

EHB 2029

THE STATE SENATE
Monday, April 6, 2009

ENGROSSED
House Bill No. 2029
As Amended

ENGROSSED HOUSE BILL NO. 2029 - By: Steele, McAffrey, Kern, McDaniel (Jeannie), Shelton and Pittman of the House and Coates and Paddack of the Senate.

[Oklahoma Juvenile Code - Board of Juvenile Affairs - powers and duties - Juvenile Detention Improvement Revolving Fund - Juvenile Offender Victim Restitution Work Program - codification - noncodification - recodification - 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".

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

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

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

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

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

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

- 19 1. Recognize the unique characteristics and needs of juveniles;
- 20 2. Give juveniles access to opportunities for personal and
21 social growth;

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

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

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

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

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

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

19 SECTION 4. AMENDATORY 10 O.S. 2001, Section 7301-1.3, as
20 amended by Section 1, Chapter 320, O.S.L. 2006 (10 O.S. Supp. 2008,
21 Section 7301-1.3), is amended to read as follows:

22 Section 7301-1.3 When used in the Oklahoma Juvenile Code,
23 unless the context otherwise requires:

1 1. "Adjudicatory hearing" means a hearing to determine whether
2 the allegations of a petition filed pursuant to the provisions of
3 ~~Article III Chapter 2~~ Chapter 2 of the Oklahoma Juvenile Code are supported by
4 the evidence and whether a juvenile should be adjudged to be a ward
5 of the court;

6 2. "Alternatives to secure detention" means those services and
7 facilities which are included in the State Plan for the
8 Establishment of Juvenile Detention Services adopted by the Board of
9 Juvenile Affairs and which are used for the temporary detention of
10 juveniles in lieu of secure detention in a juvenile detention
11 facility;

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

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

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

20 ~~4.~~ 6. "Child" or "juvenile" means any person under eighteen
21 (18) years of age, except for any person sixteen ~~(16)~~ or seventeen
22 ~~(17)~~ years of age who is charged with any crime specified in
23 subsection A of Section ~~7306-1.1~~ of this title, or any person

1 ~~thirteen (13), fourteen (14) or fifteen (15) years of age who is~~
2 ~~charged with murder in the first degree pursuant to subsection B of~~
3 ~~Section 7306 1.1 of this title or Section 7306 2.5 of this title, or~~
4 ~~any individual who has been certified as an adult pursuant to~~
5 ~~Section 7303 4.3 of this title, or any individual against whom the~~
6 ~~imposition of judgment and sentence has been deferred for any crime~~
7 ~~specified in subsection A or B of Section 7306 1.1 of this title,~~
8 ~~any individual against whom the imposition of judgment and sentence~~
9 ~~has been deferred after certification as an adult pursuant to~~
10 ~~Section 7303 4.3 of this title, or any person fifteen (15) years of~~
11 ~~age or older and charged or certified as a youthful offender~~
12 ~~pursuant to the Youthful Offender Act; provided that any person~~
13 ~~under eighteen (18) years of age who is not convicted after being~~
14 ~~charged with a crime pursuant to Section 7306 1.1 of this title, or~~
15 ~~any individual who is not convicted after certification as an adult~~
16 ~~pursuant to Section 7303 4.3 of this title, or any individual who is~~
17 ~~not convicted as a youthful offender pursuant to the Youthful~~
18 ~~Offender Act, shall continue to be subject to the jurisdiction of~~
19 ~~the juvenile court charged and convicted for any offense specified~~
20 ~~in the Youthful Offender Act or against whom judgment and sentence~~
21 ~~has been deferred for such offense, or any person who is certified~~
22 ~~as an adult pursuant to any certification procedure authorized in~~
23 ~~the Oklahoma Juvenile Code for any offense which results in a~~

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

3 ~~5.~~ 7. "Child or juvenile in need of mental health and substance
4 abuse treatment" means a juvenile in need of mental health and
5 substance abuse treatment as defined by the Inpatient Mental Health
6 and Substance Abuse Treatment of ~~Children~~ Minors Act;

7 ~~6.~~ 8. "Child or juvenile in need of supervision" means a
8 juvenile who:

- 9 a. has repeatedly disobeyed reasonable and lawful
10 commands or directives of the parent, legal guardian,
11 or other custodian,
12 b. is willfully and voluntarily absent from his home
13 without the consent of the parent, legal guardian, or
14 other custodian for a substantial length of time or
15 without intent to return,
16 c. is willfully and voluntarily absent from school, as
17 specified in Section 10-106 of Title 70 of the
18 Oklahoma Statutes, if the juvenile is subject to
19 compulsory school attendance, or
20 d. has been served with an ex parte or final protective
21 order pursuant to the Protection from Domestic Abuse
22 Act;

1 ~~7-~~ 9. "Community-based" means a facility, program or service
2 located near the home or family of the juvenile, and programs of
3 community prevention, diversion, supervision and service which
4 maintain community participation in their planning, operation, and
5 evaluation. These programs may include but are not limited to
6 medical, educational, vocational, social, and psychological
7 guidance, training, counseling, alcoholism treatment, drug
8 treatment, prevention and diversion programs, diversion programs for
9 first-time offenders, transitional living, independent living and
10 other rehabilitative services;

11 ~~8-~~ 10. "Community intervention center" means a facility which
12 serves as a short-term reception facility to receive and hold
13 juveniles for an alleged violation of a municipal ordinance or state
14 law, as provided for in subsection D of Section ~~7302-3.5~~ 2-7-305 of
15 this title;

16 ~~9-~~ 11. "Core community-based" means the following community-
17 based facilities, programs or services provided through contract
18 with the Office of Juvenile Affairs as provided in Section ~~7302-3.6a~~
19 2-7-306 of this title:

- 20 a. screening, evaluation and assessment which includes a
21 face-to-face screening and evaluation to establish
22 problem identification and to determine the risk level

- 1 of a child or adolescent and may result in clinical
2 diagnosis or diagnostic impression,
- 3 b. treatment planning which includes preparation of an
4 individualized treatment plan which is usually done as
5 part of the screening, evaluation and assessment,
- 6 c. treatment plan reviewing which includes a
7 comprehensive review and evaluation of the
8 effectiveness of the treatment plan,
- 9 d. individual counseling which includes face-to-face,
10 one-on-one interaction between a counselor and a
11 juvenile to promote emotional or psychological change
12 to alleviate the issues, problems, and difficulties
13 that led to a referral, including ongoing assessment
14 of the status and response of the juvenile to
15 treatment as well as psychoeducational intervention,
- 16 e. group counseling which includes a method of treating a
17 group of individuals using the interaction between a
18 counselor and two or more juveniles and/or parents or
19 guardians to promote positive emotional or behavioral
20 change, not including social skills development or
21 daily living skills,
- 22 f. family counseling which includes a face-to-face
23 interaction between a counselor and the family of the

- 1 juvenile to facilitate emotional, psychological or
2 behavior changes and promote successful communication
3 and understanding,
- 4 g. crisis intervention counseling which includes
5 unanticipated, unscheduled face-to-face emergency
6 intervention provided by a licensed level or qualified
7 staff with immediate access to a licensed provider to
8 resolve immediate, overwhelming problems that severely
9 impair the ability of the juvenile to function or
10 maintain in the community,
- 11 h. crisis intervention telephone support which includes
12 supportive telephone assistance provided by a licensed
13 level provider or qualified staff with immediate
14 access to a licensed provider to resolve immediate,
15 overwhelming problems that severely impair the ability
16 of the juvenile to function or maintain in the
17 community,
- 18 i. case management which includes planned linkage,
19 advocacy and referral assistance provided in
20 partnership with a client to support that client in
21 self-sufficiency and community tenure,
- 22 j. case management and home-based services which includes
23 that part of case management services dedicated to

1 travel for the purpose of linkage, advocacy and
2 referral assistance and travel to provide counseling
3 and support services to families of children as needed
4 to support specific youth and families in self-
5 sufficiency and community tenure,
6 k. individual rehabilitative treatment which includes
7 face-to-face service provided one-on-one by qualified
8 staff to maintain or develop skills necessary to
9 perform activities of daily living and successful
10 integration into community life, including educational
11 and supportive services regarding independent living,
12 self-care, social skills regarding development,
13 lifestyle changes and recovery principles and
14 practices,
15 l. group rehabilitative treatment which includes face-to-
16 face group services provided by qualified staff to
17 maintain or develop skills necessary to perform
18 activities of daily living and successful integration
19 into community life, including educational and
20 supportive services regarding independent living,
21 self-care, social skills regarding development,
22 lifestyle changes and recovery principles and
23 practices,

1 m. community-based prevention services which include
2 services delivered in an individual or group setting
3 by a qualified provider designed to meet the services
4 needs of a child or youth and family of the child or
5 youth who has been referred because of identified
6 problems in the family or community. The group
7 prevention planned activities must be focused on
8 reducing the risk that individuals will experience
9 behavioral, substance abuse or delinquency-related
10 problems. Appropriate curriculum-based group
11 activities include, but are not limited to, First
12 Offender groups, prevention and relationship
13 enhancement groups, anger management groups, life
14 skills groups, substance abuse education groups,
15 smoking cessation groups, STD/HIV groups and parenting
16 groups,

17 n. individual paraprofessional services which include
18 services delineated in the treatment plan of the
19 juvenile which are necessary for full integration of
20 the juvenile into the home and community, but do not
21 require a professional level of education and
22 experience. Activities include assisting families
23 with Medicaid applications, assisting with school and

1 General Educational Development (GED) enrollment,
2 assisting youth with independent living arrangements,
3 providing assistance with educational problems and
4 deficiencies, acting as a role model for youth while
5 engaging them in community activities, assisting youth
6 in seeking and obtaining employment, providing
7 transportation for required appointments and
8 activities, participating in recreational activities
9 and accessing other required community support
10 services necessary for full community integration and
11 successful treatment,
12 o. tutoring which includes a tutor and student working
13 together as a learning team to bring about overall
14 academic success, improved self-esteem and increased
15 independence as a learner for the student,
16 p. community relations which include public or community
17 relations activities directed toward the community or
18 public at large or any segment of the public to
19 encourage understanding, accessibility and use of
20 community-based facilities, programs or services,
21 q. emergency shelter beds and shelter host homes which
22 include emergency shelter care for juveniles referred

1 to the program needing shelter care within the State
2 of Oklahoma,
3 r. transitional living programs which include a
4 structured program to help older homeless youth
5 achieve self-sufficiency and avoid long-term
6 dependence on social services,
7 s. community-at-risk services (C.A.R.S.) which include a
8 program provided to juveniles in custody or under the
9 supervision of the Office of Juvenile Affairs or a
10 juvenile bureau to prevent out-of-home placement and
11 to reintegrate juveniles returning from placements.
12 The program shall include, but not be limited to,
13 treatment plan development, counseling, diagnostic and
14 evaluation services, mentoring, tutoring, and
15 supervision of youth in independent living,
16 t. first offender programs which include alternative
17 diversion programs ~~for first-time offenders~~, as
18 defined by Section ~~7303-4.6~~ 2-2-404 of this title, and
19 u. ~~teen court programs which include teen court programs~~
20 ~~subject to the requirements and procedures provided in~~
21 ~~Section 7303-4.6 of this title,~~
22 v. ~~teen substance abuse schools which include teen~~
23 ~~substance abuse schools that shall include any program~~

1 ~~approved by the court that provides educational,~~
2 ~~motivational and behavior modification instruction for~~
3 ~~juveniles who have chemical dependency problems, and~~
4 ~~w.~~ other community-based facilities, programs or services
5 designated by the Board as core community-based
6 facilities, programs or services;

7 ~~10.~~ 12. "Day treatment" means a program which provides
8 intensive services to juveniles who reside in their own home, the
9 home of a relative, or a foster home. Day treatment programs
10 include educational services and may be operated as a part of a
11 residential facility;

12 ~~11.~~ 13. "Delinquent child or juvenile" means a juvenile who:
13 a. has violated any federal or state law or municipal
14 ordinance except a traffic statute or traffic
15 ordinance or any provision of the Oklahoma Wildlife
16 Conservation Code, the Oklahoma Vessel and Motor
17 Regulation Act or the Oklahoma Boating Safety
18 Regulation Act, or has violated any lawful order of
19 the court made pursuant to the provisions of the
20 Oklahoma Juvenile Code, or
21 b. has habitually violated traffic laws, traffic
22 ordinances or boating safety laws or rules;

1 ~~12.~~ 14. "Dispositional hearing" means a hearing to determine
2 the order of disposition which should be made with respect to a
3 juvenile adjudged to be a ward of the court;

4 ~~13.~~ 15. "Executive Director" means the Executive Director of
5 the Office of Juvenile Affairs;

6 ~~14.~~ 16. "Facility" means a place, an institution, a building or
7 part thereof, a set of buildings, or an area whether or not
8 enclosing a building or set of buildings which is used for the
9 lawful custody and treatment of juveniles. A facility shall not be
10 considered a correctional facility subject to the provisions of
11 Title 57 of the Oklahoma Statutes;

12 ~~15.~~ 17. "Graduated sanctions" means a calibrated system of
13 sanctions designed to ensure that juvenile offenders face uniform,
14 immediate, and consistent consequences that correspond to the
15 seriousness of each offender's current offense, prior delinquent
16 history, and compliance with prior interventions;

17 ~~16.~~ 18. "Group home" means a residential facility with a
18 program which emphasizes family-style living in a homelike
19 environment. Said group home may also offer a program within the
20 community to meet the specialized treatment needs of its residents.
21 A group home shall not be considered a correctional facility subject
22 to the provisions of Title 57 of the Oklahoma Statutes;

1 ~~17.~~ 19. "Independent living program" means a program designed
2 to assist a juvenile to enhance skills and abilities necessary for
3 successful adult living and may include but shall not be limited to
4 minimal direct staff supervision and supportive services in making
5 the arrangements necessary for an appropriate place of residence,
6 completing an education, vocational training, obtaining employment
7 or other similar services;

8 ~~18.~~ 20. "Institution" means a residential facility offering
9 care and treatment for more than twenty residents. An institution
10 shall not be considered a correctional facility subject to the
11 provisions of Title 57 of the Oklahoma Statutes. Said institution
12 may:

- 13 a. have a program which includes community participation
14 and community-based services, or
- 15 b. be a secure facility with a program exclusively
16 designed for a particular category of resident;

17 ~~19.~~ 21. "Juvenile detention facility" means a secure facility
18 which meets the certification standards of the ~~Department~~ Office and
19 which is entirely separate from any prison, jail, adult lockup, or
20 other adult facility, for the temporary care of children. A
21 juvenile detention facility shall not be considered a correctional
22 facility subject to the provisions of Title 57 of the Oklahoma
23 Statutes;

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

3 ~~21.~~ 22. "Municipal juvenile facility" means a facility other
4 than a community intervention center that accepts a child under
5 eighteen (18) years of age charged with violating a municipal
6 ordinance and meets the requirements of Section ~~7303-1.2~~ 2-2-102 of
7 this title;

8 ~~22.~~ 23. "Office" means the Office of Juvenile Affairs;

9 ~~23.~~ 24. "Peer Review" means an initial or annual review and
10 report to the Office of Juvenile Affairs of the organization,
11 programs, records and financial condition of a Youth Services Agency
12 by the Oklahoma Association of Youth Services, or another Oklahoma
13 nonprofit corporation whose membership consists solely of Youth
14 Services Agencies and of whom at least a majority of Youth Services
15 Agencies are members. An annual review may consist of a review of
16 one or more major areas of the operation of the Youth Services
17 Agency being reviewed;

18 ~~24.~~ 25. "Person responsible for a juvenile's health or welfare"
19 includes a parent, a legal guardian, custodian, a foster parent, a
20 person eighteen (18) years of age or older with whom the juvenile's
21 parent cohabitates or any other adult residing in the home of the
22 child, an agent or employee of a public or private residential home,
23 institution or facility, or an owner, operator, or employee of a

