O.S.L. 2008 (22 O.S. Supp. 2008, Section 60.6), is amended to read as follows:

Section 60.6 A. Except as otherwise provided by this section, any person who:

1. Has been served with an ex parte or final protective order or foreign protective order and is in violation of such protective order, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by a term of imprisonment in the county jail of not more than one (1) year, or by both such fine and imprisonment; and

2. After a previous conviction of a violation of a protective order, is convicted of a second or subsequent offense pursuant to the provisions of this section shall, upon conviction, be guilty of a felony and shall be punished by a term of imprisonment in the

custody of the Department of Corrections for not less than one (1) year nor more than three (3) years, or by a fine of not less than Two Thousand Dollars (\$2,000.00) nor more than Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

B. 1. Any person who has been served with an ex parte or final protective order or foreign protective order who violates the protective order and causes physical injury or physical impairment to the plaintiff or to any other person named in said protective order shall, upon conviction, be guilty of a misdemeanor and shall be punished by a term of imprisonment in the county jail for not less than twenty (20) days nor more than one (1) year. In addition to the term of imprisonment, the person may be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00).

2. Any person who is convicted of a second or subsequent violation of a protective order which causes physical injury or physical impairment to a plaintiff or to any other person named in the protective order shall be guilty of a felony and shall be punished by a term of imprisonment in the custody of the Department of Corrections of not less than one (1) year nor more than five (5) years, or by a fine of not less than Three Thousand Dollars (\$3,000.00) nor more than Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

3. In determining the term of imprisonment required by this section, the jury or sentencing judge shall consider the degree of physical injury or physical impairment to the victim.

4. The provisions of this subsection shall not affect the applicability of Sections 644, 645, 647 and 652 of Title 21 of the Oklahoma Statutes.

C. The minimum sentence of imprisonment issued pursuant to the provisions of paragraph 2 of subsection A and paragraph 1 of subsection B of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation, provided the court may subject any remaining penalty under the jurisdiction of the court to the statutory provisions for suspended sentences, deferred sentences or probation.

D. In addition to any other penalty specified by this section, the court shall require a defendant to undergo the treatment or participate in the counseling services necessary to bring about the cessation of domestic abuse against the victim or to bring about the

cessation of stalking or harassment of the victim. For every conviction of violation of a protective order:

1. The court shall specifically order as a condition of a suspended sentence or probation that a defendant participate in counseling or undergo treatment to bring about the cessation of domestic abuse as specified in paragraph 2 of this subsection;

2. a. The court shall require the defendant to participate in counseling or undergo treatment for domestic abuse by an individual licensed practitioner or a domestic abuse treatment program certified by the Attorney General. If the defendant is ordered to participate in a domestic abuse counseling or treatment program, the order shall require the defendant to attend the program for a minimum of fifty-two (52) weeks, complete the program, and be evaluated before and after attendance of the program by a program counselor or a private counselor.

b. A program for anger management, couples counseling, or family and marital counseling shall not solely qualify for the counseling or treatment requirement for domestic abuse pursuant to this subsection. The counseling may be ordered in addition to counseling specifically for the treatment of domestic abuse or per evaluation as set forth below. If, after sufficient evaluation and attendance at required counseling sessions, the domestic violence treatment program or licensed professional determines that the defendant does not evaluate as a perpetrator of domestic violence or does evaluate as a perpetrator of domestic violence and should complete other programs of treatment simultaneously or prior to domestic violence treatment, including but not limited to programs related to the mental health, apparent substance or alcohol abuse or inability or refusal to manage anger, the defendant shall be ordered to complete the counseling as per the recommendations of the domestic violence treatment program or licensed professional;

3. a. The court shall set a review hearing no more than one hundred twenty (120) days after the defendant is ordered to participate in a domestic abuse counseling

program or undergo treatment for domestic abuse to assure the attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements.

- b. The court shall set a second review hearing after the completion of the counseling or treatment to assure the attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements. The court may suspend sentencing of the defendant until the defendant has presented proof to the court of enrollment in a program of treatment for domestic abuse by an individual licensed practitioner or a domestic abuse treatment program certified by the Attorney General and attendance at weekly sessions of such program. Such proof shall be presented to the court by the defendant no later than one hundred twenty (120) days after the defendant is ordered to such counseling or treatment. At such time, the court may complete sentencing, beginning the period of the sentence from the date that proof of enrollment is presented to the court, and schedule reviews as required by subparagraphs a and b of this paragraph and paragraphs 4 and 5 of this subsection. The court shall retain continuing jurisdiction over the defendant during the course of ordered counseling through the final review hearing;

4. The court may set subsequent or other review hearings as the court determines necessary to assure the defendant attends and fully complies with the provisions of this subsection and the domestic abuse counseling or treatment requirements;

5. At any review hearing, if the defendant is not satisfactorily attending individual counseling or a domestic abuse counseling or treatment program or is not in compliance with any domestic abuse counseling or treatment requirements, the court may order the defendant to further or continue counseling, treatment, or other necessary services. The court may revoke all or any part of a suspended sentence, deferred sentence, or probation pursuant to Section 991b of this title and subject the defendant to any or all remaining portions of the original sentence;

6. At the first review hearing, the court shall require the defendant to appear in court. Thereafter, for any subsequent review hearings, the court may accept a report on the progress of the defendant from individual counseling, domestic abuse counseling, or the treatment program. There shall be no requirement for the victim to attend review hearings; and

7. If funding is available, a referee may be appointed and assigned by the presiding judge of the district court to hear designated cases set for review under this subsection. Reasonable compensation for the referees shall be fixed by the presiding judge. The referee shall meet the requirements and perform all duties in the same manner and procedure as set forth in Sections ~~7003-8.6~~ 1-8-103 and ~~7303-7.5~~ 2-2-702 of Title ~~10~~ 10A of the Oklahoma Statutes pertaining to referees appointed in juvenile proceedings.

E. Ex parte and final protective orders shall include notice of these penalties.

F. When a minor child violates the provisions of any protective order, the violation shall be heard in a juvenile proceeding and the court may order the child and the parent or parents of the child to participate in family counseling services necessary to bring about the cessation of domestic abuse against the victim and may order community service hours to be performed in lieu of any fine or imprisonment authorized by this section.

G. Any district court of this state and any judge thereof shall be immune from any liability or prosecution for issuing an order that requires a defendant to:

1. Attend a treatment program for domestic abusers certified by the Attorney General;

2. Attend counseling or treatment services ordered as part of any final protective order or for any violation of a protective order; and

3. Attend, complete, and be evaluated before and after attendance by a treatment program for domestic abusers certified by the Attorney General.

H. At no time, under any proceeding, may a person protected by a protective order be held to be in violation of that protective

order. Only a defendant against whom a protective order has been issued may be held to have violated the order.

I. In addition to any other penalty specified by this section, the court may order a defendant to use an active, real-time, twenty-four-hour Global Positioning System (GPS) monitoring device as a condition of a sentence. The court may further order the defendant to pay costs and expenses related to the GPS device and monitoring.

SECTION 130. AMENDATORY 22 O.S. 2001, Section 152, as last amended by Section 1 of Enrolled House Bill No. 1008 of the 1st Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 152. A. Prosecutions for the crimes of bribery, embezzlement of public money, bonds, securities, assets or property of the state or any county, school district, municipality or other subdivision thereof, or of any misappropriation of public money, bonds, securities, assets or property of the state or any county, school district, municipality or other subdivision thereof, falsification of public records of the state or any county, school district, municipality or other subdivision thereof, and conspiracy to defraud the State of Oklahoma or any county, school district, municipality or other subdivision thereof in any manner or for any purpose shall be commenced within seven (7) years after the discovery of the crime; provided, however, prosecutions for the crimes of embezzlement or misappropriation of public money, bonds, securities, assets or property of any school district, including those relating to student activity funds, or the crime of falsification of public records of any independent school district, the crime of criminal conspiracy, the crime of embezzlement, pursuant to Sections 1451 through 1462 of Title 21 of the Oklahoma Statutes, or the financial exploitation of a vulnerable adult, pursuant to Sections 843.1, 843.3 and 843.4 of Title 21 of the Oklahoma Statutes, shall be commenced within five (5) years after the discovery of the crime.

B. Prosecutions for criminal violations of any state income tax laws shall be commenced within five (5) years after the commission of such violation.

C. 1. Prosecutions for the crime of rape or forcible sodomy, sodomy, lewd or indecent proposals or acts against children, involving minors in pornography pursuant to Section 886, 888, 1111, 1111.1, 1113, 1114, 1021.2, 1021.3 or 1123 of Title 21 of the

Oklahoma Statutes, child abuse pursuant to Section ~~7115~~ 843.5 of Title ~~10~~ 21 of the Oklahoma Statutes, and child trafficking pursuant to Section 866 of Title 21 of the Oklahoma Statutes shall be commenced within twelve (12) years after the discovery of the crime.

2. However, prosecutions for the crimes listed in paragraph 1 of this subsection may be commenced at any time after the commission of the offense if:

- a. the victim notified law enforcement within twelve (12) years after the discovery of the crime,
- b. physical evidence is collected and preserved that is capable of being tested to obtain a profile from deoxyribonucleic acid (DNA), and
- c. the identity of the offender is subsequently established through the use of a DNA profile using evidence listed in subparagraph b of this paragraph.

A prosecution under this exception must be commenced within three (3) years from the date on which the identity of the suspect is established by DNA testing.

D. Prosecutions for criminal violations of any provision of the Oklahoma Wildlife Conservation Code shall be commenced within three (3) years after the commission of such offense.

E. Prosecutions for the crime of criminal fraud or workers' compensation fraud pursuant to Section 1541.1, 1541.2, 1662 or 1663 of Title 21 of the Oklahoma Statutes shall commence within three (3) years after the discovery of the crime, but in no event greater than seven (7) years after the commission of the crime.

F. Prosecution for the crime of false or bogus check, Section 1541.1, 1541.2, 1541.3 or 1541.4 of Title 21 of the Oklahoma Statutes, shall be commenced within five (5) years after the commission of such offense.

G. Prosecution for the crime of solicitation for murder in the first degree pursuant to Section 701.16 of Title 21 of the Oklahoma Statutes shall be commenced within seven (7) years after the discovery of the crime. For purposes of this subsection, "discovery" means the date upon which the crime is made known to anyone other than a person involved in the solicitation.

H. In all other cases a prosecution for a public offense must be commenced within three (3) years after its commission.

I. Prosecution for the crime of accessory after the fact must be commenced within the same statute of limitations as that of the felony for which the person acted as an accessory.

J. Prosecution for the crime of arson pursuant to Section 1401, 1402, 1403, 1404 or 1405 of Title 21 of the Oklahoma Statutes shall be commenced within seven (7) years after the commission of the crime.

K. As used in paragraph 1 of subsection C of this section, "discovery" means the date that a physical or sexually related crime involving a victim under the age of eighteen (18) years of age is reported to a law enforcement agency, up to and including one (1) year from the eighteenth birthday of the child.

SECTION 131. AMENDATORY 22 O.S. 2001, Section 471.1, as amended by Section 1, Chapter 37, O.S.L. 2008 (22 O.S. Supp. 2008, Section 471.1), is amended to read as follows:

Section 471.1 A. For purposes of this act, "drug court", "drug court program" or "program" means an immediate and highly structured judicial intervention process for substance abuse treatment of eligible offenders which expedites the criminal case, and requires successful completion of the plea agreement in lieu of incarceration.

B. Each district court of this state is authorized to establish a drug court program pursuant to the provisions of this act, subject to availability of funds. Juvenile drug courts may be established based upon the provisions of this act; provided, however, juveniles shall not be held, processed, or treated in any manner which violates any provision of Title ~~10~~ 10A of the Oklahoma Statutes.

C. Drug court programs shall not apply to any violent criminal offense. Eligible offenses may further be restricted by the rules of the specific drug court program. Nothing in this act shall be construed to require a drug court to consider every offender with a treatable condition or addiction, regardless of the fact that the controlling offense is eligible for consideration in the program. Traditional prosecution shall be required where an offender is determined not appropriate for the drug court program.

D. Drug court programs shall require a separate judicial processing system differing in practice and design from the traditional adversarial criminal prosecution and trial systems. Whenever possible, a drug court team shall be designated consisting of a judge to administer the program, a district attorney, a defense attorney, and other persons designated by the drug court team who shall have appropriate understanding of the goals of the program and of the appropriate treatment methods for the various conditions. The assignment of any person to the drug court team shall not preclude the assigned person from performing other duties required in the course of their office or employment. The chief judge of the judicial district, or if the district has more than one chief judge than the presiding judge of the Administrative Judicial District, shall designate one or more judges to administer the drug court program. The assignment of any judge to a drug court program or the designation of a drug court docket shall not mandate the assignment of all substance abuse related cases to the drug court docket or the program; however, nothing in this act shall be construed to preclude the assignment of all criminal cases relating to substance abuse or drug possession as provided by the rules established for the specific drug court program.

E. When a drug court program is established, the arresting officer shall file the criminal case record for potentially eligible offenders with the district attorney within four (4) days of the arrest. The district attorney shall file an information in the case within twenty-four (24) hours of receipt of the criminal case record when the offender appears eligible for consideration for the program. The information may be amended as necessary when an offender is denied admittance into the drug court program or for other purposes as provided in Section 304 of this title. Any person arrested upon a warrant for his or her arrest shall not be eligible for the drug court program without the approval of the district attorney. Any criminal case which has been filed and processed in the traditional manner shall be cross-referenced to a drug court case file by the court clerk, if the case is subsequently assigned to the drug court program. The originating criminal case file shall remain open to public inspection. The judge shall determine what information or pleadings are to be retained in the drug court case file, which shall be closed to public inspection.

F. The court may request assistance from the Department of Mental Health and Substance Abuse Services which shall be the primary agency to assist in developing and implementing a drug court

program or from any state or local agency in obtaining the necessary treatment services which will assure maximum opportunity for successful treatment, education, and rehabilitation for offenders admitted to the program. All participating state and local agencies are directed to coordinate with each other and cooperate in assisting the district court in establishing a drug court program.

G. Each drug court program shall ensure, but not be limited to:

1. Strong linkage between participating agencies;
2. Access by all participating parties of a case to information on the progress of the offender;
3. Vigilant supervision and monitoring procedures;
4. Random substance abuse testing;
5. Provisions for noncompliance, modification of the treatment plan, and revocation proceedings;
6. Availability of residential treatment facilities and outpatient services;
7. Payment of court costs, treatment costs, supervision fees, and program user fees by the offender;
8. Methods for measuring application of disciplinary sanctions, including provisions for:
 - a. increased supervision,
 - b. urinalysis testing,
 - c. intensive treatment,
 - d. short-term confinement not to exceed five (5) days,
 - e. recycling the offender into the program after a disciplinary action for a minimum violation of the treatment plan,
 - f. reinstating the offender into the program after a disciplinary action for a major violation of the treatment plan, and

g. revocation from the program; and

9. Methods for measuring performance-based effectiveness of each individual treatment provider's services.

H. All drug court programs shall be required to keep reliable data on recidivism, relapse, restarts, sanctions imposed, and incentives given.

I. Nothing in this section shall prohibit any county from establishing a drug court for misdemeanor offenses. Such misdemeanor drug courts shall follow the rules and regulations of felony drug courts except that the penalty for revocation shall not exceed one (1) year in the county jail or the maximum penalty for the misdemeanor allowed by statute, whichever is less. The Department of Mental Health and Substance Abuse Services shall provide technical assistance to the counties that establish misdemeanor drug courts.

SECTION 132. AMENDATORY 22 O.S. 2001, Section 991a, as last amended by by Section 3 of Enrolled Senate Bill No. 518 of the 1st Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 991a. A. Except as otherwise provided in the Elderly and Incapacitated Victim's Protection Program, when a defendant is convicted of a crime and no death sentence is imposed, the court shall either:

1. Suspend the execution of sentence in whole or in part, with or without probation. The court, in addition, may order the convicted defendant at the time of sentencing or at any time during the suspended sentence to do one or more of the following:

- a. to provide restitution to the victim as provided by Section 991f et seq. of this title or according to a schedule of payments established by the sentencing court, together with interest upon any pecuniary sum at the rate of twelve percent (12%) per annum, if the defendant agrees to pay such restitution or, in the opinion of the court, if the defendant is able to pay such restitution without imposing manifest hardship on the defendant or the immediate family and if the

extent of the damage to the victim is determinable with reasonable certainty,

- b. to reimburse any state agency for amounts paid by the state agency for hospital and medical expenses incurred by the victim or victims, as a result of the criminal act for which such person was convicted, which reimbursement shall be made directly to the state agency, with interest accruing thereon at the rate of twelve percent (12%) per annum,
- c. to engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the person convicted,
- d. to pay a reasonable sum into any trust fund, established pursuant to the provisions of Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes, and which provides restitution payments by convicted defendants to victims of crimes committed within this state wherein such victim has incurred a financial loss,
- e. to confinement in the county jail for a period not to exceed six (6) months,
- f. to confinement as provided by law together with a term of post-imprisonment community supervision for not less than three (3) years of the total term allowed by law for imprisonment, with or without restitution; provided, however, the authority of this provision is limited to Section ~~7115~~ 843.5 of Title ~~10~~ 21 of the Oklahoma Statutes when the offense involved sexual abuse or sexual exploitation; Sections 681, 741 and 843.1 of Title 21 of the Oklahoma Statutes when the offense involved sexual abuse or sexual exploitation; and Sections 865 et seq., 885, 886, 888, 891, 1021, 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and 1123 of Title 21 of the Oklahoma Statutes,
- g. to repay the reward or part of the reward paid by a certified local crimestoppers program and the Oklahoma Reward System. In determining whether the defendant shall repay the reward or part of the reward, the

court shall consider the ability of the defendant to make the payment, the financial hardship on the defendant to make the required payment, and the importance of the information to the prosecution of the defendant as provided by the arresting officer or the district attorney with due regard for the confidentiality of the records of the certified local crimestoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. "Certified local crimestoppers program" means a crimestoppers program certified by the Office of the Attorney General pursuant to Section 991g of this title. The "Oklahoma Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes,

- h. to reimburse the Oklahoma State Bureau of Investigation for costs incurred by that agency during its investigation of the crime for which the defendant pleaded guilty, nolo contendere or was convicted, including compensation for laboratory, technical, or investigation services performed by the Bureau if, in the opinion of the court, the defendant is able to pay without imposing manifest hardship on the defendant, and if the costs incurred by the Bureau during the investigation of the defendant's case may be determined with reasonable certainty,
- i. to reimburse the Oklahoma State Bureau of Investigation and any authorized law enforcement agency for all costs incurred by that agency for cleaning up an illegal drug laboratory site for which the defendant pleaded guilty, nolo contendere or was convicted. The court clerk shall collect the amount and may retain five percent (5%) of such monies to be deposited in the Court Clerk Revolving Fund to cover administrative costs and shall remit the remainder to the Oklahoma State Bureau of Investigation to be deposited in the OSBI Revolving Fund established by Section 150.19a of Title 74 of the Oklahoma Statutes or to the general fund wherein the other law enforcement agency is located,
- j. to pay a reasonable sum to the Crime Victims Compensation Board, created by Section 142.2 et seq.

of Title 21 of the Oklahoma Statutes, for the benefit of crime victims,

- k. to reimburse the court fund for amounts paid to court-appointed attorneys for representing the defendant in the case in which the person is being sentenced,
- l. to participate in an assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and, as determined by the assessment, participate in an alcohol and drug substance abuse course or treatment program or both, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes, or as ordered by the court,
- m. to be placed in a victims impact panel program or victim/offender reconciliation program and payment of a fee to the program of not less than Fifteen Dollars (\$15.00) nor more than Fifty Dollars (\$50.00) as set by the governing authority of the program to offset the cost of participation by the defendant. Provided, each victim/offender reconciliation program shall be required to obtain a written consent form voluntarily signed by the victim and defendant that specifies the methods to be used to resolve the issues, the obligations and rights of each person, and the confidentiality of the proceedings. Volunteer mediators and employees of a victim/offender reconciliation program shall be immune from liability and have rights of confidentiality as provided in Section 1805 of Title 12 of the Oklahoma Statutes,
- n. to install, at the expense of the defendant, an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence. The device shall be installed upon every motor vehicle operated by the defendant, and the court shall require that a notation of this restriction be affixed to the defendant's driver license. The restriction shall remain on the driver license not exceeding two (2) years to be determined by the court. The restriction may be modified or removed only by order of the court and notice of any modification order shall be given to

the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without a device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of two-hundredths (0.02) or greater,

