

ENROLLED SENATE  
BILL NO. 270

By: Anderson of the Senate

and

Duncan of the House

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

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

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

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

1. A youthful offender presentence investigation shall be conducted unless waived by the youthful offender with approval of the court or unless an investigation is conducted pursuant to subsection C of Section 7306-2.8 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,
- e. the prospects for adequate protection of the public if the person is processed through the youthful offender system or the juvenile system,
- f. the reasonable likelihood of rehabilitation of the person if found to have committed the offense, by the use of procedures and facilities currently available to the juvenile, and
- g. whether the offense occurred while the person was escaping or on escape status from an institution for youthful offenders or delinquent children.

B. 1. After the hearing and consideration of the report of the presentence investigation, the court shall impose sentence as a youthful offender, and such youthful offender shall be subject to the same type of sentencing procedures and duration of sentence, except for capital offenses, including suspension or deferment, as an adult convicted of a felony offense, except that any sentence imposed upon the youthful offender shall be served in the custody or under the supervision of the Office of Juvenile Affairs until the expiration of the sentence, ~~the youthful offender is paroled,~~ the youthful offender is discharged, or the youthful offender reaches

eighteen (18) years of age, whichever first occurs. If an individual sentenced as a youthful offender attains eighteen (18) years of age prior to the expiration of the sentence, such individual shall be returned to the sentencing court. At that time, the sentencing court shall make one of the following determinations:

- a. whether the youthful offender shall be returned to the Office of Juvenile Affairs to complete a treatment program, provided that the treatment program shall not exceed the youthful offender's attainment of eighteen (18) years of age and five (5) months. At the conclusion of the treatment program, the individual shall be returned to the sentencing court for a determination under subparagraph b, c or d of this paragraph,
- b. whether the youthful offender shall be ~~incarcerated in an institution operated by~~ 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 2. This act shall become effective November 1, 2009.

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

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Presiding Officer of the Senate

Passed the House of Representatives the 20th day of April, 2009.

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Presiding Officer of the House  
of Representatives