1 child care facility as defined by Section 402 of ~~this title~~ Title 10
2 of the Oklahoma Statutes;

3 ~~25.~~ 26. "Preliminary inquiry" or "intake" means a mandatory,
4 preadjudicatory interview of the juvenile and, if available, the
5 parents, legal guardian, or other custodian of the juvenile, which
6 is performed by a duly authorized individual to determine whether a
7 juvenile comes within the purview of the Oklahoma Juvenile Code,
8 whether nonadjudicatory alternatives are available and appropriate,
9 and if the filing of a petition is necessary;

10 ~~26.~~ 27. "Probation" means a legal status created by court order
11 whereby a delinquent juvenile is permitted to remain outside a
12 ~~Department~~ an Office of Juvenile ~~Justice~~ Affairs facility directly
13 or by contract under prescribed conditions and under supervision by
14 the ~~Department~~ Office, subject to return to the court for violation
15 of any of the conditions prescribed;

16 ~~27.~~ 28. "Rehabilitative facility" means a facility maintained
17 by the state exclusively for the care, education, training,
18 treatment, and rehabilitation of juveniles in need of supervision;

19 ~~28.~~ 29. "Responsible adult" means a stepparent, foster parent,
20 person related to the juvenile in any manner who is eighteen (18)
21 years of age or older, or any person having an obligation and
22 authority to care for or safeguard the juvenile in the absence of
23 another person who is eighteen (18) years of age or older;

1 30. "Secure detention" means the temporary care of juveniles
2 who require secure custody in physically restricting facilities:

3 a. while under the continuing jurisdiction of the court
4 pending court disposition, or

5 b. pending placement by the ~~Department~~ Office of Juvenile
6 ~~Justice~~ Affairs after adjudication;

7 ~~29.~~ 31. "Training school" or "secure facility" means a
8 facility, maintained by the state exclusively for the care,
9 education, training, treatment, and rehabilitation of delinquent
10 juveniles or youthful offenders which relies on locked rooms and
11 buildings, and fences for physical restraint in order to control
12 behavior of its residents. A training school or secure facility
13 shall not be considered a correctional facility subject to the
14 provisions of Title 57 of the Oklahoma Statutes;

15 ~~30.~~ 32. "Transitional living program" means a residential
16 program that may be attached to an existing facility or operated
17 solely for the purpose of assisting juveniles to develop the skills
18 and abilities necessary for successful adult living. Said program
19 may include but shall not be limited to reduced staff supervision,
20 vocational training, educational services, employment and employment
21 training, and other appropriate independent living skills training
22 as a part of the transitional living program; and

1 office and appointments made after July 1 of the year in which such
2 modification becomes effective shall be based on the redrawn
3 districts. Appointments made after July 1 of the year in which ~~such~~
4 the modification becomes effective shall be from any redrawn
5 districts which are not represented by a board member until such
6 time as each of the modified congressional districts are represented
7 by a board member. No appointments may be made after July 1 of the
8 year in which ~~such~~ the modification becomes effective if such
9 appointment would result in more than two members serving from the
10 same modified district. The terms of office of the members serving
11 on the Board on the effective date of this act shall expire at the
12 end of the current term of the member.

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

- 15 a. one member appointed by the Governor shall be a
16 resident of the First Congressional District,
17 b. one member appointed by the Governor shall be a
18 resident of the Second Congressional District,
19 c. one member appointed by the Governor shall be a
20 resident of the Third Congressional District,
21 d. one member appointed by the Governor shall be a
22 resident of the Fourth Congressional District,

- 1 e. one member appointed by the Governor shall be a
2 resident of the Fifth Congressional District,
3 f. one member appointed by the Governor shall be
4 appointed at large, and
5 g. one member appointed by the Governor shall be
6 appointed at large.

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

10 2. Thereafter an appointment shall be made by the Governor
11 within ninety (90) days after a vacancy has occurred due to
12 resignation, death, or any cause resulting in an unexpired term. In
13 the event of a vacancy on the Board due to resignation, death, or
14 for any cause resulting in an unexpired term, if not filled within
15 ninety (90) days following ~~such~~ the vacancy, the Board may appoint a
16 provisional member to serve in the interim until the Governor makes
17 an appointment.

18 3. A member may be reappointed to succeed himself or herself
19 for one additional term.

20 D. To be eligible for appointment to the Board a person shall:

- 21 1. Be a citizen of the United States;
22 2. Be a resident of this state;
23 3. Be a qualified elector of this state; and

1 4. Not have been convicted of a felony pursuant to the laws of
2 this state, the laws of any other state, or the laws of the United
3 States.

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

10 F. Any member of the Board may be removed from office in the
11 manner provided by law for the removal of officers not subject to
12 impeachment.

13 G. 1. The Board shall hold meetings as necessary at a place
14 and time to be fixed by the Board. The Board shall elect, at its
15 first meeting, one of its members to serve as chair and another of
16 its members to serve as vice-chair. At the first meeting in each
17 calendar year thereafter, the chair and vice-chair for the ensuing
18 year shall be elected. Special meetings may be called by the chair
19 or by five members of the Board by delivery of written notice to
20 each member of the Board. A majority of members serving on the
21 Board shall constitute a quorum of the Board.

22 2. Members of the Board shall receive necessary travel expenses
23 according to the provisions of the State Travel Reimbursement Act,

1 but shall receive no other compensation. Travel expenses shall be
2 paid from funds available to the Office of Juvenile Affairs.

3 H. The Board shall:

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

6 2. Appoint and fix the compensation of the Executive Director
7 of the Office of Juvenile Affairs;

8 3. Be the rulemaking body for the Office of Juvenile Affairs;

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

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

14 6. Provide a public forum for receiving comments and
15 disseminating information to the public and the regulated community
16 regarding goals, objectives, priorities, and policies of the Office
17 of Juvenile Affairs at least quarterly. The Board shall have the
18 authority to adopt nonbinding resolutions requesting action by the
19 Office of Juvenile Affairs in response to comments received or upon
20 the Board's own initiative; and

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

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

6 2. Effective July 1, 1995, any administrative policies adopted
7 by the Commission for Human Services related to personnel and other
8 administrative issues and any rules promulgated relating to the
9 custody, care and supervision of children adjudicated to be
10 delinquent or in need of supervision shall be and remain in effect
11 until amended or new rules are promulgated by the Board of Juvenile
12 Affairs.

13 3. Any rules adopted by the Commission for Human Services
14 related to personnel and other administrative issues and the
15 custody, care and supervision of children adjudicated to be
16 delinquent or in need of supervision and subject to review by the
17 Legislature during the 1st Session of the 45th Oklahoma Legislature
18 may be finally adopted and promulgated by the Board of Juvenile
19 Affairs pursuant to the Administrative Procedures Act.

20 4. Starting April 1, 1995, the Board of Juvenile Affairs shall
21 conduct an internal review of current permanent and emergency rules
22 relating to the custody, care and supervision of children
23 adjudicated to be delinquent or in need of supervision to determine

1 whether such rules need to be amended, or repealed, reinstated, or
2 recodified. By January 1, 1997, the Board shall have adopted
3 permanent rules to implement the programs and functions within its
4 jurisdiction and shall submit such rules for legislative review
5 pursuant to Article I of the Administrative Procedures Act.

6 5. The Board of Juvenile Affairs shall develop performance
7 standards for programs implemented, either directly or pursuant to
8 contract, by the Office of Juvenile Affairs.

9 SECTION 7. AMENDATORY 10 O.S. 2001, Section 7302-3.1, as
10 last amended by Section 5, Chapter 1, O.S.L. 2007 (10 O.S. Supp.
11 2008, Section 7302-3.1), is amended to read as follows:

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

15 1. Be the state planning and coordinating agency for statewide
16 juvenile justice and delinquency prevention services; provided, it
17 shall give full consideration to any recommendations of the Oklahoma
18 Association of Youth Services regarding community-based facilities,
19 programs or services;

20 2. Provide court intake, probation and parole for delinquent
21 children; and

1 3. Collect and disseminate information and engage in juvenile
2 justice or delinquency prevention activities relating to the
3 provisions of the Oklahoma Juvenile Code.

4 B. The Office of Juvenile Affairs shall include the following:

5 1. The Office of Advocate Defender;

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

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

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

12 a. programs for community intervention and diversion
13 projects to prevent juvenile delinquency,

14 b. state programs for children who are potentially
15 delinquent and/or who are adjudicated delinquent,

16 c. programs for community disciplinary projects,

17 d. programs of juvenile crime restitution,

18 e. the ~~Serious and Habitual~~ Juvenile Offender Tracking
19 Program,

20 f. regimented juvenile training programs,

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

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

3 2. Beginning July 1, 1995, the Office of Juvenile Affairs, in
4 cooperation with the courts, shall develop programs which can be
5 used directly by the Office of Juvenile Affairs or can be used in
6 communities with the assistance of the Office of Juvenile Affairs to
7 divert juveniles at risk of becoming delinquent from the formal
8 court process. ~~Such~~ Any such programs shall ~~include, but not be~~
9 ~~limited to:~~

- 10 a. ~~alternative diversion programs for first time~~
11 ~~offenders as defined by Section 7303-4.6 of this~~
12 ~~title,~~
- 13 b. ~~teen court programs, subject to the requirements and~~
14 ~~procedures provided in Section 7303-4.6 of this title,~~
15 ~~and~~
- 16 c. ~~teen substance abuse schools. A teen substance abuse~~
17 ~~school shall include any program approved by the court~~
18 ~~that provides educational, motivational and behavior~~
19 ~~modification instruction for juveniles who have~~
20 ~~chemical dependency problems~~ meet the requirements of
21 Section 2-2-404 of this title.

22 D. Beginning July 1, 1995, the Office of Juvenile Affairs, in
23 its role as coordinator for delinquency prevention services, shall,

1 after full consideration of any recommendation of the Oklahoma
2 Association of Youth Services:

3 1. Establish guidelines for juvenile delinquency prevention and
4 diversion programs for use in community-based programs, including
5 but not limited to:

- 6 a. counseling programs,
- 7 b. recreational programs,
- 8 c. job skills workshops,
- 9 d. community public improvement projects,
- 10 e. mediation programs,
- 11 f. programs to improve relationships between juveniles
12 and law enforcement personnel,
- 13 g. diagnostic evaluation services,
- 14 h. substance abuse prevention programs,
- 15 i. independent living skills and self-sufficiency
16 planning programs, and
- 17 j. case management services; and

18 2. Provide that personnel shall be available in each county of
19 the state to assist local communities in developing and implementing
20 community programs to prevent delinquency and to divert juveniles
21 who have committed delinquent acts from committing further
22 delinquent or criminal acts. The Office of Juvenile Affairs shall
23 provide this service in each county either directly or by contract.

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

- 6 a. the Residential Services Unit of the Office of
7 Juvenile Justice and all staff for the Unit,
- 8 b. the Quality Assurance Monitoring Unit of the Office of
9 Juvenile Justice and all staff for the Unit,
- 10 c. the Contract Management/Youth Services Unit of the
11 Office of Juvenile Justice and all staff for the Unit,
- 12 d. the Psychological Unit of the Office of Juvenile
13 Justice and all staff for the Unit,
- 14 e. the Juvenile Services Unit and all field and
15 supervisory staff for the Unit,
- 16 f. all institutional staff for institutions transferred
17 from the Department of Human Services to the Office of
18 Juvenile Affairs,
- 19 g. all staff assigned to the community residential
20 programs of the Office of Juvenile Justice,
- 21 h. the Management Services Unit of the Office of Juvenile
22 Justice,
- 23 i. the Programs Unit of the Office of Juvenile Justice,

- 1 j. all staff of the business office of the Office of
2 Juvenile Justice,
3 k. the Planning and Information Unit of the Office of
4 Juvenile Justice,
5 l. all staff of the Office of Juvenile Justice assigned
6 to serve as the liaison to the Federal Court Monitor
7 of the Office of Juvenile Justice,
8 m. the Parole Review and Hearing Board within the Office
9 of the General Counsel of the Department of Human
10 Services and all members of the Board and support
11 staff for the Board, and
12 n. the Division Administrator for the Office of Juvenile
13 Justice and administrative staff for the Division
14 Administrator.

15 2. The Office of Juvenile Affairs and the Department of Human
16 Services may enter into an agreement for the transfer of personnel
17 on July 1, 1995, from the Department of Human Services to the Office
18 of Juvenile Affairs. No selected employee shall be transferred to
19 the Office of Juvenile Affairs, except on the freely given written
20 consent of the employee.

21 3. The classified and unclassified employees who are
22 transferred pursuant to paragraph 1 or 2 of this subsection from the

1 Department of Human Services to the Office of Juvenile Affairs on
2 July 1, 1995, shall be subject to the following provisions:

- 3 a. classified employees shall remain subject to the
4 provisions of the Merit System of Personnel
5 Administration as provided in the Oklahoma Personnel
6 Act except that such employees shall be exempt from
7 the provisions of the Merit System pertaining to
8 classification until October 1, 1995. Effective
9 October 1, 1995, such employees shall be given status
10 in the class to which the position occupied by the
11 employee on October 1, 1995, is allocated by the
12 Office of Personnel Management. The salary of such an
13 employee shall not be reduced as a result of such
14 position allocation, and if the employee's salary is
15 below the minimum rate of pay for the class to which
16 the position occupied by the employee on October 1,
17 1995, is allocated, the employee's salary shall be
18 adjusted up to the minimum rate of pay; provided, if
19 such allocation is a promotion, the minimum rate shall
20 be determined as provided in 530:10-7-14 of the
21 Oklahoma Administrative Code,
22 b. unclassified employees shall remain in the
23 unclassified service and shall serve at the pleasure

1 of the Executive Director. Effective October 1, 1995,
2 such employees who occupy positions that are subject
3 to the Merit System of Personnel Administration shall
4 become classified and subject to the provisions of the
5 Merit System of Personnel Administration pursuant to
6 Section 840-4.1 of Title 74 of the Oklahoma Statutes.
7 Unclassified employees who, on October 1, 1995, occupy
8 positions that remain in the unclassified service
9 pursuant to law, shall remain in the unclassified
10 service and shall continue to serve at the pleasure of
11 the Executive Director,

12 c. all employees who are transferred to the Office of
13 Juvenile Affairs shall retain leave, sick and annual
14 time earned and any retirement and longevity benefits
15 which have accrued during their tenure with the agency
16 from which transferred. The salaries of employees who
17 are transferred shall not be reduced as a direct and
18 immediate result of the transfer. The transfer of
19 personnel among the state agencies shall be
20 coordinated with the Office of Personnel Management,
21 and

22 d. if the Office of Juvenile Affairs should implement a
23 reduction in force, all employees transferred from the

1 Department of Human Services to the Office of Juvenile
2 Affairs on July 1, 1995, shall be credited for the
3 time they were employed by the Department of Human
4 Services. The Office of Juvenile Affairs may enter
5 into a contract for professional services for any
6 contract that was in effect at the time of the posting
7 of the reduction in force with a person who has been
8 separated from service with the Office of Juvenile
9 Affairs as a result of the reduction in force.

10 F. Effective July 1, 1995, custody, care and supervision of
11 juveniles adjudicated to be delinquent or in need of supervision and
12 any monies and funds received on behalf of such juveniles are hereby
13 transferred from the Department of Human Services to the Office of
14 Juvenile Affairs. Records in the custody of the Department of Human
15 Services on the transfer date relating to delinquent juveniles and
16 juveniles in need of supervision shall be transferred to the
17 Department of Juvenile Justice. Effective July 1, 2006, records in
18 the custody of the Department of Juvenile Justice relating to
19 delinquent juveniles and juveniles in need of supervision shall be
20 transferred to the Office of Juvenile Affairs.