- o. to be confined by electronic monitoring administered and supervised by the Department of Corrections or a community sentence provider, and payment of a monitoring fee to the supervising authority, not to exceed Three Hundred Dollars (\$300.00) per month. Any fees collected pursuant to this paragraph shall be deposited with the appropriate supervising authority. Any willful violation of an order of the court for the payment of the monitoring fee shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "electronic monitoring" means confinement of the defendant within a specified location or locations with supervision by means of an electronic device approved by the Department of Corrections which is designed to detect if the defendant is in the court-ordered location at the required times and which records violations for investigation by a qualified supervisory agency or person,
- p. to perform one or more courses of treatment, education or rehabilitation for any conditions, behaviors, deficiencies or disorders which may contribute to criminal conduct, including but not limited to alcohol and substance abuse, mental health, emotional health, physical health, propensity for violence, antisocial behavior, personality or attitudes, deviant sexual behavior, child development, parenting assistance, job skills, vocational-technical skills, domestic relations, literacy, education, or any other

identifiable deficiency which may be treated appropriately in the community and for which a certified provider or a program recognized by the court as having significant positive impact exists in the community. Any treatment, education or rehabilitation provider required to be certified pursuant to law or rule shall be certified by the appropriate state agency or a national organization,

- q. to submit to periodic testing for alcohol, intoxicating substance, or controlled dangerous substances by a qualified laboratory,
- r. to pay a fee, costs for treatment, education, supervision, participation in a program, or any combination thereof as determined by the court, based upon the defendant's ability to pay the fees or costs,
- s. to be supervised by a Department of Corrections employee, a private supervision provider, or other person designated by the court,
- t. to obtain positive behavior modeling by a trained mentor,
- u. to serve a term of confinement in a restrictive housing facility available in the community,
- v. to serve a term of confinement in the county jail at night or during weekends pursuant to Section 991a-2 of this title or for work release,
- w. to obtain employment or participate in employment-related activities,
- x. to participate in mandatory day reporting to facilities or persons for services, payments, duties or person-to-person contacts as specified by the court,
- y. to pay day fines not to exceed fifty percent (50%) of the net wages earned. For purposes of this paragraph, "day fine" means the offender is ordered to pay an amount calculated as a percentage of net daily wages earned. The day fine shall be paid to the local

community sentencing system as reparation to the community. Day fines shall be used to support the local system,

- z. to submit to blood or saliva testing as required by subsection I of this section,
- aa. to repair or restore property damaged by the defendant's conduct, if the court determines the defendant possesses sufficient skill to repair or restore the property and the victim consents to the repairing or restoring of the property,
- bb. to restore damaged property in kind or payment of out-of-pocket expenses to the victim, if the court is able to determine the actual out-of-pocket expenses suffered by the victim,
- cc. to attend a victim-offender reconciliation program if the victim agrees to participate and the offender is deemed appropriate for participation,
- dd. in the case of a person convicted of prostitution pursuant to Section 1029 of Title 21 of the Oklahoma Statutes, require such person to receive counseling for the behavior which may have caused such person to engage in prostitution activities. Such person may be required to receive counseling in areas including but not limited to alcohol and substance abuse, sexual behavior problems, or domestic abuse or child abuse problems,
- ee. in the case of a sex offender sentenced after November 1, 1989, and required by law to register pursuant to the Sex Offender Registration Act, the court shall require the person to comply with sex offender specific rules and conditions of supervision established by the Department of Corrections and require the person to participate in a treatment program designed for the treatment of sex offenders during the period of time while the offender is subject to supervision by the Department of Corrections. The treatment program shall include polygraph examinations specifically designed for use with sex offenders for purposes of supervision and

treatment compliance, and shall be administered not less than each six (6) months during the period of supervision. The examination shall be administered by a certified licensed polygraph examiner. The treatment program must be approved by the Department of Corrections or the Department of Mental Health and Substance Abuse Services. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay,

- ff. in addition to other sentencing powers of the court, the court in the case of a defendant being sentenced for a felony conviction for a violation of Section 2-402 of Title 63 of the Oklahoma Statutes which involves marijuana may require the person to participate in a drug court program, if available. If a drug court program is not available, the defendant may be required to participate in a community sanctions program, if available,
- gg. in the case of a person convicted of any false or bogus check violation, as defined in Section 1541.4 of Title 21 of the Oklahoma Statutes, impose a fee of Twenty-five Dollars (\$25.00) to the victim for each check, and impose a bogus check fee to be paid to the district attorney. The bogus check fee paid to the district attorney shall be equal to the amount assessed as court costs plus Twenty-five Dollars (\$25.00) for each check upon filing of the case in district court. This money shall be deposited in the Bogus Check Restitution Program Fund as established in subsection B of Section 114 of this title. Additionally, the court may require the offender to pay restitution and bogus check fees on any other bogus check or checks that have been submitted to the District Attorney Bogus Check Restitution Program, and
- hh. any other provision specifically ordered by the court.

However, any such order for restitution, community service, payment to a certified local crimestoppers program, payment to the Oklahoma Reward System, or confinement in the county jail, or a combination thereof, shall be made in conjunction with probation and shall be made a condition of the suspended sentence;

2. Impose a fine prescribed by law for the offense, with or without probation or commitment and with or without restitution or service as provided for in this section, Section 991a-4.1 of this title or Section 227 of Title 57 of the Oklahoma Statutes;

3. Commit such person for confinement provided for by law with or without restitution as provided for in this section;

4. Order the defendant to reimburse the Oklahoma State Bureau of Investigation for costs incurred by that agency during its investigation of the crime for which the defendant pleaded guilty, nolo contendere or was convicted, including compensation for laboratory, technical, or investigation services performed by the Bureau if, in the opinion of the court, the defendant is able to pay without imposing manifest hardship on the defendant, and if the costs incurred by the Bureau during the investigation of the defendant's case may be determined with reasonable certainty;

5. Order the defendant to reimburse the Oklahoma State Bureau of Investigation for all costs incurred by that agency for cleaning up an illegal drug laboratory site for which the defendant pleaded guilty, nolo contendere or was convicted. The court clerk shall collect the amount and may retain five percent (5%) of such monies to be deposited in the Court Clerk Revolving Fund to cover administrative costs and shall remit the remainder to the Oklahoma State Bureau of Investigation to be deposited in the OSBI Revolving Fund established by Section 150.19a of Title 74 of the Oklahoma Statutes;

6. In the case of nonviolent felony offenses, sentence such person to the Community Service Sentencing Program;

7. In addition to the other sentencing powers of the court, in the case of a person convicted of operating or being in control of a motor vehicle while the person was under the influence of alcohol, other intoxicating substance, or a combination of alcohol or another intoxicating substance, or convicted of operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol, require such person:

- a. to participate in an alcohol and drug assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and, as

determined by the assessment, participate in an alcohol and drug substance abuse course or treatment program or both, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes,

- b. to attend a victims impact panel program, if such a program is offered in the county where the judgment is rendered, and to pay a fee, not less than Fifteen Dollars (\$15.00) nor more than Fifty Dollars (\$50.00) as set by the governing authority of the program and approved by the court, to the program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee,
- c. to both participate in the alcohol and drug substance abuse course or treatment program, pursuant to subparagraph a of this paragraph and attend a victims impact panel program, pursuant to subparagraph b of this paragraph,
- d. to install, at the expense of the person, an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence, upon every motor vehicle operated by such person and to require that a notation of this restriction be affixed to the person's driver license at the time of reinstatement of the license. The restriction shall remain on the driver license for such period as the court shall determine. The restriction may be modified or removed by order of the court and notice of the order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without such device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court, or
- e. beginning January 1, 1993, to submit to electronically monitored home detention administered and supervised by the Department of Corrections, and to pay to the Department a monitoring fee, not to exceed Seventy-

five Dollars (\$75.00) a month, to the Department of Corrections, if in the opinion of the court the defendant has the ability to pay such fee. Any fees collected pursuant to this subparagraph shall be deposited in the Department of Corrections Revolving Fund. Any order by the court for the payment of the monitoring fee, if willfully disobeyed, may be enforced as an indirect contempt of court;

8. In addition to the other sentencing powers of the court, in the case of a person convicted of prostitution pursuant to Section 1029 of Title 21 of the Oklahoma Statutes, require such person to receive counseling for the behavior which may have caused such person to engage in prostitution activities. Such person may be required to receive counseling in areas including but not limited to alcohol and substance abuse, sexual behavior problems, or domestic abuse or child abuse problems;

9. In addition to the other sentencing powers of the court, in the case of a person convicted of any crime related to domestic abuse, as defined in Section 60.1 of this title, the court may require the defendant to undergo the treatment or participate in the counseling services necessary to bring about the cessation of domestic abuse against the victim. The defendant may be required to pay all or part of the cost of the treatment or counseling services;

10. In addition to the other sentencing powers of the court, the court, in the case of a sex offender sentenced after November 1, 1989, and required by law to register pursuant to the Sex Offenders Registration Act, shall require the person to participate in a treatment program designed specifically for the treatment of sex offenders, if available. The treatment program will include polygraph examinations specifically designed for use with sex offenders for the purpose of supervision and treatment compliance, provided the examination is administered by a certified licensed polygraph examiner. The treatment program must be approved by the Department of Corrections or the Department of Mental Health and Substance Abuse Services. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay;

11. In addition to the other sentencing powers of the court, the court, in the case of a person convicted of child abuse or neglect, as defined in Section ~~7102~~ 1-1-105 of Title ~~10~~ 10A of the Oklahoma Statutes, may require the person to undergo treatment or to participate in counseling services. The defendant may be required

to pay all or part of the cost of the treatment or counseling services;

12. In addition to the other sentencing powers of the court, the court, in the case of a person convicted of cruelty to animals pursuant to Section 1685 of Title 21 of the Oklahoma Statutes, may require the person to pay restitution to animal facilities for medical care and any boarding costs of victimized animals;

13. In addition to the other sentencing powers of the court, a sex offender who is habitual or aggravated as defined by Section 584 of Title 57 of the Oklahoma Statutes and who is required to register as a sex offender pursuant to the Oklahoma Sex Offenders Registration Act shall be supervised by the Department of Corrections for the duration of the registration period and shall be assigned to a global position monitoring device by the Department of Corrections for the duration of the registration period. The cost of such monitoring device shall be reimbursed by the offender;

14. In addition to the other sentencing powers of the court, in the case of a sex offender who is required by law to register pursuant to the Sex Offenders Registration Act, the court may prohibit the person from accessing or using any Internet social networking web site that has the potential or likelihood of allowing the sex offender to have contact with any child who is under the age of eighteen (18) years; or

15. In addition to the other sentencing powers of the court, in the case of a sex offender who is required by law to register pursuant to the Sex Offenders Registration Act, the court may require the person to register any electronic mail address information, instant message, chat or other Internet communication name or identity information that the person uses or intends to use while accessing the Internet.

B. Notwithstanding any other provision of law, any person who is found guilty of a violation of any provision of Section 761 or 11-902 of Title 47 of the Oklahoma Statutes or any person pleading guilty or nolo contendere for a violation of any provision of such sections shall be ordered to participate in, prior to sentencing, an alcohol and drug assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the agency or assessor for the

evaluation. The fee shall be the amount provided in subsection C of Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation shall be conducted at a certified assessment agency, the office of a certified assessor or at another location as ordered by the court. The agency or assessor shall, within seventy-two (72) hours from the time the person is assessed, submit a written report to the court for the purpose of assisting the court in its final sentencing determination. No person, agency or facility operating an alcohol and drug substance abuse evaluation program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated pursuant to this subsection for any treatment program or alcohol and drug substance abuse service in which such person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or alcohol and drug substance abuse service offered by such person, agency or facility. If a person is sentenced to the custody of the Department of Corrections and the court has received a written evaluation report pursuant to this subsection, the report shall be furnished to the Department of Corrections with the judgment and sentence. Any evaluation report submitted to the court pursuant to this subsection shall be handled in a manner which will keep such report confidential from the general public's review. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation required by this subsection.

C. When sentencing a person convicted of a crime, the court shall first consider a program of restitution for the victim, as well as imposition of a fine or incarceration of the offender. The provisions of paragraph 1 of subsection A of this section shall not apply to defendants being sentenced upon their third or subsequent to their third conviction of a felony or, beginning January 1, 1993, to defendants being sentenced for their second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, except as otherwise provided in this subsection. In the case of a person being sentenced for their second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, the court may sentence the person pursuant to the provisions of paragraph 1 of subsection A of this section if the court orders the person to submit to electronically monitored home detention administered and supervised by the Department of Corrections pursuant to subparagraph e of paragraph 7

of subsection A of this section. Provided, the court may waive these prohibitions upon written application of the district attorney. Both the application and the waiver shall be made part of the record of the case.

D. When sentencing a person convicted of a crime, the judge shall consider any victim impact statements if submitted to the jury, or the judge in the event a jury is waived.

E. Probation, for purposes of subsection A of this section, is a procedure by which a defendant found guilty of a crime, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, is released by the court subject to conditions imposed by the court and subject to the supervision of the Department of Corrections. Such supervision shall be initiated upon an order of probation from the court, and shall not exceed two (2) years, except as otherwise provided by law. In the case of a person convicted of a sex offense, supervision shall begin immediately upon release from incarceration or if parole is granted and shall not be limited to two (2) years. Provided further, any supervision provided for in this section may be extended for a period not to exceed the expiration of the maximum term or terms of the sentence upon a determination by the Division of Probation and Parole of the Department of Corrections that the best interests of the public and the release will be served by an extended period of supervision.

F. The Department of Corrections, or such other agency as the court may designate, shall be responsible for the monitoring and administration of the restitution and service programs provided for by subparagraphs a, c, and d of paragraph 1 of subsection A of this section, and shall ensure that restitution payments are forwarded to the victim and that service assignments are properly performed.

G. 1. The Department of Corrections is hereby authorized, subject to funds available through appropriation by the Legislature, to contract with counties for the administration of county Community Service Sentencing Programs.

2. Any offender eligible to participate in the Program pursuant to this act shall be eligible to participate in a county Program; provided, participation in county-funded Programs shall not be limited to offenders who would otherwise be sentenced to confinement with the Department of Corrections.

3. The Department shall establish criteria and specifications for contracts with counties for such Programs. A county may apply to the Department for a contract for a county-funded Program for a specific period of time. The Department shall be responsible for ensuring that any contracting county complies in full with specifications and requirements of the contract. The contract shall set appropriate compensation to the county for services to the Department.

4. The Department is hereby authorized to provide technical assistance to any county in establishing a Program, regardless of whether the county enters into a contract pursuant to this subsection. Technical assistance shall include appropriate staffing, development of community resources, sponsorship, supervision and any other requirements.

5. The Department shall annually make a report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House on the number of such Programs, the number of participating offenders, the success rates of each Program according to criteria established by the Department and the costs of each Program.

H. As used in this section:

1. "Ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of two-hundredths (0.02) or greater; and

2. "Electronically monitored home detention" means incarceration of the defendant within a specified location or locations with monitoring by means of a device approved by the Department of Corrections that detects if the person leaves the confines of any specified location.

I. A person convicted of a felony offense or receiving any form of probation for an offense in which registration is required pursuant to the Sex Offenders Registration Act shall submit to deoxyribonucleic acid DNA testing for law enforcement identification purposes in accordance with Section 150.27 of Title 74 of the Oklahoma Statutes and the rules promulgated by the Oklahoma State Bureau of Investigation for the OSBI Combined DNA Index System (CODIS) Database. Any defendant sentenced to probation shall be required to submit to testing within thirty (30) days of sentencing

either to the Department of Corrections or to the county sheriff or other peace officer as directed by the court. Defendants who are sentenced to a term of incarceration shall submit to testing in accordance with Section 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who enter the custody of the Department of Corrections or to the county sheriff, for those defendants sentenced to incarceration in a county jail. Convicted individuals who have previously submitted to DNA testing under this section and for whom a valid sample is on file in the OSBI Combined DNA Index System (CODIS) Database at the time of sentencing shall not be required to submit to additional testing. Except as required by the Sex Offenders Registration Act, a deferred judgment does not require submission to deoxyribonucleic acid testing.

Any person who is incarcerated in the custody of the Department of Corrections after July 1, 1996, and who has not been released before the effective date of this act, shall provide a blood or saliva sample prior to release. Every person convicted of a felony offense after the effective date of this act whose sentence does not include a term of confinement with the Department of Corrections shall submit a blood or saliva sample. Those felons sentenced to unsupervised probation or otherwise not supervised by the Department of Corrections shall submit for blood or saliva testing to the sheriff of the sentencing county.

J. Samples of blood or saliva for DNA testing required by subsection I of this section shall be taken by employees or contractors of the Department of Corrections, peace officers, or the county sheriff or employees or contractors of the sheriff's office. The individuals shall be properly trained to collect blood or saliva samples. Persons collecting blood or saliva for DNA testing pursuant to this section shall be immune from civil liabilities arising from this activity. All collectors of DNA samples shall ensure the collection of samples are mailed to the Oklahoma State Bureau of Investigation within ten (10) days of the time the subject appears for testing or within ten (10) days of the date the subject comes into physical custody to serve a term of incarceration. All collectors of DNA samples shall use sample kits provided by the OSBI and procedures promulgated by the OSBI. Persons subject to DNA testing who are not received at the Lexington Assessment and Reception Center shall be required to pay a fee of Fifteen Dollars (\$15.00) to the agency collecting the sample for submission to the OSBI Combined DNA Index System (CODIS) Database. Any fees collected pursuant to this subsection shall be deposited in the revolving

account or the service fee account of the collection agency or department.

K. When sentencing a person who has been convicted of a crime that would subject that person to the provisions of the Sex Offenders Registration Act, neither the court nor the district attorney shall be allowed to waive or exempt such person from the registration requirements of the Sex Offenders Registration Act.

SECTION 133. AMENDATORY 22 O.S. 2001, Section 1089.1, is amended to read as follows:

Section 1089.1 The State of Oklahoma, by and through the district attorney or Attorney General, shall have the right to appeal an adverse ruling or order of a magistrate sustaining a motion to suppress evidence, quashing an information, sustaining a plea to the jurisdiction of the court, failing to find prosecutive merit in a hearing pursuant to Section ~~1112~~ 2-2-403 of Title ~~10~~ 10A of the Oklahoma Statutes, sustaining a demurrer to the information, binding the defendant over for trial on a charge other than the charge for the original offense, or discharging a defendant at the preliminary examination because of insufficiency of the evidence to establish either that a crime has been committed or that there is probable cause to believe that the accused has committed a felony. Such an appeal shall be taken in accordance with the procedures provided in this act.

SECTION 134. AMENDATORY 30 O.S. 2001, Section 1-115, as amended by Section 3, Chapter 69, O.S.L. 2005 (30 O.S. Supp. 2008, Section 1-115), is amended to read as follows:

Section 1-115. A. The venue for a guardianship proceeding is in:

1. The district court of the county where the minor or the incapacitated or partially incapacitated person resides;

2. The district court of the county where the proposed guardian resides if the proposed guardian is a member of the minor's or incapacitated person's family; or

3. The district court of the county to which the cause is transferred by a judge of the court in which the petition was filed or the cause is pending. Provided, venue to appoint the guardian of

a nonresident minor or incapacitated person shall be in a county where the nonresident has property.

B. If a proceeding pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act could be maintained in more than one place in this state, the court in which the proceeding is first commenced has the exclusive right to exercise jurisdiction over the proceeding and proceed with the action. A court shall not exercise jurisdiction over a proceeding for guardianship of a minor pursuant to this title if, at the time the petition for guardianship is filed, another court of this state is exercising jurisdiction pursuant to Section ~~7002-1.1~~ 1-4-101 of Title ~~10~~ 10A of the Oklahoma Statutes, unless after notice to the parties in the deprived action, the written consent of such court is obtained and filed in the guardianship proceeding.

1. If proceedings concerning the same estate, minor, alleged incapacitated or partially incapacitated person, or ward are commenced in more than one court of this state, the court in which a proceeding was first commenced shall continue to hear the matter and determine venue. If the court where the proceeding was first filed determines that venue is properly in another court, it shall transfer the proceeding to the other court.

2. If the court finds that in the interest of justice a proceeding should be conducted in another court of this state, the court may transfer the proceeding to the other court.

C. If both guardianship and conservatorship proceedings as to the same person are commenced or pending in the same court, the proceedings may be consolidated.

SECTION 135. AMENDATORY 30 O.S. 2001, Section 2-103, is amended to read as follows:

Section 2-103. A. If the minor is under the age of fourteen (14) years, the court may name and appoint his guardian. If the minor has attained the age of fourteen (14) years, the minor may nominate his own guardian, who, if approved by the court, must be appointed accordingly.

B. The court, in appointing a guardian for a minor, is to be guided by Section ~~21.1~~ 112.4 of Title ~~10~~ 43 of the Oklahoma Statutes.

SECTION 136. AMENDATORY Section 9, Chapter 400, O.S.L. 2002 (43 O.S. Supp. 2008, Section 104.1), is amended to read as follows:

Section 104.1 A. If funding is available, presiding judges of the district court may appoint court referees in their judicial districts to hear designated cases as assigned by the presiding judge.

B. Reasonable compensation for the referees shall be fixed by that presiding judge.

C. A referee shall meet the requirements and perform their duties in the same manner and procedure as set forth in Sections ~~7003-8.6~~ 1-8-103 and ~~7303-7.5~~ 2-2-702 of Title ~~10~~ 10A of the Oklahoma Statutes pertaining to referees appointed in juvenile proceedings.