21 G. Effective July 1, 1995, all powers, duties, records,
22 property, assets, monies and funds of the Office of Juvenile Justice
23 shall be transferred to the Office of Juvenile Affairs. Effective

1 July 1, 1995, liabilities of the Office of Juvenile Justice shall be
2 transferred to the Office of Juvenile Affairs as provided for in the
3 appropriation process of the Legislature. Any additional
4 administrative support or costs incurred by the Office of Juvenile
5 Affairs as a result of the transfer required by this section shall
6 be borne by the Office of Juvenile Affairs.

7 H. The Office of Juvenile Justice shall be abolished by the
8 Commission for Human Services after such transfer has been
9 completed.

10 I. The Director of State Finance is hereby directed to
11 coordinate the transfer of assets, funds, allotments, purchase
12 orders, liabilities, outstanding financial obligations or
13 encumbrances provided for in this section. The Department of
14 Central Services is hereby directed to coordinate the transfer of
15 property and records provided for in this section.

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

18 Section 7302-3.2 A. ~~Effective July 1, 1995, there~~ There is
19 hereby established within the ~~Department~~ Office of Juvenile Justice
20 Affairs the Division of Advocate Defender which will be separate and
21 apart from the Office of General Counsel. The administrative
22 officer of the Division of Advocate Defender shall be the Advocate
23 General, who shall be an attorney with a minimum of three (3) ~~years~~

1 years of experience as an attorney. The Executive Director of the
2 Office of Juvenile Affairs shall employ such other personnel as may
3 be necessary to carry out the purposes of this section. Such
4 personnel may be dismissed only for cause.

5 B. ~~Effective July 1, 1995, the~~ The duties and responsibilities
6 of the Advocate General are as follows:

- 7 1. Supervise personnel assigned to children's institutions and
8 facilities as student defender/representatives;
- 9 2. Monitor and review grievance procedures and hearings;
- 10 3. Investigate grievances of juveniles and staff grievances
11 related to juveniles which are not resolved at the facility level;
- 12 4. Report to the Department of Human Services allegations of
13 abuse or neglect of juveniles who are in the custody of the Office
14 of Juvenile Affairs and placed in private facilities or facilities
15 operated by the Office of Juvenile Affairs; or
- 16 5. Coordinate any hearings or meetings of administrative review
17 committees conducted as a result of unresolved grievances or as a
18 result of investigations;
- 19 6. Make recommendations to the ~~Deputy~~ Executive Director of the
20 ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, and provide regular
21 or special reports regarding grievance procedures, hearings and
22 investigations to the Executive Director of the Office of Juvenile

1 Affairs, the Office of Juvenile System Oversight and other
2 appropriate persons as necessary;

3 7. Forward to the Office of Juvenile Systems Oversight, for the
4 information of the Executive Director of the Office of Juvenile
5 Systems Oversight, a copy of the final report of a complaint which
6 is not resolved, through the system for resolution of grievances
7 established by the Office of Juvenile Affairs, in the favor of the
8 complainant; and

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

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

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

18 B. The Office of Juvenile Affairs shall take all necessary
19 steps to develop and implement a diversity of community services and
20 community-based residential care as needed to provide for adequate
21 and appropriate community-based care, treatment and rehabilitation
22 of children in the care, custody, and supervision of the Office of
23 Juvenile Affairs. Such community services and residential care

1 shall be consistent with the treatment needs of the child and the
2 protection of the public.

3 1. The Office of Juvenile Affairs shall, to the extent
4 reasonable and practicable, provide community-based services,
5 community residential care and community intervention centers to
6 children in the custody of the Office of Juvenile Affairs through
7 financial agreements, as authorized in Sections ~~7302-3.3~~ 2-7-303 and
8 ~~7302-3.4~~ of 2-7-304 of this title.

9 2. The Office of Juvenile Affairs shall establish procedures
10 for the letting of grants or contracts, and the conditions and
11 requirements for the receipt of such grants or contracts, for
12 community-based services, community residential care and community
13 intervention centers. A copy of such procedures shall be made
14 available to any member of the general public upon request.

15 C. Any state agency letting grants or contracts for the
16 establishment of community residential care or treatment facilities
17 for children shall require, as a condition for receipt of such
18 grants or contracts, documented assurance from the agency or
19 organization establishing such facility that appropriate
20 arrangements have been made for providing the educational services
21 to which residents of the facility are entitled pursuant to state
22 and federal law.

1 D. 1. The Office of Juvenile Affairs shall implement programs
2 for establishment and continued operation of community intervention
3 centers. The centers shall be established pursuant to interlocal
4 agreements between one or more municipalities and the Office of
5 Juvenile Affairs pursuant to rules promulgated by the Office. The
6 municipality may enter into subcontracts with one or more service
7 providers, subject to the approval by the Office of Juvenile
8 Affairs. The service provider, whether a municipality or other
9 entity, must have access to the management information system
10 provided for in Section ~~7302-3.8~~ 2-7-308 of this title and must
11 employ qualified staff, as determined by the Office of Juvenile
12 Affairs.

13 2. The community intervention center shall serve as a short-
14 term reception facility to receive and hold juveniles who have been
15 taken into custody by law enforcement agencies for the alleged
16 violation of a municipal ordinance or state law and for whom
17 detention is inappropriate or unavailable. The community
18 intervention center may be a secure facility. Juveniles held in the
19 community intervention facility shall not be isolated from common
20 areas other than for short-term protective holding for combative or
21 self-destructive behavior, as defined by the Office of Juvenile
22 Affairs.

1 3. Juveniles shall not be held in a community intervention
2 center for more than twenty-four (24) hours.

3 4. The community intervention center shall perform the
4 following functions:

- 5 a. enter demographic information into the management
6 information system provided for in Section ~~7302-3.8~~ 2-
7 7-308 of this title,
- 8 b. immediately notify the parents or parent, guardian, or
9 other person legally responsible for the juvenile's
10 care, or if such legally responsible person is
11 unavailable the adult with whom the juvenile resides,
12 that the juvenile has been taken into custody and to
13 pick up the juvenile, and
- 14 c. hold juveniles until they can be released to a parent,
15 guardian, or other responsible adult or until a
16 temporary placement can be secured, but in no event
17 for longer than twenty-four (24) hours.

18 5. The community intervention center may perform the following
19 functions:

- 20 a. gather information to determine if the juvenile is in
21 need of immediate medical attention,
- 22 b. conduct an initial assessment pursuant to rules
23 promulgated by the Office of Juvenile Affairs. Such

1 initial assessment may be given without parental
2 consent if the juvenile agrees to participate in the
3 assessment, and
4 c. conduct an assessment pursuant to a Problem Behavior
5 Inventory or a Mental Status Checklist or an
6 equivalent assessment instrument authorized by rules
7 promulgated by the Office of Juvenile Affairs, if
8 written permission to do so is obtained from the
9 parent, guardian or other person legally responsible
10 for the ~~juvenile's~~ care of the juvenile. Such person
11 and the juvenile may review the assessment instrument
12 prior to the assessment process, must be informed that
13 participation in the assessment is voluntary and that
14 refusal to participate shall not result in any
15 penalty, and must sign a written acknowledgment that
16 they were given an opportunity to review the
17 assessment instrument. The assessment shall be used
18 to develop recommendations to correct the behavior of
19 the juvenile, to divert the progression of the
20 juvenile into the juvenile justice system, to
21 determine if the juvenile is in need of nonemergency
22 medical treatment, and to determine if the juvenile is
23 the victim of violence. Information derived from the

1 assessment shall not be used in any phase of
2 prosecution but may be used by the court following
3 adjudication for the dispositional order and may be
4 used for referrals to social services.

5 6. A juvenile alleged to have committed an offense which would
6 be a felony if committed by an adult may be fingerprinted at a
7 community intervention center. No other juveniles shall be
8 fingerprinted at community intervention centers.

9 7. Community intervention centers shall be certified pursuant
10 to standards established and rules promulgated by the Office of
11 Juvenile Affairs.

12 SECTION 10. AMENDATORY Section 4, Chapter 4, O.S.L.
13 2002, as amended by Section 9, Chapter 320, O.S.L. 2006 (10 O.S.
14 Supp. 2008, Section 7302-3.6a), is amended to read as follows:

15 Section 7302-3.6a A. Funds specifically appropriated to the
16 Office of Juvenile Affairs for designated Youth Services Agency
17 programs for both the Office of Juvenile Affairs and the Department
18 of Human Services shall be made available through contracts
19 negotiated by the Office of Juvenile Affairs, to organizations
20 designated by the Board of Juvenile Affairs as "Youth Services
21 Agencies". All core community-based programs and services to be
22 performed by a Youth Services Agency during a contract period shall
23 be included in one contract or contract extension for that period.

1 Designations of Youth Services Agencies by the Board shall be
2 granted based on community needs, as indicated in the State Plan for
3 Youth Services Agencies which shall be adopted by rule by the Board.
4 The State Plan for Youth Services Agencies shall be adopted in
5 accordance with criteria approved by the Board of Juvenile Affairs
6 after full consideration of any recommendations of the Department of
7 Human Services and the Oklahoma Association of Youth Services. The
8 criteria and plan adopted by the Board shall designate community-
9 based Youth Services Agency Service Areas that will serve as the
10 primary catchment area for each Youth Services Agency. Until the
11 criteria is established by the Board, the criteria established by
12 the Commission for Human Services shall remain in effect. The
13 criteria for designation of Youth Services Agencies shall include
14 but shall not be limited to:

15 1. Capability to deliver all or part of the compensable
16 services enumerated in Section ~~7302-3.3 of Title 10~~ 2-7-303 of the
17 ~~Oklahoma Statutes~~ this title, if the Youth Services Agency is to
18 provide such services;

19 2. Capability to deliver all or part of the compensable
20 children's services that the Department of Human Services is
21 authorized to provide for by contract with a private agency, if the
22 Youth Services Agency is to provide such services;

1 3. Adequate and qualified staff who are available as needed,
2 within a reasonable time after being contacted for services in each
3 county served by the agency;

4 4. Adequate services in the Youth Services Agency Area served
5 by the agency;

6 5. Financial viability;

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

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

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

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

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

8 2. Such other criteria as the Board of Juvenile Affairs
9 determines appropriate.

10 C. Each Youth Services Agency receiving, by grant or contract
11 from the Department of Human Services on June 30, 1995, state funds
12 specifically appropriated for community-based youth services
13 programs, is hereby automatically designated a "Youth Services
14 Agency".

15 D. The Board of Juvenile Affairs, on recommendation of the
16 Office of Juvenile Affairs, may terminate the designation of a Youth
17 Services Agency that:

18 1. Is seriously deficient in the administration of its program;

19 2. Loses financial viability; or

20 3. Fails to successfully complete the annual peer review
21 process by the Oklahoma Association of Youth Services or another
22 Oklahoma nonprofit corporation whose membership consists solely of

1 Youth Services Agencies and of whom at least a majority of Youth
2 Services Agencies are members.

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

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

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

8 F. The Office of Juvenile Affairs shall be the sole
9 administrator of Youth Services Agency contracts. Any contracting
10 procedure shall include a procedure for converting all contracts to
11 a system of payment which will be structured in a manner that will
12 allow for the receipt of all available federal funds. Provided, the
13 Office of Juvenile Affairs shall make no requirement that would
14 require a juvenile to be inappropriately diagnosed for the purpose
15 of receiving federal reimbursement for services.

16 G. The Office of Juvenile Affairs and the Department of Human
17 Services shall enter into a cooperative agreement that establishes
18 procedures to ensure the continuation of services provided for in
19 paragraph 2 of subsection A of this section by Youth Services
20 Agencies. The Office of Juvenile Affairs shall consult with the
21 Department of Human Services when assessing the capability of a
22 Youth Services Agency to deliver services pursuant to paragraph 2 of
23 subsection A of this section.

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

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

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

19 1. The local board of the Youth Services Agency, based upon its
20 knowledge and assessment of the needs of the community, shall
21 prepare and present to the Office of Juvenile Affairs a proposal to
22 provide community-based services to juveniles and families in the
23 youth services service area in which it is located. The proposal

1 shall be specific in terms of its program objectives and goals and
2 the services the Youth Services Agency proposes to render;

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

11 3. Contracts shall require performance of a specific service or
12 services to be performed. Where the services cannot be broken down
13 into units, specifically measurable and reviewable services shall be
14 stated. Contracts may contain requirements of performance based
15 upon measurable quality outcome indicators. Documentation required
16 for monitoring and evaluation of the contract shall be consistent
17 with the terms of the contract, shall be in accordance with
18 generally accepted governmental accounting practices, and so far as
19 possible, sufficient for the Office of Juvenile Affairs to monitor
20 the performance of the contract without being overly burdensome to
21 the Youth Services Agency. The documentation to be required is the
22 proper subject of negotiation as part of the contracts, and the

1 parties may rely on the Department of Central Services for
2 assistance if they are unable to reach agreement;

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

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

16 K. Contracts with Youth Services Agencies for community-based
17 services shall be for a period of twelve (12) months, beginning at
18 the first of each fiscal year, and renewable on an annual basis.
19 Contracts shall be considered during the third and fourth quarter of
20 the fiscal year for contracting the following year. Consideration
21 for renewal shall include a review of the performance of the current
22 contract including the annual peer review. If the Office of
23 Juvenile Affairs determines the contractual relationship shall be

1 renewed, it shall be in a new contract for the upcoming fiscal year
2 and may or may not contain the same terms, conditions, form and
3 format as the previous contract. Any change from the contract of
4 the previous year that is proposed by the Youth Services Agency or
5 the Office of Juvenile Affairs shall be the subject of negotiation
6 at the request of either party.

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

14 M. The Office of Juvenile Affairs is authorized to contract
15 with the Oklahoma Association of Youth Services or another Oklahoma
16 nonprofit corporation whose membership consists solely of Youth
17 Services Agencies and of whom at least a majority of Youth Services
18 Agencies are members for evaluation, training and program materials
19 and for statewide office support, including rental of office space
20 and general technical assistance for Youth Services Agencies with
21 which the Office of Juvenile Affairs has contracts.

1 SECTION 11. AMENDATORY 10 O.S. 2001, Section 7302-3.8,
2 as amended by Section 11, Chapter 320, O.S.L. 2006 (10 O.S. Supp.
3 2008, Section 7302-3.8), is amended to read as follows:

4 Section 7302-3.8 A. ~~On or before October 1, 1996, the~~ The
5 Office of Juvenile Affairs shall implement an agency-wide management
6 information system for all programs and services of the Office of
7 Juvenile Affairs related to children, youth and families.

8 B. The management information system shall:

9 1. To the maximum extent possible, be based upon the
10 integration, utilization and modification, as necessary, of existing
11 information systems within the Office of Juvenile Affairs;

12 2. Provide for the security of and limited access to the
13 information;

14 3. Include case-specific information, including outcomes, and
15 have the ability to monitor the status of children and youth
16 receiving services through the Office of Juvenile Affairs;

17 4. Be capable of providing management reports and information
18 regarding the various children and youth programs of the Office of
19 Juvenile Affairs, and of providing aggregate information necessary
20 for planning, monitoring and evaluation of said programs and
21 services; and

22 5. Be designed so that management and analytical reports can be
23 readily generated for those who require them.

1 C. 1. The management information system implemented by the
2 Office of Juvenile Affairs shall be integrated with the child
3 welfare management information system implemented by the Department
4 of Human Services and to the extent possible with the Juvenile
5 Justice Information System ~~by October 1, 1996.~~

6 2. The management information system shall be available to
7 persons authorized to obtain confidential records and reports of the
8 ~~Department Office~~ of Juvenile ~~Justice Affairs~~ pursuant to ~~Article~~
9 ~~VII Chapter 6~~ of the Oklahoma Juvenile Code.