SECTION 137. AMENDATORY 43 O.S. 2001, Section 112, as last amended by Section 1, Chapter 34, O.S.L. 2007 (43 O.S. Supp. 2008, Section 112), is amended to read as follows:

Section 112. A. A petition or cross-petition for a divorce, legal separation, or annulment must state whether or not the parties have minor children of the marriage. If there are minor children of the marriage, the court:

1. Shall make provision for guardianship, custody, medical care, support and education of the children;

2. Unless not in the best interests of the children, may provide for the visitation of the noncustodial parent with any of the children of the noncustodial parent; and

3. May modify or change any order whenever circumstances render the change proper either before or after final judgment in the action; provided, that the amount of the periodic child support payment shall not be modified retroactively or payment of all or a portion of the past due amount waived, except by mutual agreement of the obligor and obligee, or if the obligee has assigned child support rights to the Department of Human Services or other entity, by agreement of the Department or other entity. Unless the parties agree to the contrary, a completed child support computation form provided for in Section 120 of this title shall be required to be filed with the child support order.

The social security numbers of both parents and the child shall be included on the child support order summary form provided for in Section 120 of this title, which shall be submitted to the Central Case Registry as provided for in Section 112A of this title with all child support or paternity orders.

B. In any action in which there are minor unmarried children in awarding or modifying the custody of the child or in appointing a general guardian for the child, the court shall be guided by the provisions of Section ~~21.1~~ 112.4 of ~~Title 10 of the Oklahoma Statutes~~ this title and shall consider what appears to be in the best interests of the child.

C. 1. When it is in the best interests of a minor unmarried child, the court shall:

- a. assure children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and
- b. encourage parents to share the rights and responsibilities of child rearing in order to effect this policy.

2. There shall be neither a legal preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody.

3. When in the best interests of the child, custody shall be awarded in a way which assures the frequent and continuing contact of the child with both parents. When awarding custody to either parent, the court:

- a. shall consider, among other facts, which parent is more likely to allow the child or children frequent and continuing contact with the noncustodial parent, and
- b. shall not prefer a parent as a custodian of the child because of the gender of that parent.

4. In any action, there shall be neither a legal preference or a presumption for or against private or public school or home-

schooling in awarding the custody of a child, or in appointing a general guardian for the child.

5. Notwithstanding any custody determination made pursuant to the Oklahoma Children's Code, ~~Section 7001-1.1 et seq. of Title 10 of the Oklahoma Statutes~~, when a custodial parent of a child is required to be separated from a child due to military service, a court shall not enter a final order modifying an existing custody order until such time as the custodial parent has completed the term of duty requiring separation. For purposes of this paragraph:

- a. In the case of a parent who is a member of the Army, Navy, Air Force, Marine Corps or Coast Guard, the term "military service" means a combat deployment, contingency operation, or natural disaster requiring the use of orders that do not permit any family member to accompany the member; and
- b. In the case of a parent who is a member of the National Guard, the term "military service" means service under a call to active service authorized by the President of the United States or the Secretary of Defense for a period of more than thirty (30) consecutive days under 32 U.S.C. 502(f) for purposes of responding to a national emergency declared by the President and supported by federal funds. "Military service" shall include any period during which a member is absent from duty on account of sickness, wounds, leave or other lawful cause.

6. In making an order for custody, the court shall require compliance with Section 112.3 of this title.

D. 1. Except for good cause shown, a pattern of failure to allow court-ordered visitation may be determined to be contrary to the best interests of the child and as such may be grounds for modification of the child custody order.

2. For any action brought pursuant to the provisions of this section which the court determines to be contrary to the best interests of the child, the prevailing party shall be entitled to recover court costs, attorney fees and any other reasonable costs and expenses incurred with the action.

E. Except as otherwise provided by Section 112.1A of this title, any child shall be entitled to support by the parents until the child reaches eighteen (18) years of age. If a child is regularly enrolled in and attending high school, as set forth in Section 11-103.6 of Title 70 of the Oklahoma Statutes, other means of high school education, or an alternative high school education program as a full-time student, the child shall be entitled to support by the parents until the child graduates from high school or until the age of twenty (20) years, whichever occurs first. Full-time attendance shall include regularly scheduled breaks from the school year. No hearing or further order is required to extend support pursuant to this subsection after the child reaches the age of eighteen (18) years.

F. In any case in which provision is made for the custody or support of a minor child or enforcement of such order and before hearing the matter or signing any orders, the court shall inquire whether public assistance money or medical support has been provided by the Department of Human Services, hereafter referred to as the Department, for the benefit of each child. If public assistance money, medical support, or child support services under the state child support plan as provided in Section 237 of Title 56 of the Oklahoma Statutes have been provided for the benefit of the child, the Department shall be a necessary party for the adjudication of the debt due to the State of Oklahoma, as defined in Section 238 of Title 56 of the Oklahoma Statutes, and for the adjudication of paternity, child support, and medical insurance coverage for the minor children in accordance with federal regulations. When an action is filed, the petitioner shall give the Department notice of the action according to Section 2004 of Title 12 of the Oklahoma Statutes. The Department shall not be required to intervene in the action to have standing to appear and participate in the action. When the Department is a necessary party to the action, any orders concerning paternity, child support, medical support, or the debt due to the State of Oklahoma shall be approved and signed by the Department.

G. In any case in which a child support order or custody order or both is entered, enforced or modified, the court may make a determination of the arrearages of child support.

SECTION 138. AMENDATORY 43A O.S. 2001, Section 5-502, as last amended by Section 25, Chapter 97, O.S.L. 2006 (43A O.S. Supp. 2008, Section 5-502), is amended to read as follows:

Section 5-502. As used in the Inpatient Mental Health and Substance Abuse Treatment of Minors Act:

1. "Minor" means any person under eighteen (18) years of age;
2. "Minor in need of treatment" means a minor:
 - a. who has a demonstrable mental illness or who is drug or alcohol dependent and as a result of that mental illness or dependency can be expected within the near future to inflict or attempt to inflict serious bodily harm to himself or herself or another person, and who has engaged in one or more recent overt acts or made significant recent threats which substantially support that expectation, or
 - b. who has a demonstrable mental illness or is drug or alcohol dependent of sufficient severity to cause substantial impairment or disability in at least two of the following major areas of functioning in the life of the minor:
 - (1) family relations,
 - (2) school performance,
 - (3) social interactions,
 - (4) ability to perform independently the basic tasks of personal hygiene, hydration and nutrition, or
 - (5) self-protection.

A determination regarding the ability of the minor to perform independently such basic tasks shall be based upon the age of the minor and the reasonable and appropriate expectation of the abilities of a minor of such age to perform such tasks.

The term "minor in need of treatment" shall not mean a minor afflicted with epilepsy, a developmental disability, organic brain syndrome, physical handicaps, brief periods of intoxication caused by such substances as alcohol or drugs or who is truant or sexually active unless the minor also meets the criteria for a minor in need of treatment pursuant to subparagraph a or b of this paragraph;

3. "Consent" means the voluntary, express, and informed agreement to treatment in a mental health facility by a minor sixteen (16) years of age or older or by a parent of the minor;

4. "Individualized treatment plan" means a specific plan for the care and treatment of an individual minor who requires inpatient mental health treatment. The plan shall be developed with maximum involvement of the family of the minor, consistent with the desire of the minor for confidentiality and with the treatment needs of the minor, and shall clearly include the following:

- a. a statement of the presenting problems of the minor, short- and long-term treatment goals and the estimated date of discharge. The short- and long-term goals shall be based upon a clinical evaluation and shall include specific behavioral and emotional goals against which the success of treatment can be measured,
- b. treatment methods and procedures to be used to achieve these goals, which methods and procedures are related to each of these goals and which include, but are not limited to, specific prognosis for achieving each of these goals,
- c. identification of the types of professional personnel who will carry out the treatment procedures including, but not limited to, appropriate licensed mental health professionals, education professionals, and other health or social service professionals, and
- d. documentation of the involvement of the minor or the parent of the minor or legal custodian in the development of the treatment plan and whether all persons have consented to such plan;

5. "Inpatient treatment" means treatment services offered or provided for a continuous period of more than twenty-four (24) hours in residence after admission to a mental health or substance abuse treatment facility for the purpose of observation, evaluation or treatment;

6. "Least restrictive alternative" means the treatment and conditions of treatment which, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary

to achieve a substantial therapeutic benefit to the minor, or to protect the minor or others from physical injury;

7. "Less restrictive alternative to inpatient treatment" means and includes, but is not limited to, outpatient counseling services, including services provided in the home of the minor and which may be referred to as "home-based services", day treatment or day hospitalization services, respite care, or foster care or group home care, as defined by Section 1-1-105 of Title ~~10~~ 10A of the Oklahoma Statutes, through a program established and specifically designed to meet the needs of minors in need of mental health treatment, or a combination thereof;

8. "Licensed mental health professional" means a person who is not related by blood or marriage to the person being examined or does not have any interest in the estate of the person being examined, and who is:

- a. a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology,
- b. a physician licensed pursuant to Chapter 11 or Chapter 14 of Title 59 of the Oklahoma Statutes who has received specific training for and is experienced in, performing mental health therapeutic, diagnostic, or counseling functions,
- c. a clinical psychologist who is duly licensed to practice by the State Board of Examiners of Psychologists,
- d. a professional counselor licensed pursuant to Chapter 44 of Title 59 of the Oklahoma Statutes,
- e. a person licensed as a clinical social worker pursuant to the provisions of the Licensed Social Workers Act,
- f. a licensed marital and family therapist as defined in Chapter 44A of Title 59 of the Oklahoma Statutes,
- g. a licensed behavioral practitioner as defined in Chapter 44B of Title 59 of the Oklahoma Statutes, or

- h. an advanced practice nurse, as defined in Chapter 12 of Title 59 of the Oklahoma Statutes, specializing in mental health.

For the purposes of this paragraph, "licensed" means that the person holds a current, valid license issued in accordance with the laws of this state;

9. "Mental health evaluation" means an examination or evaluation of a minor for the purpose of making a determination whether, in the opinion of the licensed mental health professional making the evaluation, the minor is a minor in need of treatment and, if so, is in need of inpatient treatment and for the purpose of preparing reports or making recommendations for the most appropriate and least restrictive treatment for the minor;

10. "Mental health facility" means a public or private hospital or related institution as defined by Section 1-701 of Title 63 of the Oklahoma Statutes offering or providing inpatient mental health services, a public or private facility accredited as an inpatient or residential psychiatric facility by the Joint Commission on Accreditation of Healthcare Organizations, or a facility operated by the Department of Mental Health and Substance Abuse Services and designated by the Commissioner of the Department of Mental Health and Substance Abuse Services as appropriate for the inpatient evaluation or treatment of minors;

11. "Mental illness" means a substantial disorder of the child's thought, mood, perception, psychological orientation or memory that demonstrably and significantly impairs judgment, behavior or capacity to recognize reality or to meet the ordinary demands of life. "Mental illness" may include substance abuse, which is the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional, or physical impairment and cause socially dysfunctional or socially disordering behavior;

12. "Parent" means:

- a. a biological or adoptive parent who has legal custody of the minor or has visitation rights, or
- b. a person judicially appointed as a legal guardian of the minor, or

- c. a relative within the third degree of consanguinity who exercises the rights and responsibilities of legal custody by delegation from a parent, as provided by law;

13. "Person responsible for the supervision of the case" means:

- a. when the minor is in the legal custody of a private child care agency, the Department of Human Services or the Office of Juvenile Affairs, the caseworker or other person designated by the agency to supervise the case, or
- b. when the minor is a ward of the court and under the court-ordered supervision of the Department of Human Services, the Office of Juvenile Affairs or a statutorily constituted juvenile bureau, the person designated by the Department of Human Services, the Office of Juvenile Affairs or juvenile bureau to supervise the case;

14. "Initial assessment (medical necessity review)" means the examination of current and recent behaviors and symptoms of a minor who appears to be mentally ill, alcohol-dependent, or drug-dependent and a minor requiring treatment, whose condition is such that it appears that emergency detention may be warranted by a licensed mental health professional at a facility approved by the Commissioner of Mental Health and Substance Abuse Services, or a designee, as appropriate for such examination to determine if emergency detention of the minor is warranted, and whether admission for inpatient mental illness or drug- or alcohol-dependence treatment or evaluation constitutes the least restrictive level of care necessary;

15. "Ward of the court" means a minor adjudicated to be a deprived child, a child in need of supervision, or a delinquent child;

16. "Treatment" means any planned intervention intended to improve the functioning of a minor in those areas which show impairment as a result of mental illness or drug or alcohol dependence; and

17. "Prehearing detention order" means a court order that authorizes a facility to detain a minor pending a hearing on a petition to determine whether the minor is a minor in need of treatment.

SECTION 139. AMENDATORY 43A O.S. 2001, Section 5-504, as last amended by Section 4, Chapter 130, O.S.L. 2003 (43A O.S. Supp. 2008, Section 5-504), is amended to read as follows:

Section 5-504. A. Upon the filing of a petition alleging that a minor is a minor in need of treatment and requires inpatient mental health or substance abuse treatment, or upon the assumption of custody of an alleged deprived child pursuant to the provisions of Section ~~7003-2.1~~ 1-4-201 of Title ~~10~~ 10A of the Oklahoma Statutes, or when a minor is the ward of the court, the judge of the district court having juvenile docket responsibility shall have jurisdiction of any minor who is or is alleged to be a minor in need of treatment and of the parent or legal custodian of the minor, regardless of where the parent or legal custodian is found. When jurisdiction has been obtained over a minor who is or is alleged to be in need of treatment, such jurisdiction may be retained until the minor is discharged from treatment ordered by the court. For the convenience of the parties and in the interest of justice, a proceeding under the Inpatient Mental Health and Substance Abuse Treatment of Minors Act may be transferred to the district court in any other county.

1. The venue for legal proceedings pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act shall be:

- a. the county where the minor resides,
- b. when the minor is in the custody of a public or private child care agency, the county in which the minor resides at the time legal proceedings are initiated, or
- c. the county of original jurisdiction.

2. 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 ~~7003-2.1~~ 1-4-201 of Title ~~10~~ 10A of the Oklahoma Statutes may retain jurisdiction of a minor in need of treatment in such proceeding even if the minor is subject to the jurisdiction of another district court within the state. Any orders

made by the court in which the petition is filed shall control over prior orders in regard to the minor.

3. The district court in which a petition is filed which alleges that a minor is a minor in need of treatment may issue any temporary order or grant any interlocutory relief authorized by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act even if another district court within the state has jurisdiction of the minor or has jurisdiction to determine the custody or support of the minor.

4. If the district court in which a petition is filed pursuant to either paragraph 2 or 3 of this subsection sustains the petition, the district court shall have the jurisdiction to make a final determination on the petition or to transfer the proceedings to a court having prior jurisdiction over the minor. Where the other proceeding is pending in the same judicial district in which the petition is filed, the chief judge of the judicial district shall determine 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.

B. Unless otherwise specifically provided by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act and Title 43A of the Oklahoma Statutes, the rules of civil procedure shall apply to all legal proceedings pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

SECTION 140. AMENDATORY 43A O.S. 2001, Section 5-507, as last amended by Section 29, Chapter 97, O.S.L. 2006 (43A O.S. Supp. 2008, Section 5-507), is amended to read as follows:

Section 5-507. A. No minor who is taken into custody pursuant to Section ~~7003-2-1~~ 1-4-201 of Title ~~10~~ 10A of the Oklahoma Statutes as an alleged deprived child, or who has been adjudicated a ward of the court shall be admitted to a hospital or mental health or substance abuse treatment facility:

1. On an emergency basis except as provided by this section;

2. For inpatient treatment except upon a commitment order of the court pursuant to the provisions of subsection D of this section and after a finding that the minor requires such services as provided by Section 5-512 of this title.

B. After an initial assessment and a determination that a minor is a minor in need of treatment, the minor may be admitted to a hospital or mental health or substance abuse treatment facility on an emergency basis for a period not to exceed five (5) days from the time of admission, excluding weekends and holidays. On the next business day following admission, notice of such admission shall be given by the person responsible for the supervision of the case, as applicable, to the minor's attorney, Court Appointed Special Advocate (CASA) or guardian ad litem, the court and district attorney.

C. A minor admitted on an emergency basis pursuant to this section shall be evaluated and the mental health evaluation submitted to the district attorney within forty-eight (48) hours of admission, excluding weekends and holidays. The mental health evaluation shall be performed by a licensed mental health professional at the facility.

D. If after an inpatient or outpatient mental health evaluation it appears that the minor may require inpatient treatment, the district attorney shall file a petition as provided by Section 5-509 of this title within three (3) days after receiving the mental health evaluation requesting an order committing the minor to a facility for inpatient treatment. After the filing of a petition and upon issuance of a prehearing detention order, the minor may be detained in the facility for no longer than necessary for a hearing on the petition as provided by Section 5-510 of this title or further order of the court.

E. Nothing in this section shall be interpreted to preclude or prohibit a parent having physical custody of a minor who is a ward of the court from arranging for an emergency admission of the minor. In such cases, the parent shall immediately notify the person responsible for the supervision of the case of the admission.

SECTION 141. AMENDATORY 43A O.S. 2001, Section 5-510, as last amended by Section 10, Chapter 130, O.S.L. 2003 (43A O.S. Supp. 2008, Section 5-510), is amended to read as follows:

Section 5-510. Upon the filing of a petition alleging a minor to be a minor in need of treatment, the court shall:

1. Appoint an attorney to represent the minor if the minor is not represented by counsel. An attorney so appointed shall consult with the minor at least twenty-four (24) hours prior to the date set

for hearing the petition. In addition, the court may appoint a guardian ad litem as provided by Section ~~7003-3.7~~ 1-4-306 of Title ~~10~~ 10A of the Oklahoma Statutes;

2. Enter any prehearing detention orders as may be necessary;

3. Set a date for a hearing on the petition. The date shall not be less than one (1) day, or more than three (3) days, excluding weekends and legal holidays, from the date of the filing of the petition. Upon the request of the attorney for the minor, the date of the hearing may be extended once for up to an additional three (3) days, excluding weekends and holidays; and

4. Cause notice of the date, time, place and purpose of the hearing to be given to the petitioner, the minor, the parent(s) or legal custodian of the minor and the person in charge of the mental health or substance abuse treatment facility. If the minor is a ward of the court, or is in the custody of the Department of Human Services or the Office of Juvenile Affairs, notice shall also be given to a public or private child care agency having legal custody of the minor, if any, or to the person at the Department of Human Services, the Office of Juvenile Affairs or the applicable juvenile bureau responsible for the supervision of the case. The notice shall be given at least twenty-four (24) hours prior to the date set for the hearing and shall be given in such manner as directed by the court.

SECTION 142. AMENDATORY 43A O.S. 2001, Section 5-511, as last amended by Section 11, Chapter 130, O.S.L. 2003 (43A O.S. Supp. 2008, Section 5-511), is amended to read as follows:

Section 5-511. A. Hearings pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act shall be private unless specifically ordered by the judge to be conducted in public, but persons having a direct interest in the case shall be admitted. 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 Title ~~10~~ 10A of the Oklahoma Statutes for court records relating to children.

B. The minor may remain silent as a matter of right in hearings pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act and shall be so advised. No statement, admission or confession made by the minor alleged to be a minor in need of treatment shall be used against the minor for any purpose

except for proceedings pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

C. A decision determining a minor to be a minor in need of treatment must be based on sworn testimony and the minor must have the opportunity for cross-examination unless the facts are stipulated. Where the facts are stipulated, the judge must ascertain from the minor if the minor agrees with the stipulation and understands the consequences of stipulating the facts.

D. In hearings to determine whether a minor is a minor in need of treatment, the minor shall have the right to demand a trial by jury, which shall be granted as in other cases, unless waived, or the judge on his or her own motion may call a jury to try any such case. Such jury shall consist of six persons.

1. If a jury trial is not demanded, the court may receive as evidence and act upon the evaluation or report of the licensed mental health professional who evaluated the minor;

2. When the hearing is conducted as a jury trial, any witness on behalf of the district attorney shall be subject to cross-examination by the attorney for the minor alleged to be a minor requiring treatment.

SECTION 143. AMENDATORY 51 O.S. 2001, Section 152, as last amended by Section 1, Chapter 348, O.S.L. 2008 (51 O.S. Supp. 2008, Section 152), is amended to read as follows:

Section 152. As used in The Governmental Tort Claims Act:

1. "Action" means a proceeding in a court of competent jurisdiction by which one party brings a suit against another;

2. "Agency" means any board, commission, committee, department or other instrumentality or entity designated to act in behalf of the state or a political subdivision;

3. "Charitable health care provider" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of business or the practice of a profession and who provides care to a medically indigent person, as defined in paragraph 8 of this section, with no expectation of or acceptance of compensation of any kind;

4. "Claim" means any written demand presented by a claimant or the claimant's authorized representative in accordance with this act to recover money from the state or political subdivision as compensation for an act or omission of a political subdivision or the state or an employee;

5. "Claimant" means the person or the person's authorized representative who files notice of a claim in accordance with The Governmental Tort Claims Act. Only the following persons and no others may be claimants:

- a. any person holding an interest in real or personal property which suffers a loss, provided that the claim of the person shall be aggregated with claims of all other persons holding an interest in the property and the claims of all other persons which are derivative of the loss, and that multiple claimants shall be considered a single claimant,
- b. the individual actually involved in the accident or occurrence who suffers a loss, provided that the individual shall aggregate in the claim the losses of all other persons which are derivative of the loss, or
- c. in the case of death, an administrator, special administrator or a personal representative who shall aggregate in the claim all losses of all persons which are derivative of the death;

6. "Employee" means any person who is authorized to act in behalf of a political subdivision or the state whether that person is acting on a permanent or temporary basis, with or without being compensated or on a full-time or part-time basis.