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

13 Section 7302-3.11 A. The Office of Juvenile Affairs shall from
14 time to time, but not less often than annually, review its programs
15 and services and submit a report to the Governor, the Speaker of the
16 House of Representatives, the President Pro Tempore of the Senate,
17 the Supreme Court of the State of Oklahoma, the Board of Juvenile
18 Affairs, and the Oklahoma Commission on Children and Youth analyzing
19 and evaluating the effectiveness of its programs and services. ~~Such~~
20 The report shall include, but not be limited to:

21 1. An analysis and evaluation of programs and services
22 continued, established and discontinued during the period covered by
23 the report;

1 2. A description of programs and services which should be
2 implemented;

3 3. Relevant information concerning the number of children
4 comprising the population of any facility operated by the Office of
5 Juvenile Affairs during the period covered by the report;

6 4. An analysis and evaluation, by age, of the number of
7 children assessed for literacy skills, the number who failed to
8 demonstrate age-appropriate reading skills, and the number who were
9 required to participate in a literacy skills improvement program;
10 and

11 5. Such other information as will enable a user of the report
12 to ascertain the effectiveness of the programs, services and
13 facilities.

14 B. ~~Beginning July 1, 1998, and at least annually thereafter,~~
15 ~~the~~ The Office of Juvenile Affairs shall annually analyze and
16 evaluate the implementation of the Youthful Offender Act, the
17 effectiveness of the Youthful Offender Act and any problems which
18 have occurred which have limited the effectiveness of the Youthful
19 Offender Act. The annual analysis and evaluation shall be
20 incorporated in the report required by subsection A of this section.

21 SECTION 13. AMENDATORY 10 O.S. 2001, Section 7302-4.1,
22 is amended to read as follows:

1 Section 7302-4.1 A. There is hereby created in the State
2 Treasury a revolving fund for the ~~Department~~ Office of Juvenile
3 ~~Justice~~ Affairs to be designated the "Juvenile Detention Improvement
4 Revolving Fund". The fund shall be a continuing fund, not subject
5 to fiscal year limitations, and shall consist of all monies
6 appropriated to the Juvenile Detention Improvement Revolving Fund
7 and monies which may otherwise be available to the ~~Department~~ Office
8 of Juvenile ~~Justice~~ Affairs for use as provided for in this section.

9 B. All monies appropriated to the fund shall be budgeted and
10 expended by the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs for
11 the purpose of providing funds to counties to renovate existing
12 juvenile detention facilities, to construct new juvenile detention
13 facilities, to operate juvenile detention facilities and otherwise
14 provide for secure juvenile detention services and alternatives to
15 secure detention as necessary and appropriate, in accordance with
16 state-approved juvenile detention standards and the State Plan for
17 the Establishment of Juvenile Detention Services provided for in
18 Section ~~7304-1.3~~ 2-3-103 of this title. The participation of local
19 resources shall be a requirement for the receipt by counties of said
20 funds and the Department shall establish a system of rates for the
21 reimbursement of secure detention costs to counties. The
22 methodology for the establishment of said rates may include, but not
23 be limited to, consideration of detention costs, the size of the

1 facility, services provided and geographic location. Expenditures
2 from said fund shall be made upon warrants issued by the State
3 Treasurer against claims filed as prescribed by law with the
4 Director of State Finance for approval and payment.

5 1. ~~Beginning July 1, 1995, the~~ The rate of reimbursement of
6 approved operating cost shall be eighty-five percent (85%) for the
7 ~~Department Office~~ Office of Juvenile ~~Justice Affairs~~ Affairs and fifteen percent
8 (15%) for the county.

9 2. ~~Beginning July 15, 1998, the~~ The rate of reimbursement of
10 approved operating cost shall be fifty percent (50%) for the
11 ~~Department Office~~ Office of Juvenile ~~Justice Affairs~~ Affairs and fifty percent
12 (50%) for any county that has failed to establish the beds required
13 by the provisions of subsection A of Section ~~7302-6.8~~ 2-7-608 of
14 this title.

15 3. The ~~Department Office~~ Office of Juvenile ~~Justice Affairs~~ Affairs shall
16 approve only those applications for funds to renovate an existing
17 juvenile detention facility or any other existing facility or to
18 construct a new juvenile detention facility which contain proposed
19 plans that are in compliance with state-approved juvenile detention
20 standards.

21 4. The ~~Department Office~~ Office of Juvenile ~~Justice Affairs~~ Affairs shall
22 approve only those applications or contracts for funds to operate
23 juvenile detention facilities or otherwise provide for secure

1 juvenile detention services and alternatives to secure detention
2 which are in compliance with or which are designed to achieve
3 compliance with the State Plan for the Establishment of Juvenile
4 Detention Services provided for in Section ~~7304-1.3~~ 2-3-103 of this
5 title.

6 5. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs shall,
7 from appropriated state monies or from available federal grants,
8 provide for payment pursuant to contract for transportation
9 personnel and vehicle-related costs and reimburse for eligible
10 travel costs for counties utilizing the juvenile detention
11 facilities identified in the "State Plan for the Establishment of
12 Juvenile Detention Services" in accordance with the provisions of
13 the State Travel Reimbursement Act and in accordance with Section
14 ~~7304-1.3~~ 2-3-103 of this title.

15 SECTION 14. AMENDATORY 10 O.S. 2001, Section 7302-5.1,
16 as amended by Section 15, Chapter 320, O.S.L. 2006 (10 O.S. Supp.
17 2008, Section 7302-5.1), is amended to read as follows:

18 Section 7302-5.1 A. The Office of Juvenile Affairs shall
19 provide intake, and probation ~~and parole~~ services for juveniles in
20 all counties not having a juvenile bureau and parole services in all
21 counties of the state and may enter into agreements to supplement
22 probationary services to juveniles in any county. The Office of
23 Juvenile Affairs may participate in federal programs for juvenile

1 probation officers, and may apply for, receive, use and administer
2 federal funds for such purpose.

3 B. A pre-adjudicatory substance abuse assessment of a child may
4 be conducted in conjunction with a court intake or preliminary
5 inquiry pursuant to an alleged delinquent act or upon admission to a
6 juvenile detention facility through the use of diagnostic tools
7 including, but not limited to, urinalysis, structured interviews or
8 substance abuse projective testing instruments.

9 1. Information gained from the substance abuse assessment
10 pursuant to this subsection shall be used only for substance abuse
11 treatment and for no other purpose. The results shall not be used
12 in any evidentiary or fact-finding hearing in a juvenile proceeding
13 or as the sole basis for the revocation of a community-based
14 placement or participation in a community-based program.

15 2. The results of the substance abuse assessment may be given
16 to the ~~child's~~ intake, probation or parole counselor of the child,
17 the parent or guardian of the child or to the ~~child's~~ attorney of
18 the child. In accordance with the ~~guidelines established pursuant~~
19 ~~to the Serious and Habitual Juvenile Offender Tracking~~ Program and
20 Section 620.6 of ~~this title~~ Title 10 of the Oklahoma Statutes, the
21 counselor may also provide the results of the substance abuse
22 assessment to medical personnel, therapists, school personnel or
23 others for use in the treatment and rehabilitation of the child.

1 C. ~~In accordance with the guidelines adopted pursuant to the~~
2 ~~Serious and Habitual Juvenile Offender Program, the~~ The Office of
3 Juvenile Affairs and the juvenile bureaus shall implement:

4 1. Court intake risk-assessment for children alleged or
5 adjudicated to be delinquent;

6 2. The imposition of administrative sanctions for the violation
7 of a condition of probation or parole;

8 3. A case management system for ensuring appropriate:

9 a. diversion of youth from the juvenile justice system,

10 b. services for and supervision of all youth on pre-
11 adjudicatory or postadjudicatory probation or on
12 parole, and for juvenile offenders in the custody of
13 the Office of Juvenile Affairs, and

14 c. intensive supervision of ~~serious and habitual~~ juvenile
15 offenders and communication between law enforcement
16 and juvenile court personnel and others regarding such
17 offenders; and

18 4. Guidelines for juvenile court personnel recommendations to
19 district attorneys regarding the disposition of individual cases by
20 district attorneys.

21 D. 1. The Office of Juvenile Affairs shall establish directly
22 and by contract, ~~the services necessary to implement the Serious and~~
23 ~~Habitual Juvenile Offender Program~~ including, but not limited to:

- 1 a. misdemeanor and non-serious first-time offender
- 2 programs,
- 3 b. tracking and mentor services,
- 4 c. weekend detention,
- 5 d. five-day out-of-home sanction placements,
- 6 e. short-term thirty-day intensive, highly structured
- 7 placements,
- 8 f. transitional programs,
- 9 g. substance abuse treatment and diagnostic and
- 10 evaluation programs, and
- 11 h. day treatment programs.

12 2. In implementing these services, the Office of Juvenile
13 Affairs shall give priority to those areas of the state having the
14 highest incidences of juvenile crime and delinquency.

15 E. 1. The following entities shall conduct, upon adjudication
16 of a child as a delinquent or in need of supervision unless such
17 child has been previously assessed within the six (6) months prior
18 to such intake, a literacy skills assessment:

- 19 a. the Office of Juvenile Affairs,
- 20 b. a first-time offender program within a designated
- 21 youth services agency,
- 22 c. any metropolitan county juvenile bureau, or
- 23 d. any county operating a juvenile bureau.

1 2. Such assessment shall be conducted through the use of
2 diagnostic tools which include, but are not limited to:

3 a. structured interviews,

4 b. standardized literacy testing instruments which
5 measure the educational proficiency of the child, and

6 c. any other measure used to determine:

7 (1) whether a child is reading at an age-appropriate
8 level, and

9 (2) the ~~child's~~ capacity of the child to read at such
10 level.

11 3. The results of the literacy skills assessment required
12 pursuant to this subsection shall be made available to the court by
13 the district attorney for use in the disposition phase; provided,
14 however, the results shall not be used in any evidentiary or fact-
15 finding hearing in a juvenile proceeding to determine whether a
16 juvenile should be adjudicated. Provided, further, such results
17 shall not be used as the sole basis for the revocation of a
18 community-based placement or participation in a community-based
19 program.

20 4. a. Upon request, the results of the literacy skills
21 assessment shall be given to the following:

22 (1) the child's intake, probation or parole
23 counselor,

1 (2) the parent or guardian of the child, or

2 (3) the child's attorney.

3 b. In accordance with the ~~guidelines established pursuant~~
4 ~~to the Serious and Habitual Juvenile Offender Tracking~~ Tracking
5 Program and Section 620.6 of ~~this title~~ Title 10 of
6 the Oklahoma Statutes, the counselor may also provide
7 the results of the literacy skills assessment to
8 therapists, school personnel or others for use in the
9 training and rehabilitation of the child.

10 5. a. If the child is a juvenile placed in an institution or
11 facility operated by the Office of Juvenile Affairs,
12 the child shall be assessed and a literacy improvement
13 program shall be implemented in accordance with
14 Sections ~~7302-6.1~~ 2-7-601 and ~~7302-6.3~~ 2-7-603 of this
15 title.

16 b. If the child is adjudicated delinquent or in need of
17 supervision or is being detained as part of a deferral
18 of prosecution agreement, deferral to file agreement
19 or a deferral sentence agreement, and the results of
20 the literacy skills assessment show that the child is
21 not reading at an age-appropriate level but has the
22 capacity to improve his or her reading skills, the
23 child shall be required to actively participate in a

1 literacy skills improvement program which may include,
2 but not be limited to, a program of instruction
3 through a public or private school, including any
4 technology center school, of this state or any other
5 state. The child shall provide documentation of
6 substantial quantifiable literacy improvement,
7 sufficient to demonstrate reading proficiency at an
8 age-appropriate or developmentally appropriate level;
9 provided, however, failure to demonstrate substantial
10 quantifiable literacy improvement shall not be the
11 sole basis for not dismissing a case against a child.

12 SECTION 15. AMENDATORY 10 O.S. 2001, Section 7302-5.2,
13 as amended by Section 21, Chapter 327, O.S.L. 2002 (10 O.S. Supp.
14 2008, Section 7302-5.2), is amended to read as follows:

15 Section 7302-5.2 A. Whenever a child who has been adjudicated
16 by the court as a child in need of supervision has been committed to
17 the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, the ~~Department~~
18 Office may place the child in the home of the child, the home of a
19 relative of the child, foster home, group home, transitional living
20 program, independent living program, community-based setting,
21 rehabilitative facility or child care facility under the operation
22 of or licensure of the state, or in a state school for the mentally
23 retarded if eligible for admission thereto. No child in need of

1 supervision shall be placed in a ~~Department-operated~~ an Office-
2 operated institution, other than a rehabilitative facility.

3 B. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs may
4 establish and maintain one or more rehabilitative facilities to be
5 used exclusively for the custody of children in need of supervision.
6 Each such facility shall be, primarily, a nonsecure facility having
7 as its primary purpose the rehabilitation of children adjudicated to
8 be in need of supervision. Such facility shall have a bed capacity
9 for no more than twenty children, and shall minimize the
10 institutional atmosphere and prepare the child for reintegration
11 into the community. Provided however, that such facility may be
12 designed and operated as a secure facility used exclusively for
13 children in need of supervision whom the court has specifically
14 found to be so unmanageable, ungovernable and antisocial that no
15 other reasonable alternative exists for treatment or restraint other
16 than placement in such a secure facility. Such facility shall not
17 rely on locked rooms, fences, or physical restraints.

18 C. A child in need of supervision who has been found by a court
19 to be a minor in need of treatment shall be placed as provided by
20 Section ~~7303-8.4~~ 2-2-804 of this title and the Inpatient Mental
21 Health and Substance Abuse Treatment of Minors Act.

1 SECTION 16. AMENDATORY 10 O.S. 2001, Section 7302-5.3,
2 as amended by Section 22, Chapter 327, O.S.L. 2002 (10 O.S. Supp.
3 2008, Section 7302-5.3), is amended to read as follows:

4 Section 7302-5.3 A. It is the intent of the Legislature of
5 this state to provide for the creation of all reasonable means and
6 methods that can be established by a state for:

- 7 1. The prevention of delinquency;
- 8 2. The care and rehabilitation of delinquent children; and
- 9 3. The protection of the public.

10 It is further the intent of the Legislature that this state, through
11 the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, establish,
12 maintain and continuously refine and develop a balanced and
13 comprehensive state program for children who are potentially
14 delinquent or are delinquent.

15 B. Except as provided in subsection C of this section, whenever
16 a child who has been adjudicated by the court as a delinquent child
17 has been committed to the ~~Department~~ Office of Juvenile ~~Justice~~
18 Affairs, the ~~Department~~ Office shall provide for placement pursuant
19 to any option authorized by paragraphs 1 through 7 of this
20 subsection; provided, nothing in this subsection shall be construed
21 to establish a priority in regard to the selection of an option or
22 to mandate the exclusive use of one particular option:

1 1. Place the child in a state training school or other
2 institution or facility maintained by the state for delinquent
3 children if the child has:

- 4 a. exhibited seriously violent, aggressive or assaultive
5 behavior,
- 6 b. committed a serious felony constituting violent,
7 aggressive and assaultive behavior,
- 8 c. habitually committed delinquent acts if such acts
9 would constitute felonies if committed by an adult,
- 10 d. committed multiple serious delinquent acts, or
- 11 e. violated any condition of probation or parole,

12 to the extent that it is necessary for the protection of the public.
13 For purposes of placement, all deferred prosecutions for serious,
14 habitual, violent, aggressive or assaultive crimes shall count
15 toward placement decisions;

16 2. Place the child in a facility maintained by the state for
17 children, or in a foster home, group home, transitional living
18 program or community residential center;

19 3. Allow the child his liberty, under supervision, in an
20 independent living program;

21 4. Allow the child his liberty, under supervision, either
22 immediately or after a period in one of the facilities referred to
23 in paragraphs 1 and 2 of this subsection;

1 5. Place the child in a state school for mentally retarded, if
2 the child is eligible for admission thereto;

3 6. Place the child in any licensed private facility deemed by
4 the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs to be in the best
5 interest of the child; or

6 7. Place the child as provided by Section ~~7303-8.4~~ 2-2-804 of
7 this title and the Inpatient Mental Health and Substance Abuse
8 Treatment of Minors Act, if the delinquent child has been found by a
9 court to be in need of mental health or substance abuse treatment.