- a. Employee also includes:
 - (1) all elected or appointed officers, members of governing bodies and other persons designated to act for an agency or political subdivision, but the term does not mean a person or other legal entity while acting in the capacity of an independent contractor or an employee of an independent contractor,

- (2) from September 1, 1991, through June 30, 1996, licensed physicians, licensed osteopathic physicians and certified nurse-midwives providing prenatal, delivery or infant care services to State Department of Health clients pursuant to a contract entered into with the State Department of Health in accordance with paragraph 3 of subsection B of Section 1-106 of Title 63 of the Oklahoma Statutes but only insofar as services authorized by and in conformity with the terms of the contract and the requirements of Section 1-233 of Title 63 of the Oklahoma Statutes, and
 - (3) any volunteer, full-time or part-time firefighter when performing duties for a fire department provided for in subparagraph j of paragraph 10 of this section.
- b. For the purpose of The Governmental Tort Claims Act, the following are employees of this state, regardless of the place in this state where duties as employees are performed:
- (1) physicians acting in an administrative capacity,
 - (2) resident physicians and resident interns participating in a graduate medical education program of the University of Oklahoma Health Sciences Center, the College of Osteopathic Medicine of Oklahoma State University, or the Department of Mental Health and Substance Abuse Services,
 - (3) faculty members and staff of the University of Oklahoma Health Sciences Center and the College of Osteopathic Medicine of Oklahoma State University, while engaged in teaching duties,
 - (4) physicians who practice medicine or act in an administrative capacity as an employee of an agency of the State of Oklahoma,
 - (5) physicians who provide medical care to inmates pursuant to a contract with the Department of Corrections,

- (6) any person who is licensed to practice medicine pursuant to Title 59 of the Oklahoma Statutes, who is under an administrative professional services contract with the Oklahoma Health Care Authority under the auspices of the Oklahoma Health Care Authority Chief Medical Officer, and who is limited to performing administrative duties such as professional guidance for medical reviews, reimbursement rates, service utilization, health care delivery and benefit design for the Oklahoma Health Care Authority, only while acting within the scope of such contract,
- (7) licensed medical professionals under contract with city, county, or state entities who provide medical care to inmates or detainees in the custody or control of law enforcement agencies, and
- (8) licensed mental health professionals as defined in Sections 1-103 and 5-502 of Title 43A of the Oklahoma Statutes, who are conducting initial examinations of individuals for the purpose of determining whether an individual meets the criteria for emergency detention as part of a contract with the Department of Mental Health and Substance Abuse Services.

Physician faculty members and staff of the University of Oklahoma Health Sciences Center and the College of Osteopathic Medicine of Oklahoma State University not acting in an administrative capacity or engaged in teaching duties are not employees or agents of the state.

- c. Except as provided in subparagraph b of this paragraph, in no event shall the state be held liable for the tortious conduct of any physician, resident physician or intern while practicing medicine or providing medical treatment to patients;

7. "Loss" means death or injury to the body or rights of a person or damage to real or personal property or rights therein;

8. "Medically indigent" means a person requiring medically necessary hospital or other health care services for the person or the dependents of the person who has no public or private third-party coverage, and whose personal resources are insufficient to provide for needed health care;

9. "Municipality" means any incorporated city or town, and all institutions, agencies or instrumentalities of a municipality;

10. "Political subdivision" means:

- a. a municipality,
- b. a school district,
- c. a county,
- d. a public trust where the sole beneficiary or beneficiaries are a city, town, school district or county. For purposes of The Governmental Tort Claims Act, a public trust shall include a municipal hospital created pursuant to Section 30-101 et seq. of Title 11 of the Oklahoma Statutes, a county hospital created pursuant to Section 781 et seq. of Title 19 of the Oklahoma Statutes, or is created pursuant to a joint agreement between such governing authorities, that is operated for the public benefit by a public trust created pursuant to Section 176 et seq. of Title 60 of the Oklahoma Statutes and managed by a governing board appointed or elected by the municipality, county, or both, who exercises control of the hospital, subject to the approval of the governing body of the municipality, county, or both,
- e. for the purposes of The Governmental Tort Claims Act only, a housing authority created pursuant to the provisions of the Oklahoma Housing Authority Act,
- f. for the purposes of The Governmental Tort Claims Act only, corporations organized not for profit pursuant to the provisions of the Oklahoma General Corporation Act for the primary purpose of developing and providing rural water supply and sewage disposal facilities to serve rural residents,

- g. for the purposes of The Governmental Tort Claims Act only, districts formed pursuant to the Rural Water, Sewer, Gas and Solid Waste Management Districts Act,
- h. for the purposes of The Governmental Tort Claims Act only, master conservancy districts formed pursuant to the Conservancy Act of Oklahoma,
- i. for the purposes of The Governmental Tort Claims Act only, a fire protection district created pursuant to the provisions of Section 901.1 et seq. of Title 19 of the Oklahoma Statutes,
- j. for the purposes of The Governmental Tort Claims Act only, a benevolent or charitable corporate volunteer or full-time fire department for an unincorporated area created pursuant to the provisions of Section 592 et seq. of Title 18 of the Oklahoma Statutes,
- k. for purposes of The Governmental Tort Claims Act only, an Emergency Services Provider rendering services within the boundaries of a Supplemental Emergency Services District pursuant to an existing contract between the Emergency Services Provider and the ~~Oklahoma~~ State Department of Health. Provided, however, that the acquisition of commercial liability insurance covering the activities of such Emergency Services Provider performed within the State of Oklahoma shall not operate as a waiver of any of the limitations, immunities or defenses provided for political subdivisions pursuant to the terms of The Governmental Tort Claims Act,
- l. for purposes of The Governmental Tort Claims Act only, a conservation district created pursuant to the provisions of the Conservation District Act,
- m. for purposes of The Governmental Tort Claims Act, districts formed pursuant to the Oklahoma Irrigation District Act,
- n. for purposes of The Governmental Tort Claims Act only, any community action agency established pursuant to

Sections 5035 through 5040 of Title 74 of the Oklahoma Statutes,

- o. for purposes of The Governmental Tort Claims Act only, any organization that is designated as a youth services agency, pursuant to Section ~~7302-3.6a~~ 2-7-306 of Title ~~10~~ 10A of the Oklahoma Statutes,
- p. for purposes of The Governmental Tort Claims Act only, any judge presiding over a drug court, as defined by Section 471.1 of Title 22 of the Oklahoma Statutes, and
- q. for purposes of The Governmental Tort Claims Act only, any child-placing agency licensed by this state to place children in foster family homes,

and all their institutions, instrumentalities or agencies;

11. "Scope of employment" means performance by an employee acting in good faith within the duties of the employee's office or employment or of tasks lawfully assigned by a competent authority including the operation or use of an agency vehicle or equipment with actual or implied consent of the supervisor of the employee, but shall not include corruption or fraud;

12. "State" means the State of Oklahoma or any office, department, agency, authority, commission, board, institution, hospital, college, university, public trust created pursuant to Title 60 of the Oklahoma Statutes of which the State of Oklahoma is the beneficiary, or other instrumentality thereof; and

13. "Tort" means a legal wrong, independent of contract, involving violation of a duty imposed by general law or otherwise, resulting in a loss to any person, association or corporation as the proximate result of an act or omission of a political subdivision or the state or an employee acting within the scope of employment.

SECTION 144. AMENDATORY 56 O.S. 2001, Section 1025.1, as last amended by Section 1, Chapter 71, O.S.L. 2008 (56 O.S. Supp. 2008, Section 1025.1), is amended to read as follows:

Section 1025.1 For the purposes of this chapter:

- 1. "Bureau" means the Oklahoma State Bureau of Investigation;

2. "Commission" means the Commission for Human Services;

3. "Community services provider" means a community-based program, corporation, or individual who contracts with, or is licensed or funded by, the Department of Human Services to provide residential or vocational services to persons with mental retardation or developmental disabilities, or contracts with the Oklahoma Health Care Authority to provide services to individuals with mental retardation through a Home and Community-Based Waiver, except a private ICF/MR;

4. "Community services worker" means any person employed by or under contract with a community services provider who provides, for compensation or as a volunteer, health-related services, training, or supportive assistance to persons with developmental disabilities, and who is not a licensed health professional or any person who contracts with the Oklahoma Health Care Authority to provide specialized foster care, habilitation training specialist services, or homemaker services to persons with developmental disabilities;

5. "Department" means the Department of Human Services;

6. "Developmental disability" means a severe, chronic disability of a person which:

- a. is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, or autism,
- b. is manifested before the person attains twenty-two (22) years of age,
- c. is likely to continue indefinitely,
- d. results in substantial functional limitations in three or more of the following areas of major life activity:
 - (1) self-care,
 - (2) receptive and expressive language,
 - (3) learning,
 - (4) mobility,

- (5) self-direction,
 - (6) capacity for independent living, and
 - (7) economic self-sufficiency, and
- e. reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated;

7. "Health-related services" means those services provided by community services providers or community services workers to persons with developmental disabilities that include, but are not limited to, personal hygiene, transferring, range of motion, supervision or assistance in activities of daily living, basic nursing care such as taking temperature, pulse or respiration, positioning, incontinent care, and identification of signs and symptoms of disease. Certain tasks that may be performed as basic nursing care by community services workers require appropriate training provided or approved by the Department, written agreement by the service recipient's personal support team, and the primary care physician's acknowledgement and specific order related to the task. Under such circumstances, basic nursing care may include, but need not be limited to:

- a. nutrition, including meals by gastrostomy tube or jejeunostomy tube,
- b. blood glucose monitoring,
- c. ostomy bag care,
- d. oral suctioning, and
- e. administration of oral metered dose inhalers and nebulizers;

8. "Supportive assistance" means the service rendered to persons with developmental disabilities which is sufficient to enable such person to meet an adequate level of daily living. Supportive assistance includes, but is not limited to, training, supervision, assistance in housekeeping, assistance in the

preparation of meals, and assistance in activities of daily living as necessary for the health and comfort of persons with developmental disabilities;

9. "Maltreatment" means abuse, verbal abuse, sexual abuse, neglect, financial neglect, exploitation or sexual exploitation of vulnerable adults as defined in Section 10-103 of Title 43A of the Oklahoma Statutes or abuse, neglect, sexual abuse or sexual exploitation of children as defined in Section ~~7102~~ 1-1-105 of Title ~~10~~ 10A of the Oklahoma Statutes;

10. "Personal care" means a level of assistance provided in the home of an individual to meet the individual's activities of daily living needs such as bathing, grooming, meal preparation, light housekeeping, laundry, and care plan-directed errands;

11. "Medicaid personal care services provider" means a program, corporation or individual who provides services under the state Medicaid program personal care program or Advantage Waiver to individuals who are elderly or who have a physical disability;

12. "Medicaid personal care assistant" means a person who provides Medicaid services funded under the state Medicaid program personal care program, who is not a certified nurse aide or a licensed professional;

13. "Specialized foster care" means the home- and community-based service as defined in the 1915(c) waiver approved by the Centers for Medicare and Medicaid Services;

14. "Habilitation training specialist services" means the home- and community-based service as defined in the 1915 (c) waiver approved by the Centers for Medicare and Medicaid Services;

15. "Homemaker services" means the home- and community-based service as defined in the 1915(c) waiver approved by the Centers for Medicare and Medicaid Services.

SECTION 145. AMENDATORY 57 O.S. 2001, Section 138, as last amended by Section 12, Chapter 358, O.S.L. 2004 (57 O.S. Supp. 2008, Section 138), is amended to read as follows:

Section 138. A. Except as otherwise provided by law, every inmate of a state correctional institution shall have their term of imprisonment reduced monthly, based upon the class level to which

they are assigned. Earned credits may be subtracted from the total credits accumulated by an inmate, upon recommendation of the institution's disciplinary committee, following due process, and upon approval of the warden or superintendent. Each earned credit is equivalent to one (1) day of incarceration. Lost credits may be restored by the warden or superintendent upon approval of the classification committee. If a maximum and minimum term of imprisonment is imposed, the provisions of this subsection shall apply only to the maximum term. No deductions shall be credited to any inmate serving a sentence of life imprisonment; however, a complete record of the inmate's participation in work, school, vocational training, or other approved program shall be maintained by the Department for consideration by the paroling authority. No earned credit deductions shall be credited or recorded for any inmate serving any sentence for a criminal act which resulted in the death of a police officer, a law enforcement officer, an employee of the Department of Corrections, or an employee of a private prison contractor and the death occurred while the police officer, law enforcement officer, employee of the Department of Corrections, or employee of a private prison contractor was acting within the scope of their employment.

B. The Department of Corrections is directed to develop a written policy and procedure whereby inmates shall be assigned to one of four class levels determined by an adjustment review committee of the facility to which the inmate is assigned. The policies and procedures developed by the Department shall include, but not be limited to, written guidelines pertaining to awarding credits for rehabilitation, obtaining job skills and educational enhancement, participation in and completion of alcohol/chemical abuse programs, incentives for inmates to accept work assignments and jobs, work attendance and productivity, conduct record, participation in programs, cooperative general behavior, and appearance. When assigning inmates to a class level the adjustment review committee shall consider all aspects of the policy and procedure developed by the Department including but not limited to, the criteria for awarding credits required by this subsection.

C. If an inmate is subject to misconduct, nonperformance or disciplinary action, earned credits may be removed according to the policies and procedures developed by the Department. Earned credits removed for misconduct, nonperformance or disciplinary action may be restored as provided by Department policy, if any.

D. 1. Class levels shall be as follows:

- a. Class level 1 shall include inmates not eligible to participate in class levels 2 through 4, and shall include, but not be limited to, inmates on escape status.
 - b. Class level 2 shall include an inmate who has been given a work, education, or program assignment, has received a good evaluation for participation in the work, education, or program assignment, and has received a good evaluation for personal hygiene and maintenance of living area.
 - c. Class level 3 shall include an inmate who has been incarcerated at least three (3) months, has received an excellent work, education, or program evaluation, and has received an excellent evaluation for personal hygiene and maintenance of living area.
 - d. Class level 4 shall include an inmate who has been incarcerated at least eight (8) months, has received an outstanding work, education, or program evaluation, and has received an outstanding evaluation for personal hygiene and maintenance of living area.
2. a. Until November 1, 2001, class level corresponding credits are as follows:

Class 1 - 0 Credits per month;

Class 2 - 22 Credits per month;

Class 3 - 33 Credits per month;

Class 4 - 44 Credits per month.
 - b. Class level corresponding credits beginning November 1, 2001, for inmates who have ever been convicted as an adult or a youthful offender or adjudicated delinquent as a juvenile for a felony offense enumerated in subsection E of this section are as follows:

Class 1 - 0 Credits per month;

Class 2 - 22 Credits per month;

Class 3 - 33 Credits per month;

Class 4 - 44 Credits per month.

- c. Class level corresponding credits beginning November 1, 2001, for inmates who have never been convicted as an adult or a youthful offender or adjudicated delinquent as a juvenile for a felony offense enumerated in subsection E of this section are as follows:

Class 1 - 0 Credits per month;

Class 2 - 22 Credits per month;

Class 3 - 45 Credits per month;

Class 4 - 60 Credits per month.

Each inmate shall receive the above specified monthly credits for the class to which he or she is assigned. In determining the prior criminal history of the inmate, the Department of Corrections shall review criminal history records available through the Oklahoma State Bureau of Investigation, Federal Bureau of Investigation, and National Crime Information Center to determine the reported felony convictions of all inmates. The Department of Corrections shall also review the Office of Juvenile Affairs Juvenile On-line Tracking System for inmates who were adjudicated delinquent or convicted as a youthful offender for a crime that would be an offense enumerated in subsection E of this section.

3. In addition to the criteria established for each class in paragraph 1 of this subsection, the following requirements shall apply to each of levels 2 through 4:

- a. satisfactory participation in the work, education, or program assignment at the standard required for the particular class level;
- b. maintenance of a clean and orderly living area and personal hygiene at the standard required for the particular class level;

- c. cooperative behavior toward facility staff and other inmates;
- d. satisfactory participation in the requirements of the previous class level.

4. The evaluation scale for assessing performance shall be as follows:

- a. Outstanding - For inmates who display consistently exceptional initiative, motivation, and work habits.
- b. Excellent - For inmates who display above-average work habits with only minor errors and rarely perform below expectations.
- c. Good - For inmates who perform in a satisfactory manner and complete tasks as required, doing what is expected, with only occasional performance above or below expectations.
- d. Fair - For inmates who may perform satisfactorily for some periods of time, but whose performance is marked by obviously deficient and weak areas and could be improved.
- e. Poor - For inmates whose performance is unsatisfactory and falls below expected and acceptable standards.

E. No person ever convicted as an adult or a youthful offender or adjudicated delinquent as a juvenile in this state for any felony offense enumerated in this subsection or a similar felony offense pursuant to the provisions of another state, the United States, or a military court shall be eligible for the credits provided by the provisions of subparagraph c of paragraph 2 of subsection D of this section.

1. Assault, battery, or assault and battery with a dangerous weapon as defined by Section 645, or subsection C of Section 652 of Title 21 or Section 2-219 of Title 43A of the Oklahoma Statutes;

2. Aggravated assault and battery on a police officer, sheriff, highway patrolman, or any other officer of the law as defined by Section 650, subsection C of Section 650.2, 650.5, subsection B of

Section 650.6, or subsection C of Section 650.7 of Title 21 of the Oklahoma Statutes;

3. Poisoning with intent to kill as defined by Section 651 of Title 21 of the Oklahoma Statutes;

4. Shooting with intent to kill as defined by Section 652 of Title 21 of the Oklahoma Statutes;

5. Assault with intent to kill as defined by Section 653 of Title 21 of the Oklahoma Statutes;

6. Assault with intent to commit a felony as defined by Section 681 of Title 21 of the Oklahoma Statutes;

7. Assaults while masked or disguised as defined by Section 1303 of Title 21 of the Oklahoma Statutes;

8. Entering premises of another while masked as defined by Section 1302 of Title 21 of the Oklahoma Statutes;

9. Murder in the first degree as defined by Section 701.7 of Title 21 of the Oklahoma Statutes;

10. Solicitation for Murder in the first degree as defined by Section 701.16 of Title 21 of the Oklahoma Statutes;

11. Murder in the second degree as defined by Section 701.8 of Title 21 of the Oklahoma Statutes;

12. Manslaughter in the first degree as defined by Section 711, ~~712, 713~~ or 714 of Title 21 of the Oklahoma Statutes;

13. Manslaughter in the second degree as defined by Section 716 or 717 of Title 21 of the Oklahoma Statutes;

14. Kidnapping as defined by Section 741 of Title 21 of the Oklahoma Statutes;

15. Burglary in the first degree as defined by Section 1431 of Title 21 of the Oklahoma Statutes;

16. Burglary with explosives as defined by Section 1441 of Title 21 of the Oklahoma Statutes;

17. Kidnapping for extortion as defined by Section 745 of Title 21 of the Oklahoma Statutes;
18. Maiming as defined by Section 751 of Title 21 of the Oklahoma Statutes;
19. Robbery as defined by Section 791 of Title 21 of the Oklahoma Statutes;
20. Robbery in the first degree as defined by Section 797 of Title 21 of the Oklahoma Statutes;
21. Robbery in the second degree as defined by Section 797 of Title 21 of the Oklahoma Statutes;
22. Armed robbery as defined by Section 801 of Title 21 of the Oklahoma Statutes;
23. Robbery by two (2) or more persons as defined by Section 800 of Title 21 of the Oklahoma Statutes;
24. Robbery with dangerous weapon or imitation firearm as defined by Section 801 of Title 21 of the Oklahoma Statutes;
25. Any crime against a child provided for in Section ~~7115~~ 843.5 of Title ~~10~~ 21 of the Oklahoma Statutes;
26. Wiring any equipment, vehicle or structure with explosives as defined by Section 849 of Title 21 of the Oklahoma Statutes;
27. Forcible sodomy as defined by Section 888 of Title 21 of the Oklahoma Statutes;
28. Rape in the first degree as defined by Sections 1111 and 1114 of Title 21 of the Oklahoma Statutes;
29. Rape in the second degree as defined by Sections 1111 and 1114 of Title 21 of the Oklahoma Statutes;
30. Rape by instrumentation as defined by Section 1111.1 of Title 21 of the Oklahoma Statutes;
31. Lewd or indecent proposition or lewd or indecent act with a child as defined by Section 1123 of Title 21 of the Oklahoma Statutes;

32. Sexual battery of a person over 16 as defined by Section 1123 of Title 21 of the Oklahoma Statutes;

33. Use of a firearm or offensive weapon to commit or attempt to commit a felony as defined by Section 1287 of Title 21 of the Oklahoma Statutes;

34. Pointing firearms as defined by Section 1289.16 of Title 21 of the Oklahoma Statutes;

35. Rioting as defined by Section 1311 or 1321.8 of Title 21 of the Oklahoma Statutes;

36. Inciting to riot as defined by Section 1320.2 of Title 21 of the Oklahoma Statutes;

37. Arson in the first degree as defined by Section 1401 of Title 21 of the Oklahoma Statutes;

38. Endangering human life during arson as defined by Section 1405 of Title 21 of the Oklahoma Statutes;

39. Injuring or burning public buildings as defined by Section 349 of Title 21 of the Oklahoma Statutes;

40. Sabotage as defined by ~~Sections~~ Section 1262, 1265.4 or 1265.5 of Title 21 of the Oklahoma Statutes;

41. Extortion as defined by Section 1481 or 1486 of Title 21 of the Oklahoma Statutes;

42. Obtaining signature by extortion as defined by Section 1485 of Title 21 of the Oklahoma Statutes;

43. Seizure of a bus, discharging firearm or hurling missile at bus as defined by Section 1903 of Title 21 of the Oklahoma Statutes;

44. Mistreatment of a vulnerable adult as defined by Section 843.1 of Title 21 of the Oklahoma Statutes;

45. Sex offender providing services to a child as defined by Section 404.1 of Title 10 of the Oklahoma Statutes;

46. A felony offense of domestic abuse as defined by subsection C of Section 644 of Title 21 of the Oklahoma Statutes;

47. Prisoner placing body fluid on government employee as defined by Section 650.9 of Title 21 of the Oklahoma Statutes;

48. Poisoning food or water supply as defined by Section 832 of Title 21 of the Oklahoma Statutes;

49. Trafficking in children as defined by Section 866 of Title 21 of the Oklahoma Statutes;

50. Incest as defined by Section 885 of Title 21 of the Oklahoma Statutes;

51. Procure, produce, distribute, or possess juvenile pornography as defined by Section 1021.2 of Title 21 of the Oklahoma Statutes;

52. Parental consent to juvenile pornography as defined by Section 1021.3 of Title 21 of the Oklahoma Statutes;

53. Soliciting minor for indecent exposure as defined by Section 1021 of Title 21 of the Oklahoma Statutes;

54. Distributing obscene material or child pornography as defined by Section 1040.13 of Title 21 of the Oklahoma Statutes;

55. Child prostitution as defined by Section 1030 of Title 21 of the Oklahoma Statutes;

56. Procuring a minor for prostitution or other lewd acts as defined by Section 1087 of Title 21 of the Oklahoma Statutes;

57. Transporting a child under 18 for purposes of prostitution as defined by Section 1087 of Title 21 of the Oklahoma Statutes;

58. Inducing a minor to engage in prostitution as defined by Section 1088 of Title 21 of the Oklahoma Statutes;

59. A felony offense of stalking as defined by subsection D of Section 1173 of Title 21 of the Oklahoma Statutes;

60. Spread of infectious diseases as defined by Section 1192 of Title 21 of the Oklahoma Statutes;

61. Advocate overthrow of government by force, commit or attempt to commit acts to overthrow the government, organize or provide assistance to groups to overthrow the government as defined by Section 1266, 1266.4 or 1267.1 of Title 21 of the Oklahoma Statutes;

62. Feloniously discharging a firearm as defined by Section 1289.17A of Title 21 of the Oklahoma Statutes;

63. Possession, use, manufacture, or ~~telephone~~ threat of incendiary device as defined by Section 1767.1 of Title 21 of the Oklahoma Statutes;

64. Causing a personal injury accident while driving under the influence as defined by Section 11-904 of Title 47 of the Oklahoma Statutes; or

65. Using a motor vehicle to facilitate the discharge of a firearm as defined by Section 652 of Title 21 of the Oklahoma Statutes.

F. The policy and procedure developed by the Department of Corrections shall include provisions for adjustment review committees of not less than three members for each such committee. Each committee shall consist of a classification team supervisor who shall act as chairman, the case manager for the inmate being reviewed or classified, a correctional officer or inmate counselor, and not more than two other members, if deemed necessary, determined pursuant to policy and procedure to be appropriate for the specific adjustment review committee or committees to which they are assigned. At least once every four (4) months the adjustment review committee for each inmate shall evaluate the class level status and performance of the inmate and determine whether or not the class level for the inmate should be changed.

Any inmate who feels aggrieved by a decision made by an adjustment review committee may utilize normal grievance procedures in effect with the Department of Corrections and in effect at the facility in which the inmate is incarcerated.

G. Inmates granted medical leaves for treatment that cannot be furnished at the penal institution where incarcerated shall be allowed the time spent on medical leave as time served. Any inmate placed into administrative segregation for nondisciplinary reasons

by the institution's administration may be placed in Class 2. The length of any jail term served by an inmate before being transported to a state correctional institution pursuant to a judgment and sentence of incarceration shall be deducted from the term of imprisonment at the state correctional institution. Inmates sentenced to the Department of Corrections and detained in a county jail as a result of the Department's reception scheduling procedure shall be awarded earned credits as provided for in subparagraph b of paragraph 1 of subsection D of this section, beginning on the date of the judgment and sentence, unless the inmate is convicted of a misdemeanor or felony committed in the jail while the inmate is awaiting transport to the Lexington Assessment and Reception Center or other assessment and reception location determined by the Director of the Department of Corrections.

H. Additional achievement earned credits for successful completion of departmentally approved programs or for attaining goals or standards set by the Department shall be awarded as follows:

- High School Diploma or Equivalent
General Education Diploma.....90 credits;
- Certification of Completion of
Vocational Training.....80 credits;
- Successful completion of
Alcohol/Chemical Abuse Treatment
Program of not less than four (4)
months continuous participation.....70 credits;
- Successful completion of other
Educational Accomplishments or
other programs not specified in
this subsection.....10-30 credits;

Achievement earned credits are subject to loss and restoration in the same manner as earned credits.

I. The accumulated time of every inmate shall be tallied monthly and maintained by the institution where the term of imprisonment is being served. A record of said accumulated time shall be:

1. Sent to the administrative office of the Department of Corrections on a quarterly basis; and

2. Provided to the inmate.

SECTION 146. AMENDATORY 57 O.S. 2001, Section 216, is amended to read as follows:

Section 216. In this act, unless the context otherwise requires:

1. "Director" shall mean the Director of the ~~State~~ Department of Corrections.

2. "Public works project" means a project that has been determined by the State Board of Corrections to be of necessity for the public well-being conducive to rehabilitation and the reduction of recidivism among participating inmates by the written request of a majority of the board of county commissioners, the governing body of any municipality or any agency of the State of Oklahoma or of the United States or any subdivision thereof.

3. "Prisoner" shall mean any person who is under the custody and control of the Department of Corrections. No prisoner shall be assigned to any public works project if the inmate:

- a. is deemed by the Director to be a threat to public safety,
- b. has escaped or attempted to escape from a correctional institution within the last ten (10) years, or
- c. has been convicted, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, or received a suspended sentence or any probationary term for a crime or an attempt to commit a crime provided for in Section ~~7115~~ 843.5 of Title ~~10~~ 21 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section ~~7102~~ 1-1-105 of Title ~~10~~ 10A of the Oklahoma Statutes or Section 741, 843.1, if the offense included sexual abuse or sexual exploitation, 865 through 869, 885, 886, 888, 891, 1021, 1021.2, 1021.3, 1040.13a, 1040.51, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes.

SECTION 147. AMENDATORY 57 O.S. 2001, Section 582, as last amended by Section 22, Chapter 261, O.S.L. 2007 (57 O.S. Supp. 2008, Section 582), is amended to read as follows:

Section 582. A. The provisions of the Sex Offenders Registration Act, Section 581 et seq. of this title, shall apply to any person residing, working or attending school within the State of Oklahoma who, after November 1, 1989, has been convicted, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, or received a suspended sentence or any probationary term, or is currently serving a sentence or any form of probation or parole for a crime or an attempt to commit a crime provided for in Section ~~7115~~ 843.5 of Title ~~10~~ 21 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section ~~7102~~ 1-1-105 of Title ~~10~~ 10A of the Oklahoma Statutes, Section 681, if the offense involved sexual assault, 741, if the offense involved sexual abuse or sexual exploitation, Section 843.1, if the offense involved sexual abuse or sexual exploitation, 865 et seq., 885, 886, 888, 891, if the offense involved sexual abuse or sexual exploitation, 1021, 1021.2, 1021.3, 1040.13a, 1040.51, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes.

B. The provisions of the Sex Offenders Registration Act shall apply to any person who after November 1, 1989, resides, works or attends school within the State of Oklahoma and who has been convicted or received a suspended sentence at any time in any court of another state, a federal court, an Indian tribal court or a military court for a crime or attempted crime which, if committed or attempted in this state, would be a crime or an attempt to commit a crime provided for in any of said laws listed in subsection A of this section.

C. The provisions of the Sex Offenders Registration Act shall apply to any person who resides, works or attends school within the State of Oklahoma and who has received a deferred judgment at any time in any court of another state, a federal court, an Indian tribal court or a military court for a crime or attempted crime which, if committed or attempted in this state, would be a crime or an attempt to commit a crime provided for in Section ~~7115~~ 843.5 of Title ~~10~~ 21 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section ~~7102~~ 1-1-105 of Title ~~10~~ 10A of the Oklahoma Statutes, Section 681, if the offense involved sexual assault, 741, if the offense involved

sexual abuse or sexual exploitation, Section 843.1, if the offense involved sexual abuse or sexual exploitation, 865 et seq., 885, 886, 888, 891, if the offense involved sexual abuse or sexual exploitation, 1021, 1021.2, 1021.3, 1040.13a, 1040.51, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes. The provisions of the Sex Offenders Registration Act shall not apply to any such person while the person is incarcerated in a maximum or medium correctional institution of the Department of Corrections.

D. On the effective date of this act, any person registered as a sex offender pursuant to Section 741 of Title 21 of the Oklahoma Statutes shall be summarily removed from the Sex Offender Registry by the Department of Corrections and all law enforcement agencies of any political subdivision of this state, unless the offense involved sexual abuse or sexual exploitation.

SECTION 148. AMENDATORY 57 O.S. 2001, Section 584, as last amended by Section 28, Chapter 261, O.S.L. 2007 (57 O.S. Supp. 2008, Section 584), is amended to read as follows:

Section 584. A. Any registration with the Department of Corrections required by the Sex Offenders Registration Act shall be in a form approved by the Department and shall include the following information about the person registering:

1. The name of the person and all aliases used or under which the person has been known;

2. A complete description of the person, including a photograph and fingerprints, and when requested by the Department of Corrections, such registrant shall submit to a blood or saliva test for purposes of a deoxyribonucleic acid (DNA) profile. Submission to testing for individuals registering shall be within thirty (30) days of registration. Registrants who already have valid samples on file in the Oklahoma State Bureau of Investigation (OSBI) DNA Offender Database shall not be required to submit duplicate samples for testing;

3. The offenses listed in Section 582 of this title for which the person has been convicted or the person received a suspended sentence or any form of probation, where the offense was committed, where the person was convicted or received the suspended sentence or any form of probation, and the name under which the person was convicted or received the suspended sentence or probation;

4. The name and location of each hospital or penal institution to which the person was committed for each offense listed in Section 582 of this title;

5. Where the person previously resided, where the person currently resides, how long the person has resided there, how long the person expects to reside there, and how long the person expects to remain in the county and in this state. The Department of Corrections shall conduct address verification of each registered sex offender as follows:

- a. on an annual basis, if the numeric risk level of the person is one, or
- b. on a semiannual basis, if the numeric risk level of the person is two.

The Department of Corrections shall mail a nonforwardable verification form to the last-reported address of the person. The person shall return the verification form in person to the local law enforcement authority of that jurisdiction within ten (10) days after receipt of the form and may be photographed by the local law enforcement authority at that time. The local law enforcement authority shall require the person to produce proof of the identity of the person and current address. Upon confirming the information contained within the verification form, the local law enforcement authority shall forward the form to the Department of Corrections within three (3) days after receipt of the form. The verification form shall be signed by the person and state the current address of the person. Failure to return the verification form shall be a violation of the Sex Offenders Registration Act. If the offender has been determined to be a habitual or aggravated sex offender by the Department of Corrections or has been assigned a numeric risk level of three, the address verification shall be conducted every ninety (90) days. The Department of Corrections shall notify the office of the district attorney and local law enforcement authority of the appropriate county, within forty-five (45) days if unable to verify the address of a sex offender. A local law enforcement authority may notify the office of the district attorney whenever it comes to the attention of the local law enforcement authority that a sex offender is not in compliance with any provisions of this act. A local law enforcement authority designated as the primary registration authority of the person may, at any time, mail a nonforwardable verification form to the last-reported address of the person. The person shall return the verification form in person to

the local law enforcement authority that mailed the form within ten (10) days after receipt of the form. The local law enforcement authority shall require the person to produce proof of the identity of the person and current address;

6. The name and address of any school where the person expects to become or is enrolled or employed for any length of time;

7. A description of all occupants residing with the person registering, including, but not limited to, name, date of birth, gender, relation to the person registering, and how long the occupant has resided there; and

8. The numeric risk level of the person.

B. Conviction data and fingerprints shall be promptly transmitted at the time of registration to the Oklahoma State Bureau of Investigation (OSBI) and the Federal Bureau of Investigation (FBI) if the state has not previously sent the information at the time of conviction.

C. The registration with the local law enforcement authority required by the Sex Offenders Registration Act shall be in a form approved by the local law enforcement authority and shall include the following information about the person registering:

1. The full name of the person, alias, date of birth, sex, race, height, weight, eye color, social security number, driver license number, and home address;

2. A description of the offense for which the offender was convicted, the date of the conviction, and the sentence imposed, if applicable;

3. A photocopy of the driver license of the person; and

4. The numeric risk level of the person.

For purposes of this section, "local law enforcement authority" means:

a. the municipal police department, if the person resides or intends to reside or stay within the jurisdiction of any municipality of this state, or

- b. the county sheriff, if the person resides or intends to reside or stay at any place outside the jurisdiction of any municipality within this state, and
- c. the police or security department of any institution of higher learning within this state if the person:
 - (1) enrolls as a full-time or part-time student,
 - (2) is a full-time or part-time employee at an institution of higher learning, or
 - (3) resides or intends to reside or stay on any property owned or controlled by the institution of higher learning.

D. Any person subject to the provisions of the Sex Offenders Registration Act who changes an address shall give written notification to the Department of Corrections and the local law enforcement authority of the change of address and the new address no later than three (3) business days prior to the abandonment of or move from the current address. If the new address is under the jurisdiction of a different local law enforcement authority:

1. The Department of Corrections and the local law enforcement authority shall notify the new local law enforcement authority by teletype, electronic transmission, or letter of the change of address;

2. The offender shall notify the new local law enforcement authority of any previous registration; and

3. The new local law enforcement authority shall notify the most recent registering agency by teletype or letter of the change in address of the offender. If the new address is in another state the Department of Corrections shall promptly notify the agency responsible for registration in that state of the new address of the offender.

E. The Department of Corrections shall maintain a file of all sex offender registrations. A copy of the information contained in the registration shall promptly be available to state, county and municipal law enforcement agencies, the State Superintendent of Public Instruction, the State Commissioner of Health, and the

National Sex Offender Registry maintained by the Federal Bureau of Investigation. The file shall promptly be made available for public inspection or copying pursuant to rules promulgated by the Department of Corrections and may be made available through Internet access. The Department of Corrections shall promptly provide all municipal police departments, all county sheriff departments and all campus police departments a list of those sex offenders registered and living in their county.

F. The Superintendent of Public Instruction is authorized to copy and shall distribute information from the sex offender registry to school districts and individual public and private schools within the state with a notice using the following or similar language: "A person whose name appears on this registry has been convicted of a sex offense. Continuing to employ a person whose name appears on this registry may result in civil liability for the employer or criminal prosecution pursuant to Section 589 of Title 57 of the Oklahoma Statutes."

G. The State Commissioner of Health is authorized to distribute information from the sex offender registry to any nursing home or long-term care facility. Nothing in this subsection shall be deemed to impose any liability upon or give rise to a cause of action against any person, agency, organization, or company for failing to release information in accordance with the Sex Offenders Registration Act.

H. Each local law enforcement authority shall make its sex offender registry available upon request, without restriction, at a cost that is no more than what is charged for other records provided by the local law enforcement authority pursuant to the Oklahoma Open Records Act.

When a local law enforcement authority sends a copy of or otherwise makes the sex offender registry available to any public or private school offering any combination of prekindergarten through twelfth grade classes or child care facility licensed by the state, the agency shall provide a notice using the following or similar language: "A person whose name appears on this registry has been convicted of a sex offense. Continuing to employ a person whose name appears on this registry may result in civil liability for the employer or criminal prosecution pursuant to Section 589 of Title 57 of the Oklahoma Statutes."

I. Samples of blood or saliva for DNA testing required by subsection A of this section shall be taken by employees or contractors of the Department of Corrections. Said individuals shall be properly trained to collect blood or saliva samples. Persons collecting samples for DNA testing pursuant to this section shall be immune from civil liabilities arising from this activity. The Department of Corrections shall ensure the collection of samples is mailed to the Oklahoma State Bureau of Investigation (OSBI) within ten (10) days of the time the subject appears for testing. The Department shall use sample kits provided by the OSBI and procedures promulgated by the OSBI. Persons subject to DNA testing pursuant to this section shall be required to pay to the Department of Corrections a fee of Fifteen Dollars (\$15.00). Any fees collected pursuant to this subsection shall be deposited in the Department of Corrections revolving account.

J. 1. Any person who has been convicted of or received a suspended sentence or any probationary term, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, for any crime listed in Section 582 of this title and:

- a. who is subsequently convicted of a crime or an attempt to commit a crime listed in subsection A of Section 582 of this title, or
- b. who enters this state after November 1, 1997, and who has been convicted of an additional crime or attempted crime which, if committed or attempted in this state, would be a crime or an attempt to commit a crime provided for in subsection A of Section 582 of this title,

shall be subject to all of the registration requirements of this act and shall be designated by the Department of Corrections as a habitual sex offender. A habitual sex offender shall be required to register for the lifetime of the habitual sex offender.

2. On or after November 1, 1999, any person who has been convicted of a crime or an attempt to commit a crime, received a suspended sentence or any probationary term, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, for a crime provided for in Section ~~7115~~ 843.5 of Title ~~10~~ 21 of the Oklahoma Statutes, if the offense involved sexual abuse or sexual exploitation as these terms

are defined in Section ~~7102~~ 1-1-105 of Title ~~10~~ 10A of the Oklahoma Statutes, Section 885, 888, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes shall be subject to all the registration requirements of this act and shall be designated by the Department of Corrections as an aggravated sex offender. An aggravated sex offender shall be required to register for the lifetime of the aggravated sex offender.

3. Upon registration of any person designated as a habitual or aggravated sex offender, pursuant to this subsection, a local law enforcement authority shall notify, by any method of communication it deems appropriate, anyone that the local law enforcement authority determines appropriate, including, but not limited to:

- a. the family of the habitual or aggravated sex offender,
- b. any prior victim of the habitual or aggravated sex offender,
- c. residential neighbors and churches, community parks, schools, convenience stores, businesses and other places that children or other potential victims may frequent, and
- d. a nursing facility, a specialized facility, a residential care home, a continuum-of-care facility, an assisted living center, and an adult day care facility.

4. The notification may include, but is not limited to, the following information:

- a. the name and physical address of the habitual or aggravated sex offender,
- b. a physical description of the habitual or aggravated sex offender, including, but not limited to, age, height, weight and eye and hair color,
- c. a description of the vehicle that the habitual or aggravated sex offender is known to drive,
- d. any conditions or restrictions upon the probation, parole or conditional release of the habitual or aggravated sex offender,

- e. a description of the primary and secondary targets of the habitual or aggravated sex offender,
- f. a description of the method of offense of the habitual or aggravated sex offender,
- g. a current photograph of the habitual or aggravated sex offender,
- h. the name and telephone number of the probation or parole officer of the habitual or aggravated sex offender; and
- i. the numeric risk level of the person.

5. The local law enforcement authority shall make the notification provided for in this subsection regarding a habitual or aggravated sex offender available to any person upon request.

K. If the probation and parole officer supervising a person subject to registration receives information to the effect that the status of the person has changed in any manner that affects proper supervision of the person including, but not limited to, a change in the physical health of the person, address, employment, or educational status, higher educational status, incarceration, or terms of release, the supervising officer or administrator shall notify the appropriate local law enforcement authority or authorities of that change.

L. Public officials, public employees, and public agencies are immune from civil liability for good faith conduct under any provision of the Sex Offenders Registration Act.

1. Nothing in the Sex Offenders Registration Act shall be deemed to impose any liability upon or to give rise to a cause of action against any public official, public employee, or public agency for releasing information to the public or for failing to release information in accordance with the Sex Offenders Registration Act.