10 C. The ~~Department~~ Office shall place priority on the placement
11 of delinquent youth held in secure juvenile detention facilities.

12 D. Placement of a juvenile pursuant to this section or any
13 other provision of law shall be the responsibility of the ~~Department~~
14 Office of Juvenile ~~Justice~~ Affairs and shall occur as soon as
15 reasonably possible after adjudication and after the selected
16 placement option becomes available.

17 The court shall not have authority to require specific placement
18 of a juvenile in a time frame which would require the removal of any
19 other juvenile from such placement.

20 SECTION 17. AMENDATORY 10 O.S. 2001, Section 7302-5.4,
21 as amended by Section 3, Chapter 124, O.S.L. 2006 (10 O.S. Supp.
22 2008, Section 7302-5.4), is amended to read as follows:

1 Section 7302-5.4 A. Except as otherwise provided by law, all
2 children adjudicated delinquent and committed to the ~~Department~~
3 Office of Juvenile Justice Affairs shall be discharged at such time
4 as the ~~Department~~ Office determines there is a reasonable
5 probability that it is no longer necessary, either for the
6 rehabilitation and treatment of the child, or for the protection of
7 the public, that the ~~Department~~ Office retain legal custody.
8 Following a hearing, the court may also order that a child adjudged
9 delinquent and committed to the ~~Department~~ Office shall be
10 discharged by the ~~Department~~ Office provided the child is on parole
11 status and the court deems the discharge in the best interest of the
12 child and public. The ~~Department~~ Office shall give a fifteen-day
13 notice to the court and the district attorney before discharging
14 from legal custody any child committed and confined in a secure
15 facility.

16 B. Except as otherwise provided by law, all children adjudged
17 delinquent and committed to the ~~Department~~ Office of Justice
18 Juvenile Affairs and not discharged under subsection A of this
19 section shall be discharged when the child becomes eighteen (18)
20 years of age, unless the ~~Department~~ Office is authorized by the
21 court to retain custody of the child until nineteen (19) years of
22 age. Upon the court's own motion or motion of the ~~Department~~ Office
23 or the district attorney, which must be filed prior to the date the

1 child becomes eighteen (18) years of age, the court, after notice to
2 the delinquent child and to the parents and attorney of said child,
3 may authorize the ~~Department~~ Office to retain custody of the child
4 until ~~he~~ the child reaches nineteen (19) years of age in order for
5 the child to complete the previously adopted plan of rehabilitation
6 or achieve reasonable treatment objectives. If the court sustains a
7 motion to retain custody, the delinquent child during the extended
8 period shall be considered as a child for purposes of receiving
9 services from the ~~Department~~ Office. If a criminal offense is
10 committed by the individual during the extended period, said offense
11 shall be considered as having been committed by an adult. Except to
12 the extent necessary to effectuate the purposes of this section, an
13 individual after age eighteen (18) years is considered an adult for
14 purposes of other applicable law.

15 C. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs shall not
16 place a child under ten (10) years of age in an institution
17 maintained for delinquent children.

18 D. The court may retain jurisdiction over a child adjudged
19 delinquent beyond the age of ~~seventeen (17)~~ eighteen (18) years to
20 the extent necessary for the child to complete payment of
21 ~~restitution or~~ court costs. The court may institute contempt
22 proceedings pursuant to Sections 565 through 567 of Title 21 of the
23 Oklahoma Statutes against any person adjudged delinquent and ordered

1 to pay ~~restitution or~~ court costs who neglects or refuses to pay
2 such ~~restitution or~~ court costs. Any child referred to in this
3 subsection over whom the court retains jurisdiction solely for
4 payment of ~~restitution or~~ court costs shall not be considered to be
5 in the custody of or under the supervision of the ~~Department~~ Office
6 of Juvenile ~~Justice~~ Affairs.

7 E. Following a hearing, the court may order that any child
8 shall be discharged by the ~~Department of Juvenile Justice of the~~
9 Office of Juvenile Affairs provided the child is on parole status
10 and the court deems the discharge in the best interest of the child
11 and public. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs shall
12 give a fifteen-day notice to the district attorney before
13 discharging from legal custody any child committed and confined in a
14 secure facility.

15 SECTION 18. AMENDATORY 10 O.S. 2001, Section 7302-6.1,
16 as amended by Section 23, Chapter 327, O.S.L. 2002 (10 O.S. Supp.
17 2008, Section 7302-6.1), is amended to read as follows:

18 Section 7302-6.1 A. In addition to the other powers and duties
19 prescribed by law, the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs
20 shall have the following duties and powers with regard to juveniles
21 placed in ~~Department-operated~~ Office-operated institutions and
22 facilities:

1 1. Provide for the care, education, training, treatment and
2 rehabilitation of juveniles who are placed in the institutions and
3 facilities. The ~~Department~~ Office shall provide for a uniform
4 system of assessment of the reading ability of each juvenile upon
5 initial placement in a ~~Department-operated~~ an Office-operated
6 institution or facility. The assessment shall include, but not be
7 limited to, the following skills:

- 8 a. the level of word decoding skills of the juvenile,
- 9 b. the level of vocabulary and spelling ability of the
10 juvenile, and
- 11 c. the comprehension level of the juvenile.

12 The ~~Department~~ Office may give assistance to local school districts
13 in providing an education to such juveniles, may supplement such
14 education, and may provide facilities for such purposes. It shall
15 be the duty of the ~~Department~~ Office to assure that juveniles in the
16 aforesaid institutions and facilities receive educational services
17 which provide each juvenile with a balanced and comprehensive
18 reading program, which includes as its primary and foundational
19 components:

- 20 (1) an organized, systematic, explicit skills program
21 that may include phonics, word recognition
22 strategies and other word decoding skills to

- 1 address the needs of the individual juvenile as
2 determined by the entry level needs assessment,
3 (2) a strong language arts and comprehension program
4 that includes a balance of oral and written
5 language, an ongoing individualized evaluation
6 and diagnosis that informs the teacher and an
7 assessment that assures accountability, and
8 (3) writing, mathematics, science and vocational-
9 technical education;

10 2. Transfer from a juvenile institution to another facility
11 under the jurisdiction of the ~~Department~~ Office, a juvenile who has
12 been adjudicated delinquent, if the ~~Department~~ Office believes it
13 advisable to do so; transfer from a facility for juveniles in need
14 of supervision to another such facility, a juvenile who has been
15 adjudicated in need of supervision, provided that such transfer is
16 consistent with the treatment needs of the juvenile; transfer from a
17 juvenile institution or facility to a state school for the mentally
18 retarded, any juvenile eligible for admission thereto, if the
19 juvenile appears to be in need of the care and treatment provided at
20 such school; transfer from a facility for delinquent or in need of
21 supervision juveniles to an appropriate facility or to the
22 Department of Mental Health and Substance Abuse Services any
23 juvenile found by the court to be a minor in need of treatment

1 pursuant to the Inpatient Mental Health and Substance Abuse
2 Treatment of Minors Act and committed to inpatient mental health or
3 substance abuse treatment as provided by the Inpatient Mental Health
4 and Substance Abuse Treatment of Minors Act. If a transfer is made
5 pursuant to this paragraph, the ~~Department~~ Office shall comply with
6 the notification requirements of Section ~~7303-5.4~~ 2-2-504 of this
7 title;

8 3. Release on parole a juvenile previously adjudicated to be
9 delinquent, subject to terms and conditions specified by the
10 ~~Department~~ Office, whenever the ~~Department~~ Office determines that
11 such release will not be detrimental to society and that the
12 juvenile is ready to be returned to the community and revoke said
13 parole for violation of the specified terms or conditions of parole
14 pursuant to the provisions of this section and the rules and
15 procedures established by the ~~Department~~ Office for such revocation;

16 4. Release any juvenile from a juvenile institution for
17 placement in a group home, transitional living program, independent
18 living program, other community-based facility or program or out-of-
19 home care subject to terms and conditions specified by the
20 ~~Department~~ Office; and

21 5. Provide parole services for juveniles released on parole
22 from juvenile institutions, and aftercare services for juveniles
23 discharged from juvenile institutions or facilities. Persons

1 designated as Juvenile Parole Officers by the ~~Department~~ Office
2 shall have the power to serve process and to apprehend and detain
3 juveniles and make arrests in accordance with the laws of the state.

4 B. The transfer of a juvenile from a nonsecure placement to a
5 secure placement shall be subject to an administrative transfer
6 hearing and any revocation of parole shall be subject to a parole
7 revocation hearing.

8 1. In any administrative transfer or parole revocation
9 proceeding, the following minimum standards shall apply:

- 10 a. the juvenile shall have the right to notice of the
11 proposed transfer or parole revocation hearing and the
12 alleged violation of administrative or parole rules on
13 which the proposed transfer or parole revocation is
14 based,
- 15 b. the juvenile shall have the right to representation by
16 an attorney,
- 17 c. the juvenile shall have the right to present evidence
18 on behalf of the juvenile, and
- 19 d. the juvenile shall have a right to bail, except that
20 said right to bail shall not be construed to require
21 that a juvenile who is in residence in a ~~Department-~~
22 ~~operated~~ an Office-operated institution or other
23 facility at the time of an alleged violation leading

1 to an administrative transfer proceeding be released
2 from such institution or facility.

3 2. The situs of said hearings shall be the county in which the
4 alleged violation of administrative or parole rules occurs. The
5 judge having juvenile docket jurisdiction in said county shall aid
6 the administrative transfer or parole revocation process of the
7 ~~Department~~ Office by:

- 8 a. determining eligibility for and amount of bail;
9 b. deciding any intermediate custody or placement issue;
10 and
11 c. if legal counsel for the juvenile has not otherwise
12 been obtained, appointing legal counsel for the
13 juvenile and fixing the amount of compensation for the
14 legal counsel. Said judge shall also determine if the
15 juvenile is eligible for free legal services. If the
16 juvenile is not eligible for free legal services, the
17 court shall order the parents or legal guardian of the
18 juvenile to pay for such services.

19 3. If legal counsel for the juvenile has not otherwise been
20 obtained, the appointment of legal counsel for the juvenile, the
21 setting of the amount of compensation for such counsel, and the
22 determination of whether or not the juvenile is eligible for free
23 legal services shall be provided for pursuant to the Indigent

1 Defense Act; provided, however, in those counties subject to the
2 provisions of Section 138.1 of Title 19 of the Oklahoma Statutes,
3 the legal services shall be provided by the county indigent defender
4 as provided by law. If the juvenile is not eligible for free legal
5 services, the court shall order the parents or legal guardian of the
6 juvenile to pay for such services.

7 C. The ~~Department~~ Office may participate in federal programs
8 relating to delinquent juveniles, or juveniles in need of
9 supervision, or institutions and services for such juveniles and
10 apply for, receive, use and administer federal funds for such
11 purposes.

12 D. The ~~Department~~ Office shall receive interest earnings on the
13 investment by the State Treasurer of monies, to be credited to an
14 agency special account, for the benefit of and held in trust for
15 persons placed in the custody of the ~~Department~~ Office or in
16 residence at institutions or facilities maintained by the ~~Department~~
17 Office.

18 SECTION 19. AMENDATORY 10 O.S. 2001, Section 7302-6.2,
19 as amended by Section 3, Chapter 213, O.S.L. 2003 (10 O.S. Supp.
20 2008, Section 7302-6.2), is amended to read as follows:

21 Section 7302-6.2 A. The Office of Juvenile Affairs shall
22 establish and maintain such methods of administration, including
23 those necessary to establish and maintain a merit system of

1 personnel administration, and shall promulgate such rules as it
2 deems necessary for the efficient and effective operation of the
3 juvenile institutions and facilities operated by the ~~Department~~
4 Office.

5 B. The Executive Director of the Office of Juvenile Affairs
6 shall employ and fix the duties and compensation of a
7 superintendent, and such other personnel as the Executive Director
8 deems necessary, for each of the juvenile institutions and
9 facilities operated by the ~~Department~~ Office of Juvenile ~~Justice~~
10 Affairs. The Office shall promulgate, and in its hiring and
11 employment practices, the Office shall adhere to, written minimum
12 qualifications by position for personnel working with or around
13 juveniles in said institutions and facilities. Such minimum
14 qualifications shall be designed to assure that such personnel
15 possess sufficient education, training, experience and background to
16 provide adequate and safe professional care and services to said
17 juveniles; and that the juveniles will not be exposed to abuse,
18 deprivation, criminal conduct, or other unwholesome conditions
19 attributable to employee incompetence or misconduct.

20 C. 1. The Office of Juvenile Affairs may directly request
21 national criminal history records searches as defined by Section
22 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State
23 Bureau of Investigation for the purpose of investigating the

1 criminal history of an employee or applicant. The Oklahoma State
2 Bureau of Investigation may charge a search fee as provided in
3 Section 150.9 of Title 74 of the Oklahoma Statutes. The fee shall
4 be deposited in the OSBI Revolving Fund.

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

12 D. The superintendent of a juvenile institution or facility
13 shall be the guardian of the person of each juvenile in the
14 institution or facility for the limited purpose of providing care
15 and protection for any life-threatening situation that may arise.

16 SECTION 20. AMENDATORY 10 O.S. 2001, Section 7302-6.3,
17 as last amended by Section 7, Chapter 1, O.S.L. 2007 (10 O.S. Supp.
18 2008, Section 7302-6.3), is amended to read as follows:

19 Section 7302-6.3 A. The Board of Juvenile Affairs shall
20 promulgate written rules, outline policies and procedures governing
21 the operation of those facilities operated by or through contract
22 with the Office of Juvenile Affairs wherein juveniles may be housed.
23 Said policies and procedures shall include, but not be limited to,

1 standards of cleanliness, temperature and lighting, availability of
2 medical and dental care, provision of food, furnishings, clothing
3 and toilet articles, supervision, appropriate and permissible use of
4 restriction and confinement, procedures for enforcing rules of
5 conduct consistent with due process of law and visitation
6 privileges.