2. Nothing in this section shall be construed to prevent law enforcement officers from notifying members of the public of any persons that pose a danger under circumstances that are not enumerated in the Sex Offenders Registration Act.

SECTION 149. AMENDATORY Section 3, Chapter 358, O.S.L. 2004, as amended by Section 3, Chapter 162, O.S.L. 2008 (57 O.S. Supp. 2008, Section 593), is amended to read as follows:

Section 593. A. On and after November 1, 2004, the provisions of the Mary Rippy Violent Crime Offenders Registration Act shall apply to:

1. Any person residing, working or attending school in this state who is subsequently convicted of, or who receives a deferred judgment or suspended sentence for, any crime or attempted crime enumerated in subsection B of this section by any court in this state, another state, the United States, a tribal court, or a military court; or

2. Any person who subsequently enters this state for purposes of residence, work or to attend school and who has been previously convicted of or is subject to a deferred judgment, suspended sentence, probation or parole from any court of another state, the United States, a tribal court, or a military court for any crime or attempted crime which, if committed or attempted in this state, would be a crime substantially similar to any crime enumerated in subsection B of this section.

For purposes of this act, "convicted of" means an adjudication of guilt by a court of competent jurisdiction whether upon a verdict or plea of guilty or nolo contendere.

B. The following crimes and attempts to commit such crimes shall be registered under the Mary Rippy Violent Crime Offenders Registration Act:

1. First degree murder as provided for in Section 701.7 of Title 21 of the Oklahoma Statutes;

2. Second degree murder as provided for in Section 701.8 of Title 21 of the Oklahoma Statutes;

3. Manslaughter in the first degree as defined by Section 711 of Title 21 of the Oklahoma Statutes;

4. Shooting or discharging a firearm with intent to kill, use of a vehicle to facilitate the intentional discharge of a firearm, crossbow or other weapon, assault, battery, or assault and battery

with a deadly weapon or by other means likely to produce death or great bodily harm, as provided for in Section 652 of Title 21 of the Oklahoma Statutes;

5. Assault with intent to kill as provided for in Section 653 of Title 21 of the Oklahoma Statutes;

6. Bombing as provided for in Section 1767.1 of Title 21 of the Oklahoma Statutes;

7. Abuse as specifically provided in subsection D of this section; and

8. Any crime or attempt to commit a crime constituting a substantially similar offense as stated in paragraphs 1 through 7 of this subsection adjudicated by any court of another state, the United States, a tribal court, or a military court.

C. The registration requirements of the Mary Rippy Violent Crime Offenders Registration Act shall not apply to any person while the person is incarcerated in a maximum or medium correctional institution of the Department of Corrections, a private correctional institution, or another state, federal, tribal or military facility, but shall apply to deferred, suspended, probation, parole and discharges.

D. 1. For purposes of the Mary Rippy Violent Crime Offenders Registration Act, the requirement to register for a crime of abuse shall be determined by the judge at the time of sentencing or upon granting the defendant a deferred judgment. The judge shall determine whether the crime for which the defendant is convicted or pleads guilty or nolo contendere under any provision of Section ~~7115~~ 843.5 of Title ~~10~~ 21 of the Oklahoma Statutes or Section 843.1, 843.2, 852 or 852.1 of Title 21 of the Oklahoma Statutes resulted in:

- a. physical pain, injury, sexual abuse, sexual exploitation, unreasonable restraint or confinement, or mental anguish to the victim, or
- b. deprivation of nutrition, clothing, shelter, health care, or other care or services which caused serious physical or mental injury to the victim,

and whether the facts or nature of the offense warrant registration for public disclosure and protection of victims.

2. Not every offense enumerated in paragraph 1 of this subsection shall require automatic registration under the Mary Rippy Violent Crime Offenders Registration Act, and no other offenses shall be authorized for consideration for registration as a crime of abuse. The judge shall not order any defendant to register under the Mary Rippy Violent Crime Offenders Registration Act if the defendant is required to register pursuant to any provision of the Oklahoma Sex Offenders Registration Act for the same offense.

3. Upon the judge determining the defendant should register pursuant to the Mary Rippy Violent Crime Offenders Registration Act for a crime of abuse as authorized in this subsection, the defendant shall be ordered to register and to comply with all provisions of the Mary Rippy Violent Crime Offenders Registration Act, including, but not limited to, the statutory term of registration.

SECTION 150. AMENDATORY 63 O.S. 2001, Section 1-227.4, as last amended by Section 5, Chapter 147, O.S.L. 2007 (63 O.S. Supp. 2008, Section 1-227.4), is amended to read as follows:

Section 1-227.4 A. The Oklahoma Commission on Children and Youth shall appoint an interagency child abuse prevention task force which shall be composed of seventeen (17) members as follows:

1. One representative of the child welfare services division of the Department of Human Services;

2. One representative of the maternal and child health services of the State Department of Health;

3. One representative of the child guidance services of the State Department of Health;

4. One representative of the State Department of Education;

5. Two representatives of the Department of Mental Health and Substance Abuse Services, one with expertise in the treatment of mental illness and one with expertise in the treatment of substance abuse;

6. One representative of the Office of the Attorney General with expertise in the area of domestic abuse;

7. One representative of the Oklahoma Commission on Children and Youth's Community Partnership Board;

8. One representative of the Oklahoma Chapter of the American Academy of Pediatrics;

9. One representative of the judiciary, the legal profession, or law enforcement;

10. Two representatives who have expertise in the delivery of child abuse prevention services and who do not receive funds from the Child Abuse Prevention Fund as provided in Section 1-227.8 of this title; one of whom shall have experience providing child abuse prevention services pursuant to Section ~~7004-1.7~~ 1-9-108 of Title ~~10~~ 10A of the Oklahoma Statutes;

11. One representative of the Oklahoma Partnership for School Readiness Board;

12. Three parents participating in a child abuse prevention program, one of whom shall have participated in a program for high-risk families pursuant to Section ~~7004-1.7~~ 1-9-108 of Title ~~10~~ 10A of the Oklahoma Statutes; and

13. One representative of the faith community.

B. Each member of the interagency child abuse prevention task force is authorized to have one designee.

C. The Office of Child Abuse Prevention and the interagency child abuse prevention task force of the Oklahoma Commission on Children and Youth shall prepare the comprehensive state plan for prevention of child abuse and neglect for the approval of the Commission. The development and preparation of said plan shall include, but not be limited to, adequate opportunity for appropriate local private and public agencies and organizations and private citizens to participate in the development of the state plan at the local level.

D. 1. The interagency child abuse prevention task force and the Office of Child Abuse Prevention shall review and evaluate all proposals submitted for grants or contracts for child abuse prevention programs and services. Upon completion of such review and evaluation, the interagency child abuse prevention task force

and the Office of Child Abuse Prevention shall make the final recommendations as to which proposals should be funded pursuant to the provisions of the Child Abuse Prevention Act and shall submit its findings to the Oklahoma Commission on Children and Youth. The Commission shall review the findings of the interagency child abuse prevention task force and the Office of Child Abuse Prevention for compliance of such approved proposals with the comprehensive state plan prepared pursuant to the provisions of the Child Abuse Prevention Act.

2. Upon ascertaining compliance with said plans, the Commission shall deliver the findings of the interagency child abuse prevention task force and the Office of Child Abuse Prevention to the State Commissioner of Health.

3. The Commissioner shall authorize the Office of Child Abuse Prevention to use the Child Abuse Prevention Fund to fund such grants or contracts for child abuse prevention programs and services which are approved by the Commissioner.

4. Whenever the Commissioner approves a grant or contract which was not recommended by the interagency task force and the Office of Child Abuse Prevention, the Commissioner shall state in writing the reason for such decision.

5. Once the grants or contracts have been awarded by the Commissioner, the Office of Child Abuse Prevention, along with the interagency child abuse prevention task force, shall annually review the performance of the awardees and determine if funding should be continued.

SECTION 151. AMENDATORY 63 O.S. 2001, Section 1-705, is amended to read as follows:

Section 1-705. A. The State Board of Health, upon recommendation of the State Commissioner of Health and with the advice of the Oklahoma Hospital Advisory Council hereinafter provided for, shall promulgate rules and standards for the construction and operation of hospitals, for which licenses are required by the terms of this article, to provide for the proper care of patients. The promulgation of rules shall be subject to and be governed by the provisions of the Administrative Procedures Act.

B. Every hospital shall be periodically inspected by an authorized representative of the Commissioner. Reports of such

inspections shall be on forms prescribed by the Commissioner, who shall, after receipt of such reports, take such action as deemed necessary by the Commission to have corrected any deficiencies or violations of the rules and standards of the Board shown in such reports.

C. Hospitals licensed pursuant to the provisions of this article shall not be exempt from being inspected or licensed under laws relating to hotels, restaurants, lodging houses, boarding houses and places of refreshment.

D. 1. Every hospital that offers or provides inpatient psychiatric or chemical dependency treatment services to persons eighteen (18) years of age or younger shall offer, provide or otherwise make available community-based programs and services and may make such programs and services available directly, through contract, or other appropriate means as determined by the State Department of Health.

2. For the purposes of this subsection the term "community-based services" shall have the same meaning as such term is defined by Section ~~7001-1.3~~ 1-1-105 of Title ~~10~~ 10A of the Oklahoma Statutes.

SECTION 152. AMENDATORY Section 12, Chapter 200, O.S.L. 2005, as last amended by Section 6, Chapter 161, O.S.L. 2007 (63 O.S. Supp. 2008, Section 1-740.2), is amended to read as follows:

Section 1-740.2 A. Except in the case of a medical emergency, a physician may not perform an abortion on a pregnant female unless the physician has:

1. Obtained proof of age demonstrating that the female is not a minor;
2. Obtained proof that the female, although a minor, is emancipated; or
3. Complied with Section 1-740.3 of this title.

B. No abortion shall be performed upon an unemancipated minor or upon a female for whom a guardian has been appointed pursuant to Section 1-113 of Title 30 of the Oklahoma Statutes because of a finding of incompetency, except in a medical emergency or where a judicial waiver was obtained pursuant to Section 1-740.3 of this

title, until at least forty-eight (48) hours after written notice of the pending abortion has been delivered in the manner specified in this subsection and the attending physician has secured proof of identification and the written informed consent of one parent.

1. The notice and request for written informed consent of one parent shall be addressed to the parent at the usual place of abode of the parent and delivered personally to the parent by the physician or an agent.

2. In lieu of the delivery required by paragraph 1 of this subsection, the notice and request for written informed consent of one parent shall be made by certified mail addressed to the parent at the usual place of abode of the parent with return-receipt requested and restricted delivery to the addressee, which means a postal employee can only deliver the mail to the authorized addressee. Time of delivery shall be deemed to occur at 12 noon on the next day on which regular mail delivery takes place, subsequent to mailing. The information concerning the address of the parent shall be that which a reasonable and prudent person, under similar circumstances, would have relied upon as sufficient evidence that the parent resides at that address.

3. a. The parent entitled to notice and consent shall provide to the physician a copy of proof of identification, and shall certify in a signed, dated, and notarized statement that he or she has been notified and consents to the abortion. The signed, dated, and notarized statement shall include: "I certify that I, (insert name of parent), am the parent of (insert name of minor daughter) and give consent for (insert name of physician) to perform an abortion on my daughter. I understand that any person who knowingly makes a fraudulent statement in this regard commits a felony."
- b. The physician shall keep a copy of the proof of identification of the parent and the certified statement in the medical file of the minor for five (5) years past the majority of the minor, but in no event less than seven (7) years.
- c. A physician receiving parental consent under this section shall execute for inclusion in the medical record of the minor an affidavit stating: "I, (insert

name of physician), certify that according to my best information and belief, a reasonable person under similar circumstances would rely on the information presented by both the minor and her parent as sufficient evidence of identity."

C. No notice or request for written informed consent of one parent shall be required under this section if one of the following conditions is met:

1. The attending physician certifies in the medical records of the pregnant unemancipated minor that a medical emergency exists; provided, however, that the attending physician or an agent shall, within twenty-four (24) hours after completion of the abortion, notify one of the parents of the minor in the manner provided in ~~Section 1-740.2 of this title~~ section that an emergency abortion was performed on the minor and of the circumstances that warranted invocation of this paragraph; or

2. The unemancipated minor declares that she is the victim of sexual abuse, as defined in ~~Section 7102~~ 1-1-105 of Title ~~10~~ 10A of the Oklahoma Statutes and the attending physician has notified local law enforcement or the Department of Human Services about the alleged sexual abuse.

D. 1. Unless the unemancipated minor gives notice of her intent to seek a judicial waiver pursuant to Section 1-740.3 of this title, the attending physician, or the agent of the physician, shall verbally inform the parent of the minor within twenty-four (24) hours after the performance of a medical emergency abortion or an abortion that was performed to prevent her death that an abortion was performed on the unemancipated minor. The attending physician, or the agent of the attending physician, shall also inform the parent of the basis for the certification of the physician required under paragraph 1 or 2 of subsection C of this section. The attending physician, or the agent of the attending physician, shall also send a written notice of the performed abortion via the United States Post Office to the last-known address of the parent, restricted delivery, return receipt requested. The information concerning the address of the parent shall be that which a reasonable and prudent person, under similar circumstances, would have relied upon as sufficient evidence that the parent resides at that address.

2. If the unemancipated minor gives notice to the attending physician, or an agent of the physician, of her intent to seek a judicial waiver pursuant to Section 1-740.3 of this title, the physician, or an agent of the physician, shall file a notice with any judge of a court of competent jurisdiction that the minor has given such notice and shall provide the information the physician, or the agent of the physician, would have been required to provide the parent under paragraph 1 of this subsection if the unemancipated minor had not given notice of her intent to seek a judicial waiver. The court shall expeditiously schedule a conference with notice to the minor and the physician. If the minor is able to participate in the proceedings, the court shall advise the minor that she has the right to court-appointed counsel and shall, upon her request, provide the minor with such counsel. If the minor is unable to participate, the court shall appoint counsel on behalf of the minor. After an appropriate hearing, the court, taking into account the medical condition of the minor, shall set a deadline by which the minor must file a petition or motion pursuant to Section 1-740.3 of this title. The court may subsequently extend the deadline in light of the medical condition of the minor or other equitable considerations. If the minor does not file a petition or motion by the deadline, either in that court or in another court of competent jurisdiction with a copy filed in that court, the court shall direct that the court clerk provide the notice to a parent.

E. The State Board of Health shall adopt the forms necessary for physicians to obtain the certifications required by this section.

SECTION 153. AMENDATORY 63 O.S. 2001, Section 2-503.2, as last amended by Section 8, Chapter 226, O.S.L. 2005 (63 O.S. Supp. 2008, Section 2-503.2), is amended to read as follows:

Section 2-503.2 A. 1. Every person convicted of a violation of the Uniform Controlled Dangerous Substances Act or the Trafficking In Illegal Drugs Act shall be assessed for each offense a sum of not less than One Hundred Dollars (\$100.00) nor more than Three Thousand Dollars (\$3,000.00).

2. The assessment shall be mandatory and in addition to and not in lieu of any fines, restitution costs, other assessments, or forfeitures authorized or required by law for the offense. The assessment required by this section shall not be subject to any order of suspension. The court shall order either a lump sum payment or establish a payment schedule.

3. Failure of the offender to comply with the payment schedule shall be considered contempt of court.

4. For purposes of collection, the assessment order shall not expire until paid in full, nor shall the assessment order be limited by the term of imprisonment prescribed by law for the offense, nor by any term of imprisonment imposed against the offender, whether suspended or actually served.

B. The assessment provided for in subsection A of this section shall be collected by the court clerk as provided for collection of fines and costs. When assessment payments are collected by the court clerk pursuant to court order, the funds shall be forwarded to the Department of Mental Health and Substance Abuse Services for deposit into its Drug Abuse Education and Treatment Revolving Fund created by this section.

C. 1. There is hereby created in the State Treasury a revolving fund for the Department of Mental Health and Substance Abuse Services to be designated the "Drug Abuse Education and Treatment Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of assessments collected pursuant to this section, court-ordered assessments collected pursuant to Section 11-902 of Title 47 of the Oklahoma Statutes and Section 2-401 of this title, the Oklahoma Drug Court Act, Section ~~7 2-2-509~~ of ~~this act~~ Title 10A of the Oklahoma Statutes, grants, gifts and other money accruing to the benefit of the fund and the Oklahoma Drug Court Act.

2. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department of Mental Health and Substance Abuse Services for treatment and drug testing of indigent substance abusing offenders pursuant to the Oklahoma Drug Court Act, Section ~~7303-5.5 2-2-205~~ of Title ~~10~~ 10A of the Oklahoma Statutes, and Sections ~~3 2-2-506~~ through ~~7 2-2-509~~ of ~~this act~~ Title 10A of the Oklahoma Statutes, for substance abuse prevention, drug courts, and continuing education.

3. 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.

4. Monies expended from this fund shall not supplant other local, state, or federal funds.

SECTION 154. AMENDATORY 70 O.S. 2001, Section 1-113, as amended by Section 2, Chapter 453, O.S.L. 2002 (70 O.S. Supp. 2008, Section 1-113), is amended to read as follows:

Section 1-113. A. When used in this section, the residence of any child for school purposes shall be:

1. The school district in which the parents, guardian, or person having legal custody holds legal residence.

Each school district board of education shall adopt a policy establishing the requirements for student residency for that district which provides for residence as described in this paragraph. Within the discretion of each school district's board of education, the policy may but is not required to allow for establishment of residency by affidavit when an adult, whether a relative or not, who does not fall within one of the categories listed above, who holds legal residence in the school district, and who has assumed permanent care and custody of the child files an affidavit with the school district attesting that they have assumed custody and the reasons for assuming custody. Any policy allowing the establishment of residency by affidavit shall require the adult who provides the affidavit to affirm in such affidavit that the custody arrangement is permanent and that the adult contributes the major degree of support to the child. If the school district policy allows establishment of residency by affidavit, any person who willfully makes a statement in the affidavit which the person knows to be false shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one (1) year or a fine of not more than Five Hundred Dollars (\$500.00) or both such fine and imprisonment. Each school district shall include in its policy on residency any documentation necessary for the administration of the policy; or

2. The foster home, as defined in Section ~~7203~~ 1-1-105 of Title ~~10~~ 10A of the Oklahoma Statutes, except a therapeutic foster home or a specialized foster home where a child is in voluntary placement as defined in subsection D of this section, in which the child has been placed:

a. by the person or agency having legal custody of the child pursuant to a court order, or

- b. by a state agency having legal custody of the child pursuant to the provisions of Title ~~10~~ 10A of the Oklahoma Statutes; or

3. Any orphanage or eleemosynary child care facility having full-time care and custody; or

4. Any eleemosynary child care facility in which a child is placed by a parent or guardian for full-time residential care; provided, the provision of this paragraph shall apply only to children who attend a district school by joint agreement of the school district and facility and who are not placed in the facility through a state contract. For purposes of this paragraph, "eleemosynary child care facility" means a facility:

- a. where child care and services are provided, and
- b. which is funded predominantly by benevolent or charitable funds and is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3); or

5. Any state-operated institution in which a child has been placed by a parent or guardian or by a state agency having legal custody of the child pursuant to the provisions of Title ~~10~~ 10A or Section 3-101 of Title 43A of the Oklahoma Statutes for care and treatment due to a physical or mental condition of the child; or

6. The district in which a child who is entirely self-supporting resides and attends school; or

7. A state-licensed or operated emergency shelter.

B. No school district shall bear the cost of educating children who are not residents of this state; provided, a school district may furnish educational services pursuant to contract as elsewhere provided by law. A school district may furnish educational services pursuant to a contract to children who do not reside in the United States of America; provided, the children shall not be counted in the average daily membership of the school district.

C. For the purpose of ensuring that a child placed in a therapeutic foster care home, as defined in Section ~~7203~~ 1-1-105 of Title ~~10~~ 10A of the Oklahoma Statutes, receives an appropriate education, no receiving school district shall be required to enroll

such a child if the enrollment would cause the proportion of students in therapeutic foster care homes as compared to the average daily membership of the receiving district for the preceding school year to exceed two percent (2%). Children served by Head Start may not be counted for the purpose of this paragraph unless the child is on an individualized education program provided by the school district. Any school district may enroll such students who are outside the student's resident district in therapeutic foster care home placements which exceed this limit if the school determines it possesses the ability to provide such child an appropriate education.

D. When a child does not meet the criteria for residency provided in subsection A of this section and is placed in any of the following entities which is out of the child's home and not in the school district in which the child legally resides: a residential facility; a treatment program or center, including the facility operated pursuant to Section 485.1 of Title 63 of the Oklahoma Statutes; a therapeutic foster home as defined in Section ~~7203~~ 1-1-105 of Title ~~10~~ 10A of the Oklahoma Statutes; or, a specialized foster home, which is a specialized foster home or an agency-contracted home under the supervision of and certified as meeting the standards set by the Department of Human Services and is funded through the Department of Human Services Home and Community-Based Waiver Services Program, the entity shall, if the child contends he or she resides in a school district other than the district where the entity is located, within seven (7) days of admittance, notify the school district in which the entity is located of the admittance.

Upon provision of educational services to such children pursuant to the provisions of subsection F of this section, the receiving school district shall receive the State Aid as defined in subsection C of Section 18-110 of this title for those students.

Access to the due process procedure guaranteed to children with disabilities shall be available to resolve disagreements about the appropriateness of placements of children with disabilities.

E. The governing body of any state institution for children operated pursuant to the provisions of Title ~~10~~ 10A of the Oklahoma Statutes or Section 3-101 of Title 43A of the Oklahoma Statutes and the board of education of the school district in which the institution is located or any other school district in the state willing to provide necessary educational services may enter into a

contract whereby the district will maintain a school for the children of the institution, in which event the residence of such children for school purposes will be considered as being in the district maintaining the school. The governing body of the state institutions specified in this subsection shall pay the costs for educating students placed in the state institution less any amount of funds received for such students by the school district contracting with the state institution to provide necessary educational services.

F. 1. The school district in which an entity as described in subsection D of this section exists to serve children in out-of-home placements shall, upon request of the individual or agency operating the entity, provide the educational services to which the children in the entity are entitled subject to the limitations provided in subsection C of this section. No person operating such an entity may contract for the provision of educational services with any school district other than the school district in which the entity is located unless the school district in which the entity is located agrees in writing to allow another school district to provide the educational services or unless the person operating the entity contracts with another school district for the provision of educational services to be provided through remote Internet-based courses. No person operating such an entity may contract for the provision of educational services with more than one school district.

2. Prior to location in a school district, the individual or agency operating an entity described in subsection D of this section which requires provision of educational services from the school district shall notify the local board of education of its anticipated educational needs. No school district shall be required to provide educational services for students in the entity until at least sixty (60) calendar days have elapsed from the time in which the local board of education was initially notified of the need unless the school district so agrees to provide the educational services sooner. The provisions of this paragraph shall not apply to therapeutic or specialized foster homes.

3. Educational services provided shall meet or exceed state accreditation standards. No school district shall be responsible for any expenses for students in an entity described in subsection D of this section which are not directly related to the provision of educational services. A school district shall not be obligated for expenses of those students in an entity in the current school year

for whom educational services are requested after the district's first nine (9) weeks of the current school year if educational services are requested for twelve or more students than were served in the first nine (9) weeks, unless the school district chooses to provide educational services for the current school year. Contracts and agreements for provision of educational services may allow for the use of public and private sources of support which are available to share the costs of educational services and of therapies, treatments, or support services. Otherwise valid obligations to provide or pay for such services, such as Medicaid, shall remain in effect for children who are eligible for the services from sources other than the school district.

4. Upon the request of any residential facility which has contracted with the Office of Juvenile Affairs to provide either a regimented juvenile training program or a high-impact wilderness camp to a minimum of forty students who have been adjudicated, a school district may contract for the facility to provide the educational services to those students. Under such a contract, the facility shall operate in accordance with all applicable laws, including compliance with Section 18-114.7 of this title. Such contract shall include the State Aid generated by the students, less a fee for administrative services which may be retained by the school district, not to exceed ten percent (10%) of the total on an annual basis. The school district shall exercise supervision over the educational program in the facility and bear all responsibility for required educational reporting. The school district shall maintain access to all educational records for students in the facility, and shall provide for the appropriate academic credit and diplomas. The school district shall be indemnified against any actions or penalties on the part of the facility which result in adversity for the school district.

G. Any question as to the place of residence of any child for school purposes shall be decided pursuant to procedures utilized by the State Department of Education.

H. The receiving district shall notify the district of residence immediately upon finding that the student requires special education and related services and the district of residence shall participate in planning the student's Individualized Education Program (IEP) and in subsequent reviews of the program in accordance with the Individuals with Disabilities Education Act (IDEA).

SECTION 155. AMENDATORY 70 O.S. 2001, Section 3-104, is amended to read as follows:

Section 3-104. The control of the State Department of Education and the supervision of the public school system of Oklahoma shall be vested in the State Board of Education and, subject to limitations otherwise provided by law, the State Board of Education shall:

1. Establish and prescribe the duties of an executive officer who shall be the State Superintendent of Public Instruction and whose duties shall include the responsibility to give advice and make recommendations to the Board on all matters pertaining to the policies and administration of the State Department of Education and the public school system;

2. Adopt policies and make rules for the operation of the State Department of Education and the public school system of the state;

3. Organize and have control of the administrative and supervisory agencies, divisions, personnel and their appointment and salaries and other operations necessary to carry out the powers, duties and functions of the Board and its executive officer;

4. Have authority to require the coordination of all divisions of the State Department of Education through its executive officer, delegate general supervision of all employees to its executive officer, require all recommendations to be presented through its executive officer, require its executive officer to be responsible for interpretation of the Board's policy, require any employee of the Board to present any specific matter directly to the Board;

5. Appoint, prescribe the duties and fix the compensation of a secretary, an attorney and all other personnel necessary for the proper performance of the functions of the State Board of Education. The secretary shall not be a member of the Board;

6. Submit to the Governor a departmental budget based upon major functions of the Department supported by detailed data on needs and proposed operations as partially determined by the budgetary needs of local school districts filed with the State Board of Education for the ensuing fiscal year. Appropriations therefor shall be made in lump-sum form for each major item in the budget as follows:

a. State Aid to schools,

- b. the supervision of all other functions of general and special education including general control, free textbooks, school lunch, Indian education and all other functions of the Board and an amount sufficient to adequately staff and administer these services, and
- c. the Board shall determine the details by which the budget and the appropriations are administered. Annually, the Board shall make preparations to consolidate all of the functions of the Department in such a way that the budget can be based on two items, administration and aid to schools. A maximum amount for administration shall be designated as a part of the total appropriation;

7. On the first day of December preceding each regular session of the Legislature, prepare and deliver to the Governor and the Legislature a report for the year ending June 30 immediately preceding said regular session of the Legislature. Said report shall contain:

- a. detailed statistics and other information concerning enrollment, attendance, expenditures including State Aid, and other pertinent data for all public schools in this state,
- b. reports from each and every division, department, institution or other agency under the supervision of the Board,
- c. recommendations for the improvement of the public school system of the state,
- d. a statement of the receipts and expenditures of the State Board of Education for the past year, and
- e. a statement of plans and recommendations for the management and improvement of public schools and such other information relating to the educational interests of the state as may be deemed necessary and desirable;

8. Provide for the formulation and adoption of curricula, courses of study and other instructional aids necessary for the adequate instruction of pupils in the public schools;

9. Have authority in matters pertaining to the licensure and certification of persons for instructional, supervisory and administrative positions and services in the public schools of the state subject to the provisions of Section 6-184 of this title, and shall formulate rules governing the issuance and revocation of certificates for superintendents of schools, principals, supervisors, librarians, clerical employees, school nurses, school bus drivers, visiting teachers, classroom teachers and for other personnel performing instructional, administrative and supervisory services, but not including members of boards of education and other employees who do not work directly with pupils, and may charge and collect reasonable fees for the issuance of such certificates:

- a. the State Department of Education shall not issue a certificate to and shall revoke the certificate of any person who has been convicted, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, or received a suspended sentence or any probationary term for a crime or an attempt to commit a crime provided for in Section ~~7115~~ 843.5 of Title ~~10~~ 21 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section ~~7102~~ 1-1-105 of Title ~~10~~ 10A of the Oklahoma Statutes, Sections 741, 843.1, if the offense included sexual abuse or sexual exploitation, 865 et seq., 885, 888, 891, 1021, 1021.2, 1021.3, 1040.13a, ~~1040.51~~, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes or who enters this state and who has been convicted, received a suspended sentence or received a deferred judgement for a crime or attempted crime which, if committed or attempted in this state, would be a crime or an attempt to commit a crime provided for in any of said laws,
- b. all funds collected by the State Department of Education for the issuance of certificates to instructional, supervisory and administrative personnel in the public schools of the state shall be deposited in the "Teachers' Certificate Fund" in the State Treasury and may be expended by the State Board of Education to finance the activities of the State

Department of Education necessary to administer the program, for consultative services, publication costs, actual and necessary travel expenses as provided in the State Travel Reimbursement Act incurred by persons performing research work, and other expenses found necessary by the State Board of Education for the improvement of the preparation and certification of teachers in Oklahoma. Provided, any unobligated balance in the Teachers' Certificate Fund in excess of Ten Thousand Dollars (\$10,000.00) on June 30 of any fiscal year shall be transferred to the General Revenue Fund of the State of Oklahoma. Until July 1, 1997, the State Board of Education shall have authority for approval of teacher education programs. The State Board of Education shall also have authority for the administration of teacher residency and professional development, subject to the provisions of the Oklahoma Teacher Preparation Act;

10. Promulgate rules governing the classification, inspection, supervision and accrediting of all public nursery, kindergarten, elementary and secondary schools and on-site educational services provided by public school districts or state-accredited private schools in partial hospitalization programs, day treatment programs, and day hospital programs as defined in this act for persons between the ages of three (3) and twenty-one (21) years of age in the state. However, no school shall be denied accreditation solely on the basis of average daily attendance.

Any school district which maintains an elementary school and faces the necessity of relocating its school facilities because of construction of a lake, either by state or federal authority, which will inundate the school facilities, shall be entitled to receive probationary accreditation from the State Board of Education for a period of five (5) years after the effective date of this act and any school district, otherwise qualified, shall be entitled to receive probationary accreditation from the State Board of Education for a period of two (2) consecutive years to attain the minimum average daily attendance. The Head Start and public nurseries or kindergartens operated from Community Action Program funds shall not be subjected to the accrediting rules of the State Board of Education. Neither will the State Board of Education make rules affecting the operation of the public nurseries and kindergartens operated from federal funds secured through Community Action Programs even though they may be operating in the public schools of

the state. However, any of the Head Start or public nurseries or kindergartens operated under federal regulations may make application for accrediting from the State Board of Education but will be accredited only if application for the approval of the programs is made. The status of no school district shall be changed which will reduce it to a lower classification until due notice has been given to the proper authorities thereof and an opportunity given to correct the conditions which otherwise would be the cause of such reduction.

Private and parochial schools may be accredited and classified in like manner as public schools or, if an accrediting association is approved by the State Board of Education, by procedures established by the State Board of Education to accept accreditation by such accrediting association, if application is made to the State Board of Education for such accrediting;

11. Be the legal agent of the State of Oklahoma to accept, in its discretion, the provisions of any Act of Congress appropriating or apportioning funds which are now, or may hereafter be, provided for use in connection with any phase of the system of public education in Oklahoma. It shall prescribe such rules as it finds necessary to provide for the proper distribution of such funds in accordance with the state and federal laws;

12. Be and is specifically hereby designated as the agency of this state to cooperate and deal with any officer, board or authority of the United States Government under any law of the United States which may require or recommend cooperation with any state board having charge of the administration of public schools unless otherwise provided by law;

13. Be and is hereby designated as the "State Educational Agency" referred to in Public Law 396 of the 79th Congress of the United States, which law states that said act may be cited as the "National School Lunch Act", and said State Board of Education is hereby authorized and directed to accept the terms and provisions of said act and to enter into such agreements, not in conflict with the Constitution of Oklahoma or the Constitution and Statutes of the United States, as may be necessary or appropriate to secure for the State of Oklahoma the benefits of the school lunch program established and referred to in said act;

14. Have authority to secure and administer the benefits of the National School Lunch Act, Public Law 396 of the 79th Congress of

the United States, in the State of Oklahoma and is hereby authorized to employ or appoint and fix the compensation of such additional officers or employees and to incur such expenses as may be necessary for the accomplishment of the above purpose, administer the distribution of any state funds appropriated by the Legislature required as federal matching to reimburse on children's meals;

15. Accept and provide for the administration of any land, money, buildings, gifts, donation or other things of value which may be offered or bequeathed to the schools under the supervision or control of said Board;

16. Have authority to require persons having administrative control of all school districts in Oklahoma to make such regular and special reports regarding the activities of the schools in said districts as the Board may deem needful for the proper exercise of its duties and functions. Such authority shall include the right of the State Board of Education to withhold all state funds under its control, to withhold official recognition, including accrediting, until such required reports have been filed and accepted in the office of said Board and to revoke the certificates of persons failing or refusing to make such reports;

17. Have general supervision of the school lunch program. The State Board of Education may sponsor workshops for personnel and participants in the school lunch program and may develop, print and distribute free of charge or sell any materials, books and bulletins to be used in such school lunch programs. There is hereby created in the State Treasury a revolving fund for the Board, to be designated the School Lunch Workshop Revolving Fund. The fund shall consist of all fees derived from or on behalf of any participant in any such workshop sponsored by the State Board of Education, or from the sale of any materials, books and bulletins, and such funds shall be disbursed for expenses of such workshops and for developing, printing and distributing of such materials, books and bulletins relating to the school lunch program. The fund shall be administered in accordance with the Revolving Fund Procedures Act;

18. Prescribe all forms for school district and county officers to report to the State Board of Education where required. The State Board of Education shall also prescribe a list of appropriation accounts by which the funds of school districts shall be budgeted, accounted for and expended; and it shall be the duty of the State Auditor and Inspector in prescribing all budgeting, accounting and reporting forms for school funds to conform to such lists;

19. Provide for the establishment of a uniform system of pupil and personnel accounting, records and reports;

20. Have authority to provide for the health and safety of school children and school personnel while under the jurisdiction of school authorities;

21. Provide for the supervision of the transportation of pupils;

22. Have authority, upon request of the local school board, to act in behalf of the public schools of the state in the purchase of transportation equipment;

23. Have authority and is hereby required to perform all duties necessary to the administration of the public school system in Oklahoma as specified in the Oklahoma School Code; and, in addition thereto, those duties not specifically mentioned herein if not delegated by law to any other agency or official;

24. Administer the State Public Common School Building Equalization Fund established by Section 32 of Article X of the Oklahoma Constitution. Any royalties, bonuses, rentals or other monies derived from oil and gas and all other mineral leases on lands that have been or may be granted by the United States to the state for the use and benefit of the common schools, or lands that are or may be held by the Commissioners of the Land Office for the use and benefit of the common schools, the proceeds of the sale of easements, improvements and sand and gravel on any such lands, the proceeds of all property that shall fall to the state by escheat, penalties for unlawful holding of real estate by corporations, and capital gains on assets of the permanent school funds, shall be deposited in such State Public Common School Building Equalization Fund, which shall be used to aid school districts in acquiring buildings under rules prescribed by the State Board of Education, as the administering agency, subject to the limitations fixed by Section 32 of Article X of the Oklahoma Constitution. The State Board of Education shall prescribe rules for making grants of aid from, and for otherwise administering, such fund, and may employ and fix the duties and compensation of technicians, aides, clerks, stenographers, attorneys and other personnel deemed necessary to perform its duties; and the cost of administering such fund shall be paid from funds currently available for the operation of the State Department of Education. It shall be the duty of the State Board of

Education, the Commissioners of the Land Office and all other public agencies, officers and employees to observe and comply with the provisions of this paragraph, in all respects; and they shall not be held liable for any amount, penalty or punishment for having done so, unless and until they are directed to do otherwise by a court of competent jurisdiction;

25. Recognize that the Director of the Oklahoma Department of Corrections shall be the administrative authority for the schools which are maintained in the state reformatories and shall appoint the principals and teachers in such schools. Provided, that rules of the State Board of Education for the classification, inspection and accreditation of public schools shall be applicable to such schools; and such schools shall comply with standards set by the State Board of Education;

26. Have authority to administer a revolving fund which is hereby created in the State Treasury, to be designated the Statistical Services Revolving Fund. The fund shall consist of all monies received from the various school districts of the state, the United States Government, and other sources for the purpose of furnishing or financing statistical services and for any other purpose as designated by the Legislature. The State Board of Education is hereby authorized to enter into agreements with school districts, municipalities, the United States Government, foundations and other agencies or individuals for services, programs or research projects. The Statistical Services Revolving Fund shall be administered in accordance with the Revolving Fund Procedures Act, Section 155 et seq. of Title 62 of the Oklahoma Statutes; and

27. Have authority to review preliminary plans for new construction and major alteration of public school buildings where structural changes are proposed. No bids shall be let for the construction or major alteration of any public school building until preliminary plans and specifications for such construction or alteration have been submitted to and reviewed by the State Department of Education. The period of time during which such review is conducted by the State Department of Education shall not exceed thirty (30) days. The State Department of Education shall advise each local school district regarding said review of preliminary plans and specifications. Provided, nothing in this subsection shall be construed as repealing any ordinance or building code of any city, town or county.

SECTION 156. AMENDATORY 70 O.S. 2001, Section 5-144, as last amended by Section 1, Chapter 205, O.S.L. 2005 (70 O.S. Supp. 2008, Section 5-144), is amended to read as follows:

Section 5-144. A. If in the course of an investigation it is discovered that a person charged in an information or indictment with a felony or violent misdemeanor is a student or employee of a school district or a public school in the state, or an employee working on school property for an entity that provides services to a school district or a public school on school property, with due regard for the provisions of subsection C of Section ~~7307-1.2~~ 2-6-102 of Title ~~10~~ 10A of the Oklahoma Statutes, the district attorney shall notify the superintendent of the district of the charges filed against the student or employee.

B. The school district may take any action it deems necessary that is in compliance with the requirements of the Family Educational Rights and Privacy Act of 1974 with regard to such information.

SECTION 157. AMENDATORY 70 O.S. 2001, Section 10-106, is amended to read as follows:

Section 10-106. It shall be the duty of the principal or head teacher of each public, private or other school in the State of Oklahoma to keep a full and complete record of the attendance of all children at such school and to notify the attendance officer of the district in which such school is located of the absence of such children from the school together with the causes thereof, if known; and it shall be the duty of any parent, guardian or other person having charge of any child of compulsory attendance age to notify the child's teacher concerning the cause of any absences of such child. It shall be the duty of the principal or head teacher to notify the parent, guardian or responsible person of the absence of the child for any part of the school day, unless the parent, guardian or other responsible person notifies the principal or head teacher of such absence. Such attendance officer and teacher shall be required to report to the school health officer all absences on account of illness with such information respecting the same as may be available by report or investigation; and the attendance officer shall, if justified by the circumstances, promptly give to the parent, guardian or custodian of any child who has not complied with the provisions of this article oral and documented or written warning to the last-known address of such person that the attendance of such child is required at some public, private or other school as

herein provided. If within five (5) days after the warning has been received, the parent, guardian or custodian of such child does not comply with the provisions of this article, then such attendance officer shall make complaint against the parent, guardian or custodian of such child in a court of competent jurisdiction for such violation, which violation shall be a misdemeanor. If a child is absent without valid excuse four (4) or more days or parts of days within a four-week period or is absent without valid excuse for ten (10) or more days or parts of days within a semester, the attendance officer shall notify the parent, guardian or custodian of the child and immediately report such absences to the district attorney in the county wherein the school is located for juvenile proceedings pursuant to Title ~~10~~ 10A of the Oklahoma Statutes.

SECTION 158. AMENDATORY 70 O.S. 2001, Section 10-109, is amended to read as follows:

Section 10-109. A. An attendance officer, any school administrator, or designee of the school administrator who is employed by the school, or any peace officer may, except for children being home schooled pursuant to Section 10-105 of the Oklahoma Statutes, temporarily detain and assume temporary custody of any child subject to compulsory full-time education, during hours in which school is actually in session, who is found away from the home of such child and who is absent from school without lawful excuse within the school district that such attendance officer, peace officer or school official serves, if said school district has previously approved the temporary detention and custody pursuant to this section.

B. Any person temporarily detaining and assuming temporary custody of a child pursuant to this section shall immediately deliver the child either to the parent, guardian, or other person having control or custody of the child, or to the school from which the child is absent without valid excuse, or to a nonsecure youth service or community center servicing the school district, or to a community intervention center, as defined by Section ~~7301-1.3~~ 2-1-103 of Title ~~10~~ 10A of the Oklahoma Statutes.

C. The temporary custody or detention provided by this section shall be utilized as a means of reforming and returning the truant students to school and shall not be used as a pretext for investigating criminal matters. The temporary custody or detention herein provided is a severely limited type of detention and is not justified unless there are specific facts causing an attendance

officer or other authorized person to reasonably suspect that a truancy violation is occurring and that the person the officer intends to detain is a truant.

SECTION 159. AMENDATORY Section 4, Chapter 348, O.S.L. 2005 (74 O.S. Supp. 2008, Section 18p-4), is amended to read as follows:

Section 18p-4. A. As used in this section, "minor mother" means an unemancipated female under the age of eighteen (18) years of age who is pregnant or the biological parent of any child.

B. A domestic violence shelter facility may provide shelter and care to a minor mother, who is the victim of domestic abuse or is seeking relief from domestic abuse for herself or on behalf of any of her children or both herself and any of her children.

C. A domestic violence shelter facility may provide shelter or care only during an emergency constituting an immediate danger to the physical health or safety of the minor mother or her child or both the minor mother and any of her children. Such shelter or care shall not extend beyond thirty (30) days unless the facility receives an order issued by the court to continue such services or the parent or guardian of the minor mother consents to such services.