7 B. The policies prescribed shall, at a minimum, ensure that:

8 1. A child shall not be punished by physical force, deprivation
9 of nutritious meals, deprivation of family visits or solitary
10 confinement;

11 2. A child shall have the opportunity to participate in
12 physical exercise each day;

13 3. A child shall be allowed daily access to showers and the
14 child's own clothing or individualized clothing which is clean.
15 When a child is participating in an outdoor adventure program that
16 takes the child away from the permanent facility, the child shall be
17 provided with the opportunity to wash with soap and water daily;

18 4. A child shall have constant access to writing materials and
19 may send mail without limitation, censorship or prior reading, and
20 may receive mail without prior reading, except that mail may be
21 opened in the presence of the child, without being read, to inspect
22 for contraband, as defined by Section 21 of Title 57 of the Oklahoma
23 Statutes or as otherwise defined by rules promulgated by the Board

1 of Juvenile Affairs, or to inspect for material harmful to minors,
2 as defined by Section 1040.75 of Title 21 of the Oklahoma Statutes.
3 Provided that, when based on legitimate facility interests of order
4 and security as determined by the facility superintendent, mail
5 addressed to a child or sent by a child may be read, censored, or
6 rejected, except that mail addressed to a child from the attorney of
7 the child or sent by the child to the attorney of said child shall
8 not be opened, censored, or withheld in any way. The child shall be
9 notified when incoming or outgoing mail is withheld in part or in
10 full;

11 5. A child shall have reasonable opportunity to communicate and
12 to visit with the child's family on a regular basis and to
13 communicate with persons in the community;

14 6. A child shall have immediate access to medical care as
15 needed and shall receive necessary ~~psychological and psychiatric~~
16 behavioral health services;

17 7. A child in the custody or care of the Office of Juvenile
18 Affairs shall be provided access to education including teaching,
19 educational materials and books, provided, that such policies shall
20 provide emphasis upon basic literacy skills, including but not
21 limited to curricula requirements stressing reading, writing,
22 mathematics, science, vocational-technical education, and other
23 courses of instruction designed to assure that such children will be

1 capable of being assimilated into society as productive adults
2 capable of self-support and full participation;

3 8. A child shall have reasonable access to an attorney upon
4 request;

5 9. A child shall be afforded a grievance procedure, including
6 an appeal procedure;

7 10. ~~A child's mental~~ The behavioral health needs and mental
8 well-being of a child will be met, protected and served through
9 provision of guidance, counseling and treatment programs, staffed by
10 competent, professionally qualified persons, serving under the
11 supervision of licensed psychologists, psychiatrists or licensed
12 clinical social workers as defined by the regulations of the State
13 Board of Licensed Social Workers; and

14 11. Upon leaving the custody of the Office of Juvenile Affairs,
15 a child shall be afforded a copy of the literacy progress section of
16 the individualized service plan developed for the child for
17 continued use at the next school placement of the child.

18 C. Any contract or agreement between the Office of Juvenile
19 Affairs and the Department of Mental Health and Substance Abuse
20 Services for the care and treatment of children in the custody of
21 the Office of Juvenile Affairs shall provide that the Department of
22 Mental Health and Substance Abuse Services shall comply with the

1 provisions of subsections A and B of this section and the provisions
2 of Section ~~7302-6.4~~ 2-7-604 of this title.

3 SECTION 21. AMENDATORY 10 O.S. 2001, Section 7302-6.4,
4 is amended to read as follows:

5 Section 7302-6.4 A. Use of physical force in institutions and
6 other facilities operated by or through contract with the ~~Department~~
7 Office of Juvenile ~~Justice~~ Affairs wherein children are housed shall
8 be permitted only under the following circumstances:

- 9 1. For self-protection;
- 10 2. To separate juveniles who are fighting; or
- 11 3. To restrain juveniles in danger of inflicting harm to
12 themselves or others; or
- 13 4. To restrain juveniles who have escaped or who are in the
14 process of escaping.

15 B. When use of physical force is authorized, the least force
16 necessary under the circumstances shall be employed.

17 C. Staff members of residential and nonresidential programs who
18 are assigned to work with juveniles shall receive written guidelines
19 on the use of physical force, and that, in accordance with staff
20 disciplinary procedures, loss of employment may result if
21 unauthorized use of physical force is proven.

22 D. Use of mechanical restraints in institutions and other
23 facilities operated by or through contract with the ~~Department~~

1 Office of Juvenile Justice Affairs or the Department of Mental
2 Health and Substance Abuse Services wherein children are housed
3 shall be minimal and shall be prohibited except as specifically
4 provided for in the rules of ~~each of the Departments~~ Office of
5 Juvenile Affairs and Department of Mental Health and Substance Abuse
6 Services.

7 SECTION 22. AMENDATORY 10 O.S. 2001, Section 7302-6.5,
8 is amended to read as follows:

9 Section 7302-6.5 Upon discovery that a child has escaped or run
10 away from an institutional placement, the ~~Department~~ Office of
11 Juvenile Justice Affairs may notify any law enforcement officer or
12 agency in this state who shall use any reasonable method to notify
13 law enforcement agencies and personnel. Upon receiving notification
14 that a child has escaped or run away from an institutional
15 placement, all law enforcement agencies and personnel shall be
16 authorized to apprehend and detain said child. Escaping or running
17 away by an adjudicated delinquent child from institutional placement
18 shall be considered by the court of juvenile jurisdiction as a
19 delinquent act.

20 SECTION 23. AMENDATORY 10 O.S. 2001, Section 7302-6.6,
21 as amended by Section 5, Chapter 124, O.S.L. 2006 (10 O.S. Supp.
22 2008, Section 7302-6.6), is amended to read as follows:

1 Section 7302-6.6 A. The Office of Juvenile Affairs ~~through its~~
2 ~~Department of Juvenile Justice~~ shall have the supervision,
3 management, operation and control of the ~~children's~~ institution for
4 children located at Tecumseh, formerly known and designated as
5 Girls' Town and now known as Central Oklahoma Juvenile Center, and
6 all property, equipment and supplies related thereto. All
7 ~~contracts, leases, or other agreements entered into by the~~
8 ~~Department of Human Services on behalf of the Center prior to July~~
9 ~~1, 1995, shall be administered by the Department of Juvenile~~
10 ~~Justice.~~

11 B. The Central Oklahoma Juvenile Center shall maintain
12 facilities and bed-space capacity for programs that are consistent
13 with providing statewide juvenile justice and delinquency prevention
14 services.

15 C. It shall be the duty of the State Fire Marshal and the
16 Commissioner of Public Health, to cause regular, periodic, not less
17 than quarterly, unannounced inspections of said institution,
18 utilizing adequately trained and qualified inspection personnel, to
19 determine and evaluate conditions and programs being maintained and
20 carried on at said institution in their respective areas of agency
21 jurisdiction. Such inspections shall include, but not be limited
22 to, the following: compliance with minimum fire, life and health
23 safety standards; compliance with minimum standards governing

1 general sanitation of the institution, with particular emphasis upon
2 food storage, preparation, serving and transportation, respectively.
3 Reports of such inspections will be made in writing, itemizing and
4 identifying any deficiencies and recommending corrective measures,
5 and shall be filed with the Board of Juvenile Affairs, the Executive
6 Director of the Office of Juvenile Affairs, ~~the Deputy Director of~~
7 ~~the Department of Juvenile Justice, the Governor,~~ the Attorney
8 General, the Speaker of the House of Representatives, the President
9 Pro Tempore of the Senate, the Office of Juvenile System Oversight
10 and the Oklahoma Commission on Children and Youth. The ~~Department~~
11 Office of Juvenile ~~Justice~~ Affairs shall file copies of the reports
12 of the inspections and recommendations of the accrediting agencies
13 listed in subsection ~~B~~ D of this section with the Office of Juvenile
14 System Oversight.

15 D. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs is
16 authorized and directed to establish, subject to the limits of funds
17 available therefor, a diversity of placement alternatives for
18 children committed to the custody of the ~~Department~~ Office
19 including, but not limited to, foster family homes, foster family
20 group homes, and group homes. All child care services and
21 facilities operated by the ~~Department~~ Office shall be accredited by
22 the American Correctional Association, the Joint Commission on
23 Accreditation of Hospitals or the Child Welfare League of America,

1 as appropriate for the service or facility. The ~~Department~~ Office
2 may directly contract for accreditation fees, training or training
3 conferences with the organization accrediting the service or
4 facility as required by this subsection.

5 SECTION 24. AMENDATORY 10 O.S. 2001, Section 7302-6.7,
6 is amended to read as follows:

7 Section 7302-6.7 The official name and designation of the
8 center for children situated at Sand Springs, Oklahoma, shall be
9 Lloyd E. Rader Children's Center. The supervision, management,
10 operation and control of the Center and all property, records,
11 equipment and supplies related thereto shall be the responsibility
12 of the Office of Juvenile Affairs ~~through its Department of Juvenile~~
13 ~~Justice.~~

14 ~~All contracts, leases, or other agreements entered into by the~~
15 ~~Department of Human Services on behalf of the Center prior to July~~
16 ~~1, 1995, shall be administered by the Department of Juvenile~~
17 ~~Justice.~~

18 SECTION 25. AMENDATORY 10 O.S. 2001, Section 7302-6.8,
19 is amended to read as follows:

20 Section 7302-6.8 A. Beginning July 1, 1995, the Office of
21 Juvenile ~~Justice~~ Affairs shall oversee the expansion of the number
22 of preadjudicatory secure detention beds available in this state.
23 By July 1, 1996, the number of such beds shall be increased by one

1 hundred nine beds or by the number necessary to result in a total of
2 two hundred sixty-five such beds. It is the intent of the
3 Legislature to establish such beds on a geographic basis throughout
4 the state in order to provide more accessibility to services for all
5 regions of the state. Therefore, such beds shall be established as
6 follows: In Oklahoma County thirty-seven beds, in Tulsa County
7 twenty-six beds, in Cleveland County twelve beds, in Lincoln County
8 ten beds, in Comanche County six beds, in Beckham County six beds,
9 in Texas County six beds and in Talihina in LeFlore County six beds.
10 The six beds in Comanche County shall be regional detention beds and
11 out-of-county placements shall be given priority for these beds.
12 The beds established by this subsection shall be operated in
13 accordance with Section ~~7304-1.3~~ 2-3-103 of this title.

14 B. Effective July 1, 1995, the responsibilities for
15 establishing and operating a regional juvenile facility in the
16 southwestern part of the state shall be transferred to the Office of
17 Juvenile Affairs. The facility shall include six transitional beds
18 and seventy medium secure beds for such programs as the ~~Department~~
19 Office of Juvenile ~~Justice~~ Affairs determines will most
20 appropriately and effectively provide required services; provided,
21 no more than thirty-two beds shall be used for any one type of
22 program. It is the intent of the Legislature that the ~~Department~~

1 Office of Juvenile Justice Affairs locate an existing facility that
2 can be remodeled and used for this purpose.

3 C. Beginning July 1, 1998, detention beds constructed and
4 operated by a county solely through revenues from county sources
5 shall be exempt from the provisions of ~~subparagraph 6 of Section~~
6 ~~7302-9.3 of this title and from the provisions of~~ the State Plan for
7 the Establishment of Juvenile Detention Services adopted pursuant to
8 subsection D of Section ~~7304-1.3~~ 2-3-103 of this title.

9 SECTION 26. AMENDATORY 10 O.S. 2001, Section 7302-6.9,
10 as amended by Section 6, Chapter 124, O.S.L. 2006 (10 O.S. Supp.
11 2008, Section 7302-6.9), is amended to read as follows:

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

19 SECTION 27. AMENDATORY 10 O.S. 2001, Section 7302-6.10,
20 is amended to read as follows:

21 Section 7302-6.10 The official name and designation of the
22 facility located at Norman, Oklahoma, formerly known and designated
23 as the Phil Smalley Children's Unit of the Oklahoma Youth Center,

1 shall be the Phil Smalley ~~Employee Development~~ Center. The
2 supervision, management, operation and control of the Center and all
3 property, equipment and supplies related thereto shall be the
4 responsibility of the Office of Juvenile Affairs, except as provided
5 for in interagency agreements between the Department of Mental
6 Health and Substance Abuse Services and the Office of Juvenile
7 Affairs.

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

11 Section 7302-7.1 A. Sections ~~7302-7.1~~ 2-7-701 through ~~7302-7.5~~
12 2-7-705 of this title shall be known and may be cited as the
13 "Delinquency and Youth Gang Intervention and Prevention Act".

14 B. The Legislature recognizes that the economic cost of crime
15 to the state and communities continues to drain existing resources,
16 and the cost to victims, both economic and psychological, is
17 traumatic and tragic. The Legislature further recognizes that many
18 adults in the criminal justice system were once delinquents in the
19 juvenile justice system. The Legislature also recognizes that the
20 most effective juvenile delinquency programs are programs that
21 prevent children from entering the juvenile justice system, meet
22 local community needs, and have substantial community involvement
23 and support. Therefore, it is the belief of the Legislature that

1 one of the best investments of scarce resources available to combat
2 crime is to counteract the negative social and economic factors that
3 contribute to criminal and delinquent behavior by engaging youth who
4 are determined to have the highest risk of involvement with gangs or
5 delinquent behaviors or live in at-risk neighborhoods and
6 communities in positive programs and opportunities at the local,
7 neighborhood and community level.

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

17 SECTION 29. AMENDATORY 10 O.S. 2001, Section 7302-7.2,
18 as amended by Section 9, Chapter 421, O.S.L. 2004 (10 O.S. Supp.
19 2008, Section 7302-7.2), is amended to read as follows:

20 Section 7302-7.2 For the purposes of the Delinquency and Youth
21 Gang Intervention and Prevention Act:

22 1. "At-risk neighborhoods and communities" means residential
23 and business areas within a specific political subdivision with a

1 history of assault or battery offenses, shootings or firearm-related
2 offenses, substance abuse-related offenses, property and theft-
3 related offenses, and known gang activity that are documented by
4 local law enforcement agencies, and an incidence of reported
5 juvenile crime or referrals for juvenile court intakes, or some
6 combination of both such incidence and referrals as approved by the
7 ~~Department~~ Office of Juvenile ~~Justice~~ Affairs and substantiated by
8 local law enforcement agencies, that is significantly higher than
9 the statewide statistical mean for such offenses, incidence,
10 referrals or combination;

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

- 13 a. children and their family members living in at-risk
14 neighborhoods and communities as defined in this
15 section,
- 16 b. children living with family members who are gang
17 members or associate with gang members,
- 18 c. children living with family members who have been
19 adjudicated or convicted of a criminal offense,
- 20 d. children adjudicated delinquent and their family
21 members, or
- 22 e. children who use alcohol or controlled substances or
23 who have behavioral problems in school, with peers,

1 family members or authority figures, or some
2 combination thereof;

3 3. "Delinquency and gang intervention and prevention programs
4 and activities" includes but is not limited to the following for
5 participating youth: Intensive school and school-related programs,
6 such as tutoring and other educational services, vocational training
7 and counseling, employment services, recreational opportunities, and
8 counseling services, such as family counseling, mental health
9 counseling, substance abuse outpatient treatment, education
10 programs, and programs and services involving the family members of
11 participating youth; and

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

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

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

21 1. Issue requests for proposals or enter into agreements
22 pursuant to the Interlocal Cooperation Act and contract ~~with~~
23 ~~eligible entities~~ for delinquency and gang intervention and

1 prevention programs for children and their family members who live
2 in at-risk neighborhoods and communities, as defined by Section
3 ~~7302-7.2~~ 2-7-702 of this title;

4 2. Provide information and technical assistance to individuals
5 and entities receiving ~~grants or~~ contracts pursuant to the
6 Delinquency and Youth Gang Intervention and Prevention Act, schools,
7 neighborhood and community organizations, and agencies within the
8 children and youth service system, as that term is defined ~~by~~ in the
9 ~~Serious and Habitual Juvenile Offender Act~~ Tracking Program, for the
10 purpose of assisting such agencies in making application for
11 federal, state and private grants for delinquency and gang
12 intervention and prevention programs; and

13 3. Coordinate efforts among the Office of Juvenile Affairs,
14 Department of Human Services, State Department of Education, State
15 Department of Health, Department of Mental Health and Substance
16 Abuse Services, ~~State~~ Oklahoma Arts Council, Oklahoma Commission on
17 Children and Youth, the Oklahoma Health Care Authority, 4-H Clubs,
18 Oklahoma Cooperative Extension Service and other organizations
19 identified by the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs that
20 provide services to children and youth on the creation of an out-of-
21 school resource center subject to the availability of funds.

22 B. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, with the
23 assistance of and information provided by the Oklahoma Commission on

1 Children and Youth and the Oklahoma State Bureau of Investigation,
2 shall establish criteria and procedures for:

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

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

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

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

19 Section 7302-7.4 A. The Office of Juvenile Affairs shall
20 establish procedures and criteria for selecting and implementing
21 program models and ~~issuing and submitting grant proposals~~ awarding
22 contracts. The Board of Juvenile Affairs shall promulgate rules as

1 necessary for the implementation of the Delinquency and Youth Gang
2 Intervention and Prevention Act.

3 B. In order to be eligible for a ~~grant or~~ contract in an at-
4 risk neighborhood or community, as defined by Section ~~7302-7.2~~ 2-7-
5 702 of this title, pursuant to the Delinquency and Youth Gang
6 Intervention and Prevention Act the ~~proposal~~ contract shall, at
7 minimum:

8 1. Be a ~~joint proposal~~ made by an individual or organization, a
9 neighborhood or community organization, a municipality or county or
10 a municipal or county agency from the at-risk neighborhood or
11 community, ~~and one or more agencies or organizations within the~~
12 ~~children and youth service system.~~ If a school or local law
13 enforcement agency is not a ~~joint~~ participant in the ~~proposal~~
14 contract, the ~~proposal~~ contract shall document and describe the
15 active participation in and support of either the local school or
16 local law enforcement agency in the program and activities for which
17 the ~~proposal~~ contract is submitted;

18 2. Be a program or activity for children at highest risk of
19 involvement in gangs or delinquent behaviors, as defined by Section
20 ~~7302-7.2~~ 2-7-702 of this title, and their family members;

21 3. Describe the respective roles and responsibilities for the
22 administration and operation of the program and activities,
23 including but not limited to the designation of the entity

1 responsible for the receipt and expenditure of any funds awarded
2 pursuant to the Delinquency and Youth Gang Intervention and
3 Prevention Act;

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

9 5. Describe how the program will coordinate and cooperate with
10 programs and services administered by the ~~Department~~ Office of
11 Juvenile ~~Justice~~ Affairs, the Department of Human Services, the
12 State Department of Education, and other state or local agencies,
13 such as law enforcement, courts and other agencies within the
14 juvenile, children and youth service system; and

15 6. Provide the program and activities on-site in a school,
16 community center, or other similar location within the identified
17 at-risk neighborhood or community.

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

22 1. Describe the respective roles and responsibilities for the
23 administration and operation of the training or activity, including

1 but not limited to, the designation of the entity responsible for
2 the receipt and expenditure of any funds awarded pursuant to the
3 Delinquency and Youth Gang Intervention and Prevention Act; and

4 2. Describe how the training or activity will coordinate and
5 cooperate with existing programs and services administered by the
6 ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, the Department of
7 Human Services, the State Department of Education, and other state
8 or local agencies, such as law enforcement, courts and other
9 agencies within the juvenile, children and youth service system.

10 D. Each entity receiving a ~~grant or~~ contract pursuant to the
11 Delinquency and Youth Gang Intervention and Prevention Act shall
12 work with local community leaders, neighborhood associations, direct
13 service providers, local school officials, law enforcement and other
14 stakeholders to create a local youth and gang violence coordinating
15 council to help facilitate the implementation of the program. The
16 entity shall also submit an annual evaluation report to the
17 ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, by a date subsequent
18 to the end of the contract period as established by the ~~Department~~
19 Office, documenting the extent to which the program objectives were
20 met and any other information required by the ~~Department~~ Office.

21 SECTION 32. AMENDATORY 10 O.S. 2001, Section 7302-7.5,
22 as amended by Section 12, Chapter 421, O.S.L. 2004 (10 O.S. Supp.
23 2008, Section 7302-7.5), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 SECTION 33. AMENDATORY 10 O.S. 2001, Section 7302-8.1,
2 is amended to read as follows:

3 Section 7302-8.1 A. There is hereby created a program of
4 juvenile crime victim restitution to be administered by the Office
5 of Juvenile Affairs ~~through its Department of Juvenile Justice~~. The
6 program shall be known as the "Juvenile Offender Victim Restitution
7 Work Program".

8 B. The Board of Juvenile Affairs shall promulgate rules
9 necessary for the implementation of the provisions of this section.
10 Until the rules are promulgated by the Board, the rules promulgated
11 by the Commission for Human Services shall remain in effect.

12 C. The programs developed under the provisions of this section
13 shall provide restitution to a victim by requiring the juvenile to
14 work or provide a service for the victim, or to make monetary
15 restitution to the victim from money earned from such a program.
16 Restitution shall be made through the employment of the juvenile in
17 work programs. The supervised work or service program shall not
18 deprive the juvenile of schooling which is appropriate to the age,
19 need, and specific rehabilitative goals of the juvenile. The
20 program shall not prohibit the juvenile from fulfilling restitution
21 obligations through jobs the juvenile has found, by performing
22 volunteer services for the community, or by doing work for the
23 victim.

1 D. Agreements for participation in the programs under this
2 section may include restitution not in excess of actual damages
3 caused by the juvenile which shall be paid from the net earnings of
4 the juvenile received through participation in a constructive
5 program of service or education acceptable to the juvenile, the
6 victim, the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, the
7 district attorney and/or the district court. During the course of
8 such service, the juvenile shall be paid no less than the federal
9 minimum wage. In considering a restitution agreement, the
10 ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, the district attorney
11 and/or the district court shall take into account the age, physical
12 and mental capacity of the juvenile. The service shall be designed
13 to relate to the juvenile a sense of responsibility for the injuries
14 caused to the person or property of another. If a petition has not
15 been filed, the district attorney shall approve the nature of the
16 work, the number of hours to be spent performing the assigned tasks
17 and shall further specify that as part of a plan of treatment and
18 rehabilitation, that seventy-five percent (75%) or more of the net
19 earnings of the juvenile shall be used for restitution in order to
20 provide positive reinforcement for the work performed. If a
21 petition has been filed, the district court may approve the nature
22 of the work, the number of hours to be spent performing the assigned
23 tasks and may further specify that as part of a plan of treatment

1 and rehabilitation, that seventy-five percent (75%) or more of the
2 net earnings of the juvenile shall be used for restitution.

3 E. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs may enter
4 into contracts with private service providers for implementation of
5 the program required by this section. The ~~Department~~ Office may
6 require, as a condition of the contract, that the service provider
7 pay restitution directly to the victim or victims and pay any
8 amounts due to the juvenile directly to the juvenile. The records
9 of any service provider that contracts with the ~~Department~~ Office
10 pursuant to this section shall be subject to inspection by any
11 employee of the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs
12 designated by the Executive Director of the Office of Juvenile
13 Affairs. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs may
14 subsidize the employment of a juvenile for the purposes of
15 participation in a work program as provided by this section.

16 F. Any person, entity or political subdivision who is an
17 employer of juveniles or recipient of services from a juvenile,
18 pursuant to an agreement with the Juvenile Offender Victim
19 Restitution Work Program shall not be liable for ordinary negligence
20 for:

21 1. Damage to the property of the juvenile or injury to the
22 juvenile except as to the liability established by the Workers'
23 Compensation Act if the juvenile is covered thereunder; or

1 2. Damage to any property or injury to any person which results
2 from the services of the juvenile pursuant to this section.

3 SECTION 34. AMENDATORY 10 O.S. 2001, Section 7302-9.1,
4 is amended to read as follows:

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

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

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

14 ~~3-~~ Enhancing community control of crime through information
15 sharing regarding ~~serious and habitual~~ juvenile offenders that can
16 be used by patrol officers and criminal investigators for the early
17 identification of offenders and assist in the reduction of crime.

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

21 SECTION 35. AMENDATORY 10 O.S. 2001, Section 7302-9.2,
22 is amended to read as follows:

23 Section 7302-9.2 As used in the Oklahoma Juvenile Code:

1 1. "Agencies and programs comprising the juvenile justice
2 system" means:

3 a. the courts, the District Attorney's Council and
4 offices of the district attorneys, state and local law
5 enforcement agencies, juvenile bureaus, the Department
6 of Human Services, the ~~Department of Juvenile Justice~~
7 ~~of the~~ Office of Juvenile Affairs, the Oklahoma
8 Commission on Children and Youth, the Department of
9 Corrections, the Criminal Justice Resource Center, any
10 other state agency responsible for the care, custody
11 or supervision of youth alleged or adjudicated to be
12 delinquent, and

13 b. to the extent that they are responsible for the
14 provision of services to youth alleged or adjudicated
15 to be delinquent, including but not limited to
16 educational, treatment or residential services, local
17 school districts and technology center schools and
18 other public and private agencies not otherwise
19 specifically included in subparagraph a of this
20 paragraph, comprising the "children and youth service
21 system" as defined by Section 600 of ~~this title~~ Title
22 10 of the Oklahoma Statutes;

1 2. ~~"Felony act" or "felony offense" means any criminal offense~~
2 ~~that would constitute a felony crime if committed by an adult;~~
3 3. ~~"Habitual criminal acts" means three separate delinquency~~
4 ~~adjudications for the commission of felony acts. The felony acts~~
5 ~~relied upon shall not have arisen out of the same transaction or~~
6 ~~occurrence or series of events related in time and location;~~
7 4. "Juvenile court personnel" means those persons responsible
8 for juvenile court intake, probation and parole supervision and
9 services to youth alleged or adjudicated to be delinquent;
10 5. 3. "Juvenile Justice Information System" means the automated
11 information system established by Section ~~7302-9.6~~ 2-7-905 of this
12 title;
13 6. 4. "Juvenile offender" means a delinquent child or juvenile
14 as defined by Section ~~7301-1.3~~ 2-1-103 of this title; and
15 7. ~~"Sanction" means a consequence imposed upon a juvenile~~
16 ~~offender:~~
17 a. ~~as a result of a criminal act, and~~
18 b. ~~as a result of a violation of a condition of probation~~
19 ~~or parole;~~
20 8. ~~"Serious act" means any crime specified by subsection A of~~
21 ~~Section 7306-1.1 of this title;~~
22 9. ~~"Serious and Habitual~~

1 5. "Juvenile Offender Tracking Program" means the program of
2 information, information sharing, and case tracking, ~~case~~
3 ~~management, supervision and sanctions~~ established by Section 7302-
4 ~~9.3~~ 2-7-903 of this title, ~~and~~

5 ~~10.~~ "Serious juvenile offender" and "habitual juvenile
6 offender" means persons under eighteen (18) years of age who have
7 been adjudicated delinquent for the commission of serious acts or
8 habitual criminal acts and are subject to the Serious and Habitual
9 Juvenile Offender Program in accordance with the criteria
10 established pursuant to Section 7302-9.3 of this title.

11 SECTION 36. AMENDATORY 10 O.S. 2001, Section 7302-9.3,
12 is amended to read as follows:

13 Section 7302-9.3 The ~~Serious and Habitual~~ Juvenile Offender
14 Tracking Program shall include, but not be limited to:

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

17 2. Specific procedures for identifying juvenile offenders ~~who~~
18 ~~have committed a serious act or habitual criminal acts~~ for the
19 ~~purposes~~ purpose of ~~intensive supervision and~~ communication between
20 law enforcement and juvenile court personnel and others regarding
21 said offenders,;

22 ~~3.~~ Court intake risk assessment for children alleged or
23 adjudicated to be delinquent,;

1 ~~4. Structured decision-making instruments utilizing risk-~~
2 ~~assessment, offense, needs assessment, and other appropriate~~
3 ~~criteria for determining the imposition of appropriate specific~~
4 ~~sanctions for:~~

5 ~~a. youth adjudicated delinquent, and~~

6 ~~b. the violation of a condition of probation or parole;~~

7 ~~5. A case management system for ensuring appropriate:~~

8 ~~a. diversion of youth from the juvenile justice system,~~

9 ~~b. services for and supervision of all youth on pre-~~

10 ~~adjudicatory or postadjudicatory probation or on~~

11 ~~parole and for juvenile offenders in the custody of~~

12 ~~the Department of Juvenile Justice, and~~

13 ~~c. intensive supervision of serious juvenile offenders~~

14 ~~and habitual juvenile offenders and communication~~

15 ~~between law enforcement and juvenile court personnel~~

16 ~~and others regarding said offenders;~~

17 ~~6. Detention criteria, the uniform statewide application of~~
18 ~~said detention criteria, and guidelines for the use of secure~~
19 ~~detention. Said guidelines shall provide for priority to be given~~
20 ~~to the use of juvenile detention facilities for the detention of~~
21 ~~serious juvenile offenders and habitual juvenile offenders through~~
22 ~~provisions requiring the removal from detention of a juvenile with a~~
23 ~~lower priority status if an empty detention bed is not available at~~

1 ~~the time of referral of a juvenile with a higher priority status and~~
2 ~~if the juvenile with a higher priority status would be more of a~~
3 ~~danger to the public than the juvenile with the lower priority~~
4 ~~status;~~

5 ~~7. Guidelines for the imposition of sanctions for any criminal~~
6 ~~offenses committed by juveniles and for probation and parole~~
7 ~~violations;~~

8 ~~8. Guidelines for juvenile court personnel recommendations to~~
9 ~~district attorneys regarding the disposition of individual cases by~~
10 ~~district attorneys; and~~

11 ~~9. Guidelines for the disposition of individual cases by~~
12 ~~district attorneys.~~

13 SECTION 37. AMENDATORY 10 O.S. 2001, Section 7302-9.4,
14 is amended to read as follows:

15 Section 7302-9.4 For the purpose of achieving full
16 implementation of the ~~Serious and Habitual~~ Juvenile Offender
17 Tracking Program, the ~~Department of Juvenile Justice of the Office~~
18 of Juvenile Affairs, the juvenile bureaus, the District Attorney's
19 Council, the Oklahoma State Supreme Court as authorized and directed
20 by Section ~~7302-2.3~~ 2-7-203 of this title and Section 23 of Title 20
21 of the Oklahoma Statutes, the Oklahoma Commission on Children and
22 Youth, the Oklahoma State Bureau of Investigation, local law

1 enforcement agencies, and other agencies comprising the juvenile
2 justice system shall:

3 a. ~~develop~~

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

6 b. ~~develop;~~

7 2. Develop and implement the Juvenile Justice Information
8 System,

9 c. ~~adopt;~~

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

14 d. ~~enter~~

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

19 SECTION 38. AMENDATORY 10 O.S. 2001, Section 7302-9.6,
20 is amended to read as follows:

21 Section 7302-9.6 A. For the purpose of information sharing and
22 management of the ~~Serious and Habitual~~ Juvenile Offender Tracking
23 Program, there is hereby created the Juvenile Justice Information

1 System. The information system shall be an automated, data-based,
2 system for tracking juvenile offenders from arrest through final
3 closure of the case and shall include information provided by all of
4 the components of the juvenile justice system in accordance with the
5 provisions of the ~~Serious and Habitual Juvenile Offender Act~~
6 Tracking Program. The information system shall be fully integrated
7 with other information systems related to services to children and
8 youth and shall:

9 1. Be based upon the integration, utilization and modification,
10 as necessary, of existing information systems;

11 2. Provide for the accuracy of the information and for the
12 security of and limited access to the information;

13 3. Include case-specific information, including client
14 outcomes, and have the ability to monitor juveniles in the juvenile
15 justice system; and

16 4. Be capable of providing management reports and information
17 to the various components of the juvenile justice system, and of
18 providing aggregate information necessary for planning, monitoring,
19 evaluating and managing programs and services provided to youthful
20 offenders as well as for system-wide analysis of the ~~Serious and~~
21 ~~Habitual Juvenile Offender~~ Tracking Program.

22 B. The ~~Department of Juvenile Justice of the~~ Office of Juvenile
23 Affairs, the juvenile bureaus, the Criminal Justice Resource Center,

1 the Office of the Court Administrator, and other agencies and
2 programs comprising the juvenile justice system, including but not
3 limited to law enforcement and district attorneys, in accordance
4 with guidelines established by the ~~Serious and Habitual~~ Juvenile
5 Offender Tracking Program Implementation Task Force, shall jointly:

- 6 1. Identify information to be shared by agencies on a regular
7 basis;
- 8 2. Develop procedures for processing case-profiles as cases
9 move through agencies that come in contact with juvenile offenders;
- 10 3. Establish training programs in the use of the system;
- 11 4. Conduct a pilot project to test the system; and
- 12 5. At least annually, evaluate the plan for full statewide
13 implementation of the Juvenile Justice Information System and submit
14 any necessary modifications of the existing plan to the ~~Serious and~~
15 ~~Habitual~~ Juvenile Offender Tracking Program Implementation Task
16 Force and to the Governor, the President Pro Tempore of the Senate,
17 the Speaker of the House of Representatives, and each agency
18 affected by said plan.