D. The provisions of Section 856 of Title 21 of the Oklahoma Statutes shall not apply to any domestic violence shelter facility and any person operating such facility who in good faith is providing shelter and care pursuant to the provisions of this section to a minor mother and any of her children who is a runaway from her parent or legal guardian.

E. The emergency custody hearing provided for in Section ~~7003-2.4~~ 1-4-202 of Title ~~10~~ 10A of the Oklahoma Statutes shall be provided for a minor mother who is seeking relief from domestic abuse for herself or on behalf of any of the her children.

SECTION 160. AMENDATORY 74 O.S. 2001, Section 85.12, as last amended by Section 77, Chapter 1, O.S.L. 2007 (74 O.S. Supp. 2008, Section 85.12), is amended to read as follows:

Section 85.12 A. The provisions of this section shall not be construed to affect any law relating to fiscal or accounting procedure except as they may be directly in conflict herewith; and

all claims, warrants, and bonds shall be examined, inspected, and approved as now provided by law.

B. Except as otherwise provided by this section, the acquisitions specified in this subsection shall be made in compliance with Section 85.39 of this title but are not subject to other provisions of The Oklahoma Central Purchasing Act:

1. Food and other products produced by state institutions and agencies;

2. The printing or duplication of publications or forms of whatsoever kind or character by state agencies if the work is performed upon their own equipment by their own employees. Pursuant to this paragraph, the state agency may only use equipment owned or leased by the agency and may only utilize that equipment for printing services required by the agency in performing duties imposed upon the agency or functions authorized to be performed by the agency. Any use of the equipment by the agency pursuant to an agreement or contract with any other entity resulting in delivery of intermediate or finished products to the entity purchasing or using the products shall be subject to the provisions of The Oklahoma Central Purchasing Act;

3. Department of Transportation and Transportation Commission contractual services or right-of-way purchases; contracts awarded pursuant to bids let by the Transportation Commission for the maintenance or construction of streets, roads, highways, bridges, underpasses, or any other transportation facilities under the control of the Department of Transportation, the acquisitions of equipment or materials accruing to the Department of Transportation required in Federal-Aid contracts; and contracts for public service type announcements initiated by the Department of Transportation; but not contractual services for advertising or public relations or employment services;

4. Utility services where rates therefor are regulated by a state or federal regulatory commission, or by municipal ordinance, or by an Indian Tribal Council for use by the Department of Corrections only;

5. Acquisitions by the University Hospitals Authority. The Authority shall develop standards for the acquisition of products and services and may elect to utilize the Purchasing Division. The standards shall foster economy and short response time and shall

include appropriate safeguards and record-keeping requirements to ensure appropriate competition and economical and efficient purchasing;

6. Contracts for custom harvesting by the Department of Corrections for the Department or its institutions;

7. Contracts with private prison contractors which are subject to the contracting procedures of Section 561 of Title 57 of the Oklahoma Statutes;

8. Acquisitions by the Oklahoma Municipal Power Authority;

9. Acquisitions by the Grand River Dam Authority;

10. Acquisitions by rural water, sewer, gas, or solid waste management districts created pursuant to the Rural Water, Sewer, Gas and Solid Waste Management Districts Act;

11. Acquisitions by the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, or the Midwestern Oklahoma Development Authority;

12. Contracts entered into by the Oklahoma Industrial Finance Authority for the services of an appraiser or for acquisition of insurance when the Authority's Board of Directors determines that an emergency exists, and contracts for the services of legal counsel when approved by the Attorney General;

13. Expenditure of monies appropriated to the State Board of Education for Local and State Supported Financial Support of Public Schools, except monies allocated therefrom for the Administrative and Support Functions of the State Department of Education;

14. Expenditure of monies appropriated to the State Department of Rehabilitation Services for educational programs or educational materials for the Oklahoma School for the Blind and the Oklahoma School for the Deaf;

15. Contracts entered into by the Oklahoma Department of Career and Technology Education for the development, revision, or updating of vocational curriculum materials, and contracts entered into by the Oklahoma Department of Career and Technology Education for training and supportive services that address the needs of new or expanding industries;

16. Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;

17. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of Section 5066.4 of this title;

18. Acquisitions made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;

19. Acquisitions available to an agency through a General Services Administration (GSA) contract or other federal contract if the acquisition is on current statewide contract and the terms of the GSA or other federal contract, as determined by the State Purchasing Director, are more favorable to the agency than the terms of a statewide contract for the same products;

20. Purchases of pharmaceuticals available through a multistate or multigovernmental contract if such pharmaceuticals are or have been on state contract within the last fiscal year, and the terms of such contract are more favorable to the state or agency than the terms of a state contract for the same products, as determined by the State Purchasing Director. The state entity designated by law, as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes, shall participate in the purchase of pharmaceuticals available through such contracts;

21. Contracts for managed health care services entered into by the state entity designated by law or the Department of Human Services, as specified in paragraph 1 of subsection A of Section 1010.3 of Title 56 of the Oklahoma Statutes;

22. Acquisitions by the Forestry Service of the Oklahoma Department of Agriculture, Food, and Forestry as authorized by the federal General Services Administration through a General Services Administration contract or other federal contract if the acquisitions are not on current statewide contract or the terms of the federal contract are more favorable to the agency than the terms of a statewide contract for the same products;

23. Acquisitions of clothing for clients of the Department of Human Services and acquisitions of food for group homes operated by the Department of Human Services;

24. Acquisitions by the Oklahoma Energy Resources Board;

25. Acquisitions of clothing for juveniles in the custody of the Office of Juvenile Affairs and acquisitions of food for group homes operated by the Office of Juvenile Affairs;

26. State contracts for flexible benefits plans pursuant to the Oklahoma State Employees Benefits Act, Section 1361 et seq. of this title;

27. Acquisitions by the Department of Securities to investigate, initiate, or pursue administrative, civil, or criminal proceedings involving potential violations of the acts under the Department's jurisdiction;

28. Acquisitions by the Native America Cultural and Educational Authority and acquisitions by the Oklahoma Department of Commerce to assist the Native American Cultural and Educational Authority pursuant to Section 5017 of this title;

29. Acquisitions for resale in and through canteens operated pursuant to Section 537 of Title 57 of the Oklahoma Statutes;

30. Acquisitions by the Oklahoma Boll Weevil Eradication Organization for employment and personnel services, and for acquiring sprayers, blowers, traps, and attractants related to the eradication of boll weevils in this state or as part of a national or regional boll weevil eradication program;

31. Contracts entered into by the Oklahoma Indigent Defense System for expert services pursuant to the provisions of subsection D of Section 1355.4 of Title 22 of the Oklahoma Statutes;

32. Acquisitions by the Oklahoma Correctional Industries and the Agri-Services programs of the Department of Corrections of raw materials, component parts and other products, any equipment excluding vehicles, and any services excluding computer consultant services used to produce goods or services for resale and for the production of agricultural products;

33. Contracts entered into by the Department of Human Services for provision of supported living services to members of the plaintiff class in *Homeward Bound, Inc., et. al., v. The Hisson Memorial Center, et. al.*, Case Number 85-C-437-E, United States District Court for the Northern District of Oklahoma; and

34. Contracts negotiated by the Office of Juvenile Affairs with designated Youth Services Agencies and 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, pursuant to the provisions of Section ~~7302-3.6a~~ 2-7-306 of Title ~~10~~ 10A of the Oklahoma Statutes.

C. Pursuant to the terms of a contract the State Purchasing Director enters into or awards, a state agency, common school, municipality, rural fire protection district, county officer, or any program contract, purchase, acquisition or expenditure that is not subject to the provisions of The Oklahoma Central Purchasing Act, may, unless acting pursuant to a contract with the state that specifies otherwise, make use of statewide contracts and the services of the Purchasing Division and the State Purchasing Director. Any political subdivision or rural fire protection district may designate the State Purchasing Director as its agent for any acquisition from a statewide contract or otherwise available to the state.

D. The State Purchasing Director shall make periodic audits of the purchasing procedures of the Oklahoma Ordnance Works Authority, the Northeast Oklahoma Public Facilities Authority, the University Hospitals Authority, and the Midwestern Oklahoma Development Authority to ensure that the procedures are being followed.

SECTION 161. AMENDATORY 74 O.S. 2001, Section 85.58F, is amended to read as follows:

Section 85.58F A. The Risk Management Administrator pursuant to Section ~~85.34~~ of Title ~~74~~ of the Oklahoma Statutes 85.58A of this title may obtain or provide insurance coverage for a county or counties at their request for any tort liability risks incurred as a result of providing or providing for the temporary detention of children in a juvenile detention facility pursuant to Sections ~~1107 through 1108~~ 1-4-201 or 2-3-103 of Title ~~10~~ 10A of the Oklahoma Statutes.

B. The Risk Management Administrator is authorized to determine eligibility criteria for participation in the Risk Management Program for such county or counties.

C. Such county or counties shall be required to make payments for such insurance coverage as provided by Section ~~85.37 of Title 74 of the Oklahoma Statutes~~ 85.58M of this title.

D. Requests for the insurance coverage provided pursuant to the provisions of this section shall be submitted in writing to the Risk Management Administrator by the county or counties.

SECTION 162. AMENDATORY 74 O.S. 2001, Section 150.5, as last amended by Section 1, Chapter 121, O.S.L. 2008 (74 O.S. Supp. 2008, Section 150.5), is amended to read as follows:

Section 150.5 A. 1. Oklahoma State Bureau of Investigation investigations not covered under Section 150.2 of this title shall be initiated at the request of the following persons:

- a. the Governor,
- b. the Attorney General,
- c. the Council on Judicial Complaints upon a vote by a majority of the Council,
- d. the chair of any Legislative Investigating Committee which has been granted subpoena powers by resolution, upon authorization by a vote of the majority of the Committee,
- e. the Director of the Department of Human Services, or designee, as authorized by Section ~~7106~~ 1-2-105 of Title ~~10~~ 10A of the Oklahoma Statutes, or
- f. a district court judge as authorized by Section ~~7104.1~~ 1-2-103 of Title ~~10~~ 10A of the Oklahoma Statutes.

2. Requests for investigations shall be submitted in writing and shall contain specific allegations of wrongdoing under the laws of the State of Oklahoma.

B. The Governor may initiate special background investigations with the written consent of the person who is the subject of the investigation.

C. The chair of any Senate committee which is fulfilling the statutory responsibility for approving nominations made by the

Governor may, upon a vote by a majority of the committee and with the written consent of the person who is to be the subject of the investigation, initiate a special background investigation of any nominee for the Oklahoma Horse Racing Commission as established by Section 201 of Title 3A of the Oklahoma Statutes or any nominee for the Board of Trustees of the Oklahoma Lottery Commission as established by Section 704 of Title 3A of the Oklahoma Statutes. The Bureau shall submit a report to the committee within thirty (30) days of the receipt of the request. Any consideration by the committee of a report from the Bureau shall be for the exclusive use of the committee and shall be considered only in executive session.

D. 1. All records relating to any investigation being conducted by the Bureau, including any records of laboratory services provided to law enforcement agencies pursuant to paragraph 1 of Section 150.2 of this title, shall be confidential and shall not be open to the public or to the Commission except as provided in Section 150.4 of this title; provided, however, officers and agents of the Bureau may disclose, at the discretion of the Director, such investigative information to:

- a. officers and agents of federal, state, county, or municipal law enforcement agencies and to district attorneys, in the furtherance of criminal investigations within their respective jurisdictions,
- b. employees of the Department of Human Services in the furtherance of child abuse investigations, and
- c. appropriate accreditation bodies for the purposes of the Bureau's obtaining or maintaining accreditation.

2. Any unauthorized disclosure of any information contained in the confidential files of the Bureau shall be a misdemeanor. The person or entity authorized to initiate investigations in this section, and the Attorney General in the case of investigations initiated by the Insurance Commissioner, shall receive a report of the results of the requested investigation. The person or entity requesting the investigation may give that information only to the appropriate prosecutorial officer or agency having statutory authority in the matter if that action appears proper from the information contained in the report, and shall not reveal or give such information to any other person or agency. Violation hereof shall be deemed willful neglect of duty and shall be grounds for removal from office.

E. It shall not be a violation of this section to reveal otherwise confidential information to outside agencies or individuals who are providing interpreter services, questioned document analysis, and other laboratory services that are necessary in the assistance of Bureau investigations. Individuals or agencies receiving the confidential and investigative information or records or results of laboratory services provided to the Bureau by those agencies or individuals, shall be subject to the confidentiality provisions and requirements established in subsection D of this section.

F. The State Treasurer shall initiate a complete background investigation of the positions with the written consent of the persons who are the subject of the investigation pursuant to subsection I of Section 71.1 of Title 62 of the Oklahoma Statutes. The Bureau shall advise the State Treasurer and the Cash Management and Investment Oversight Commission in writing of the results of the investigation.

SECTION 163. AMENDATORY 74 O.S. 2001, Section 317, as amended by Section 1, Chapter 432, O.S.L. 2004 (74 O.S. Supp. 2008, Section 317), is amended to read as follows:

Section 317. The State Fire Marshal, any assistants to the State Fire Marshal, the chief of the fire department of all the cities and towns where a fire department is established, the mayor of the cities and towns where no fire department exists, the chief of a fire protection district created pursuant to Sections 901.1 et seq. of Title 19 of the Oklahoma Statutes and the sheriff of all counties, upon the complaint of any person having an interest in any building or property adjacent, and without any complaint, shall have the right at all reasonable hours for the purpose of an examination to enter into and upon all buildings and premises within their jurisdiction. The State Fire Marshal shall, at least once each year, make a fire inspection of all correctional facilities under the jurisdiction and control of any state agency, county, city or town. The correctional facilities shall include, but not be limited to, institutions within the Department of Corrections as defined by Section 502 of Title 57 of the Oklahoma Statutes, juvenile institutions under the jurisdiction and control of the Department of Institutions, Social and Rehabilitative Services, as listed in Section ~~1401~~ 2-7-606 of Title ~~10~~ 10A of the Oklahoma Statutes, and jails. The State Fire Marshal shall issue a report containing findings of the inspection as to each facility under the

jurisdiction and control of a state agency, to the director of the agency. As to any other correctional facility, the State Fire Marshal shall issue the report to the person immediately responsible for the administration of the facility inspected. Whenever any of the officers shall find any building or other structure which for the want of proper repair, or by reason of age and dilapidated condition, or for any cause is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that a fire would endanger persons and property therein, the officers shall order the building or buildings to be repaired, torn down, demolished, materials removed and all dangerous conditions remedied. Whenever the officers determine that a threat to life is imminent, the officers are permitted to order the evacuation of the occupants of the building or buildings. If the officer finds in a building or upon any premises any combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable conditions of any kind, dangerous to the safety of buildings or property, the officer shall order the materials removed or conditions remedied. The order shall be made against the owner, lessee, agent or occupant of the buildings or premises and, thereupon, the order shall be complied with by the owner, lessee, agent or occupant, and within the time fixed in the order. If the owner, lessee, agent or occupant deems itself aggrieved by an order of any of the officers, and desires a hearing, that person may complain or appeal in writing to the State Fire Marshal within ten (10) days from the service of the order, and the State Fire Marshal shall at once investigate the complaint, and shall fix a time in the county where the property is located, when and where the complaint will be heard by the State Fire Marshal. The State Fire Marshal may affirm, modify, revoke or vacate the order at the hearing, and unless the order is revoked or vacated by the State Fire Marshal, it shall remain in force and be complied with by the owner, lessee, agent or occupant within the time fixed in the order, or within the time as may be fixed by the State Fire Marshal at the hearing. If a person is aggrieved by the final order of the State Fire Marshal as made at the hearing, that person may, within ten (10) days thereafter, appeal to the district court of the county in which the property is situated, notifying the State Fire Marshal in writing of the appeal within three (3) days thereafter, which notice shall be delivered personally to the State Fire Marshal or by registered mail to the office of the State Fire Marshal at Oklahoma City, Oklahoma. The party appealing shall, within three (3) days thereafter, file with the clerk of the district court in which the appeal is made, a bond in an amount to be fixed by the court but in no case less than One Hundred Dollars (\$100.00), with at least sufficient sureties to

be approved by the court, conditioned to pay all costs on the appeal in case the appellant failed to sustain the same or the appeal be dismissed for any cause. The district court shall hear and determine the appeal de novo, in the same manner as other issues of law and fact are heard and tried in the courts, and the State Fire Marshal shall be plaintiff in the action. The district court shall hear and determine the appeal at the next regular term of district court in the county where the order was issued, and may sustain, modify or annul the order of the State Fire Marshal, and the decision of the district court shall be final. The State Fire Marshal shall execute the final order of the district court, and if the order is adverse to the appellant, the State Fire Marshal is empowered to cause the building or premises to be repaired, torn down, demolished, materials removed and all dangerous conditions remedied, as the case may be, at the expense of the appellant. If the appellant fails, refuses or neglects to comply with the order, or pay the expense incurred by the State Fire Marshal in executing the same within thirty (30) days thereafter, the expense shall be certified by the State Fire Marshal to the county assessor of the county in which the property is situated and the county assessor shall enter the expense on the tax list of the county as a special charge against the real estate on which the building is or was situated, and the same shall be collected as other taxes and, when collected, shall be paid to the county treasurer and credited to the general fund of the county in which the property is located. Any person being the owner, occupant, lessee or agent of buildings or premises, who willfully fails, neglects or refuses to comply with any order of any officer named in this section shall be guilty of a misdemeanor and shall be fined not more than Fifty Dollars (\$50.00) nor less than Ten Dollars (\$10.00) for each day's neglect.

SECTION 164. AMENDATORY 74 O.S. 2001, Section 1221, as amended by Section 2, Chapter 485, O.S.L. 2002 (74 O.S. Supp. 2008, Section 1221), is amended to read as follows:

Section 1221. A. The State of Oklahoma acknowledges federal recognition of Indian Tribes recognized by the Department of Interior, Bureau of Indian Affairs.

B. The State of Oklahoma recognizes the unique status of Indian Tribes within the federal government and shall work in a spirit of cooperation with all federally recognized Indian Tribes in furtherance of federal policy for the benefit of both the State of Oklahoma and Tribal Governments.

C. 1. The Governor, or named designee, is authorized to negotiate and enter into cooperative agreements on behalf of this state with federally recognized Indian Tribal Governments within this state to address issues of mutual interest. Except as otherwise provided by this subsection, such agreements shall become effective upon approval by the Joint Committee on State-Tribal Relations.

2. If the cooperative agreements specified and authorized by paragraph 1 of this subsection involve trust responsibilities, approval by the Secretary of the Interior or designee shall be required.

3. Any cooperative agreement specified and authorized by paragraph 1 of this subsection involving the surface water and/or groundwater resources of this state or which in whole or in part apportions surface and/or groundwater ownership shall become effective only upon the consent of the Oklahoma Legislature authorizing such cooperative agreement.

D. 1. The governing board of a political subdivision of this state is authorized to negotiate and enter into intergovernmental cooperative agreements in behalf of the political subdivision, with a federally recognized Indian Tribal Government within this state to address issues of mutual interest. Except as otherwise provided by this subsection, such agreements shall be effective upon approval by the Joint Committee on State-Tribal Relations and the Governor, or named designee.

2. Agreements for juvenile detention facilities made pursuant to Section ~~1108~~ 2-3-103 of Title ~~10~~ 10A of the Oklahoma Statutes shall become effective upon approval by the board of county commissioners.

3. Any cooperative agreement specified and authorized by paragraph 1 of this subsection involving the surface water and/or groundwater resources of this state shall become effective only upon the consent of the Oklahoma Legislature authorizing such cooperative agreement.

4. Agreements between the Military Department of the State of Oklahoma and an Indian tribe for the management or operation of a juvenile facility shall not be subject to the requirements of this section.

E. An executed original of every agreement approved pursuant to this section shall be filed with the Secretary of State.

SECTION 165. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

In publishing the cumulative supplements in 2009, and thereafter and the decennial Oklahoma Statutes, there shall be included in such supplements and the decennial statutes a new Title 10A to be designated as "Children and Juvenile Code".

SECTION 166. REPEALER 10 O.S. 2001, Section 7302-2.5, is hereby repealed.

SECTION 167. 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 168. 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 169. 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 170. 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 171. 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 172. 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 173. 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 174. 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 175. 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 176. 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 177. RECODIFICATION 10 O.S. 2001, Sections 7302-9.1, 7302-9.3, and 7302-9.4, as amended by Sections 34, 36 and 37 of this act, shall be recodified as Section 2-7-901, 2-7-903 and 2-7-904 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering. 10 O.S. 2001, Sections 7302-9.3 and 7302-9.6, as last amended by Sections 35 and 38 of this act shall be recodified as Sections 2-7-902 and 2-7-905 of Title 10A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 178. 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 179. 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 180. 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 181. 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 182. 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 183. 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 184. 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 185. 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 186. 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 187. 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 188. 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 189. 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 190. 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 191. 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 192. 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 193. 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 13th day of May, 2009.

Presiding Officer of the House of
Representatives

Passed the Senate the 14th day of May, 2009.

Presiding Officer of the Senate