19 SECTION 39. NEW LAW A new section of law not to be
20 codified in the Oklahoma Statutes reads as follows:

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

23 CHAPTER 2 - CUSTODY AND COURT PROCEEDINGS

1 SECTION 40. AMENDATORY 10 O.S. 2001, Section 7303-1.1,
2 as amended by Section 24, Chapter 327, O.S.L. 2002 (10 O.S. Supp.
3 2008, Section 7303-1.1), is amended to read as follows:

4 Section 7303-1.1 A. A child may be taken into custody prior to
5 the filing of a petition alleging that the child is delinquent or in
6 need of supervision:

7 1. By a peace officer, without a court order for any criminal
8 offense for which the officer is authorized to arrest an adult
9 without a warrant, or if the child is willfully and voluntarily
10 absent from the home of the child without the consent of the parent,
11 legal guardian, legal custodian or other person having custody and
12 control of the child for a substantial length of time or without
13 intent to return, or if the ~~child's~~ surroundings of the child are
14 such as to endanger the welfare of the child;

15 2. By an employee of the court without a court order, if the
16 child is willfully and voluntarily absent from the home of the child
17 without the consent of the parent, legal guardian, legal custodian
18 or other person having custody and control of the child for a
19 substantial length of time or without intent to return, or if the
20 ~~child's~~ surroundings of the child are such as to endanger the
21 welfare of the child;

22 3. Pursuant to an order of the district court issued on the
23 application of the office of the district attorney. The application

1 presented by the district attorney shall be supported by a sworn
2 affidavit which may be based upon information and belief. The
3 application shall state facts sufficient to demonstrate to the court
4 that there is probable cause to believe the child has committed a
5 crime or is in violation of the terms of probation, parole or order
6 of the court;

7 4. By order of the district court pursuant to subsection E of
8 this section when the child is in need of medical or ~~mental~~
9 behavioral health treatment or other action in order to protect the
10 ~~child's~~ health or welfare of the child and the parent, legal
11 guardian, legal custodian or other person having custody or control
12 of the child is unwilling or unavailable to consent to such medical
13 or ~~mental~~ behavioral health treatment or other action; and

14 5. Pursuant to an emergency ex parte or a final protective
15 order of the district court issued at the request of a parent or
16 legal guardian pursuant to the Protection from Domestic Abuse Act.

17 Any child referred to in this subsection shall not be considered
18 to be in the custody of the Office of Juvenile Affairs.

19 B. Whenever a child is taken into custody as a delinquent child
20 or a child in need of supervision pursuant to subsection A of this
21 section, the child shall be detained, held temporarily in the
22 custodial care of a peace officer or other person employed by a
23 police department, or be released to the custody of the ~~child's~~

1 parent of the child, legal guardian, legal custodian, attorney or
2 other responsible adult, upon the written promise of such person to
3 bring the child to the court at the time fixed if a petition is to
4 be filed and to assume responsibility for costs for damages caused
5 by the child if the child commits any delinquent acts after being
6 released regardless of whether or not a petition is to be filed. It
7 shall be a misdemeanor for any person to sign the written promise
8 and then fail to comply with the terms of the promise. Any person
9 convicted of violating the terms of the written promise shall be
10 subject to imprisonment in the county jail for not more than six (6)
11 months or a fine of not more than Five Hundred Dollars (\$500.00), or
12 by both such fine and imprisonment. In addition, if a parent, legal
13 guardian, legal custodian, attorney or other responsible adult is
14 notified that the child has been taken into custody, it shall be a
15 misdemeanor for such person to refuse to assume custody of the child
16 within a timely manner. If detained, the child shall be taken
17 immediately before a judge of the district court in the county in
18 which the child is sought to be detained, or to the place of
19 detention or shelter designated by the court. If no judge be
20 available locally, the person having the child in custody shall
21 immediately report the detention of the child to the presiding judge
22 of the judicial administrative district, provided that the child
23 shall not be detained in custody beyond the next judicial day or for

1 good cause shown due to problems of arranging for and transporting
2 the child to and from a secure juvenile detention center, beyond the
3 ~~next two (2) second~~ second judicial ~~days~~ day unless the court shall so
4 order after a detention hearing to determine if there exists
5 probable cause to detain the child. The child shall be present at
6 the detention hearing or the image of the child may be broadcast to
7 the judge by closed-circuit television or any other electronic means
8 that provides for a two-way communication of image and sound between
9 the child and the judge. If the latter judge cannot be reached,
10 such detention shall be reported immediately to any judge regularly
11 serving within the judicial administrative district. If detained, a
12 reasonable bond for release shall be set. Pending further
13 disposition of the case, a child whose custody has been assumed by
14 the court may be released to the custody of a parent, legal
15 guardian, legal custodian, or other responsible adult or to any
16 other person appointed by the court, or be detained pursuant to
17 ~~Article IV~~ Chapter 3 of the Oklahoma Juvenile Code in such place as
18 shall be designated by the court, subject to further order.

19 C. When any child is taken into custody pursuant to this title
20 and it reasonably appears to the peace officer, employee of the
21 court or person acting pursuant to court order that the child is in
22 need of medical treatment to preserve the health of the child, any
23 peace officer, any employee of the court or person acting pursuant

1 to court order shall have the authority to authorize medical
2 examination and medical treatment for any child found to be in need
3 of medical treatment as diagnosed by a competent medical authority
4 in the absence of the ~~child's~~ parent of the child, legal guardian,
5 legal custodian, or other person having custody and control of the
6 child who is competent to authorize medical treatment. The officer
7 or the employee of the court or person acting pursuant to court
8 order shall authorize said medical treatment only after exercising
9 due diligence to locate the ~~child's~~ parent of the child, legal
10 guardian, legal custodian, or other person legally competent to
11 authorize said medical treatment. The ~~child's~~ parent of the child,
12 legal guardian, legal custodian, or other person having custody and
13 control shall be responsible for such medical expenses as ordered by
14 the court. No peace officer, any employee of the court or person
15 acting pursuant to court order authorizing such treatment in
16 accordance with the provisions of this section for any child found
17 in need of such medical treatment shall have any liability, civil or
18 criminal, for giving such authorization.

19 D. A child who has been taken into custody as otherwise
20 provided by this Code who appears to be a minor in need of
21 treatment, as defined by the Inpatient Mental Health and Substance
22 Abuse Treatment of Minors Act, may be admitted to a ~~mental health or~~
23 ~~substance abuse~~ behavioral health treatment facility ~~on an emergency~~

1 ~~basis or for an inpatient evaluation or for treatment only~~ in
2 accordance with the provisions of the Inpatient Mental Health and
3 Substance Abuse Treatment of Minors Act. The ~~child's~~ parent of the
4 child, legal guardian, legal custodian, or other person having
5 custody and control shall be responsible for such ~~mental~~ behavioral
6 health expenses as ordered by the court. No peace officer, any
7 employee of the court or person acting pursuant to court order
8 authorizing such treatment in accordance with the provisions of this
9 section for any child found in need of such ~~mental~~ behavioral health
10 evaluation or treatment shall have any liability, civil or criminal,
11 for giving such authorization.

12 E. 1. A child may be taken into custody pursuant to an order
13 of the court specifying that the child is in need of medical
14 treatment or other action to protect the ~~child's~~ health or welfare
15 of the child and the parent, legal guardian, legal custodian, or
16 other responsible adult having custody or control of a child is
17 unwilling or unavailable to consent to such medical treatment or
18 other action.

19 2. If the child is in need of immediate medical treatment or
20 other action to protect the ~~child's~~ health or welfare of the child,
21 the court may issue an emergency ex parte order upon application of
22 the district attorney of the county in which the child is located.
23 The application for an ex parte order may be verbal or in writing

1 and shall be supported by facts sufficient to demonstrate to the
2 court that there is reasonable cause to believe that the child is in
3 need of immediate medical treatment or other action to protect the
4 ~~child's~~ health or welfare of the child. The emergency ex parte
5 order shall be in effect until a full hearing is conducted. A copy
6 of the application, notice for full hearing and a copy of any ex
7 parte order issued by the court shall be served upon such parent,
8 legal guardian, legal custodian, or other responsible adult having
9 custody or control of the child. Within twenty-four (24) hours of
10 the filing of the application the court shall schedule a full
11 hearing on the application, regardless of whether an emergency ex
12 parte order had been issued or denied.

13 3. Except as otherwise provided by paragraph 2 of this ~~section~~
14 subsection, whenever a child is in need of medical treatment to
15 protect the ~~child's~~ health or welfare of the child, or whenever any
16 other action is necessary to protect the ~~child's~~ health or welfare
17 of the child, and the ~~child's~~ parent of the child, legal guardian,
18 legal custodian, or other person having custody or control of the
19 child is unwilling or unavailable to consent to such medical
20 treatment or other action, the court, upon application of the
21 district attorney of the county in which the child is located, shall
22 hold a full hearing within five (5) days of filing the application.
23 Notice of the hearing and a copy of the application shall be served

1 upon the parent, legal guardian, legal custodian, or other person
2 having custody or control of the child.

3 4. At any hearing held pursuant to this subsection, the court
4 may grant any order or require such medical treatment or other
5 action as is necessary to protect the health or welfare of the
6 child.

7 5. a. The parent, legal guardian, legal custodian, or other
8 person having custody or control of the child shall be
9 responsible for such medical expenses as ordered by
10 the court.

11 b. No peace officer, any employee of the court or person
12 acting pursuant to court order authorizing such
13 treatment in accordance with the provisions of this
14 subsection for any child found in need of such medical
15 treatment shall have any liability, civil or criminal.

16 SECTION 41. AMENDATORY 10 O.S. 2001, Section 7303-1.2,
17 as amended by Section 7, Chapter 124, O.S.L. 2006 (10 O.S. Supp.
18 2008, Section 7303-1.2), is amended to read as follows:

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

1 a. resides,
2 b. is found, or
3 c. is alleged to be or is found to be in need of
4 supervision,
5 ~~shall have jurisdiction of any child who is or is alleged to be in~~
6 ~~need of supervision and.~~

7 2. The court shall have jurisdiction of the parent, ~~guardian,~~
8 legal custodian, legal guardian ~~or,~~ stepparent of ~~said~~ the child, or
9 any adult person living in the home of the child regardless of where
10 the parent, ~~guardian,~~ legal custodian, legal guardian ~~or,~~
11 stepparent, or adult person living in the home of the child is
12 found, ~~and shall have jurisdiction of any other adult person living~~
13 ~~in the home of such child. For any child who is or is alleged to be~~
14 ~~delinquent, the district court of the county where the cause of~~
15 ~~action arose shall have jurisdiction of the child and of the parent,~~
16 ~~guardian, legal custodian, legal guardian or stepparent of said~~
17 ~~child, regardless where the parent, guardian, legal custodian, legal~~
18 ~~guardian or stepparent is found, and shall have jurisdiction of any~~
19 ~~other adult person living in the home of such child.~~

20 ~~2.~~ 3. When jurisdiction ~~shall have~~ has been obtained over a
21 child who is or is alleged to be in need of supervision, such may be
22 retained until the child becomes eighteen (18) years of age ~~and~~
23 ~~when.~~

1 B. 1. Upon the filing of a petition alleging the child to be
2 delinquent or upon the assumption of custody pursuant to Section 2-
3 2-101 of this title, the district court of the county where the
4 delinquent act occurred shall have jurisdiction of the child and of
5 the parent, legal custodian, legal guardian, stepparent of the child
6 or any adult person living in the home of the child regardless of
7 where the parent, legal custodian, legal guardian, stepparent, or
8 adult person living in the home of the child is found.

9 2. When jurisdiction shall have has been obtained over a child
10 who is or is alleged to be a delinquent, jurisdiction may be
11 retained until the child becomes nineteen (19) years of age upon the
12 court's own motion, motion by the district attorney or motion by the
13 Department Office of Juvenile Justice Affairs, as provided in
14 ~~subsection B of Section 7302-5.4~~ 2-7-504 of this title.

15 ~~3. For the convenience of the parties and in the interest of~~
16 ~~justice, a proceeding under the Oklahoma Juvenile Code, Section~~
17 ~~7301-1.1 et seq. of this title, may be transferred to the district~~
18 ~~court in any other county.~~

19 ~~4. Any arrest or detention under the Oklahoma Juvenile Code or~~
20 ~~any adjudication in a juvenile proceeding shall not be considered an~~
21 ~~arrest, detention or conviction for purposes of employment, civil~~
22 ~~rights, or any statute, regulation, license, questionnaire,~~

1 ~~application, or any other public or private purposes, unless~~
2 ~~otherwise provided by law.~~

3 B. The juvenile proceeding may be filed before the child
4 becomes eighteen (18) years of age or within one (1) year after the
5 date of the eighteenth birthday of the child if the underlying act
6 would constitute a felony if committed by an adult.

7 C. The district court in which a petition is filed or the
8 district court in which custody has been assumed pursuant to the
9 provisions of Section ~~7303-1.1~~ 2-2-101 of this title may retain
10 jurisdiction of a delinquent child in such proceeding
11 notwithstanding the fact that the child is subject to the
12 jurisdiction of another district court within the state. Any
13 adjudication and disposition made by the court in which said
14 petition is filed shall control over prior orders in regard to the
15 child.

16 ~~C. The district court in which a petition is filed which~~
17 ~~alleges that a child is in need of supervision can issue any~~
18 ~~temporary order or grant any interlocutory relief authorized by this~~
19 ~~Code notwithstanding the fact that another district court within the~~
20 ~~state has jurisdiction of the child.~~

21 ~~D. If the district court in which a petition is filed pursuant~~
22 ~~to either subsection B or subsection C of this section sustains the~~
23 ~~petition, the district court shall have the jurisdiction to make a~~

1 ~~final determination on the juvenile petition or to transfer the~~
2 ~~proceedings to a court having prior jurisdiction over the child.~~
3 ~~Where the other proceeding is pending in the same judicial district~~
4 ~~in which the juvenile petition is filed, the chief judge of the~~
5 ~~judicial district shall determine if the proceedings shall be~~
6 ~~consolidated and, if consolidated, which judge shall try the issues~~
7 ~~when the judges to whom the cases have been assigned are unable to~~
8 ~~agree on the procedure that should be followed Except as otherwise~~
9 ~~provided in the Oklahoma Juvenile Code, a child who is charged with~~
10 ~~having violated any state statute or municipal ordinance, other than~~
11 ~~those enumerated in Section 2-5-101, 2-5-205 or 2-5-206 of this~~
12 ~~title, shall not be tried in a criminal action but in a juvenile~~
13 ~~proceeding.~~

14 E. 1. ~~A municipality with a population of at least twenty five~~
15 ~~thousand (25,000) may, by written resolution filed with the district~~
16 ~~court as defined in this subsection, assume jurisdiction of cases~~
17 ~~involving children under eighteen (18) years of age charged with~~
18 ~~violating any municipal ordinance identified in the resolution. Any~~
19 ~~other municipality may enter into an interlocal cooperation~~
20 ~~agreement with the district court pursuant to the Interlocal~~
21 ~~Cooperation Act, Sections 1001 through 1008 of Title 74 of the~~
22 ~~Oklahoma Statutes, to assume jurisdiction of cases involving~~
23 ~~children under eighteen (18) years of age charged with violating any~~

1 ~~municipal ordinance as agreed by the district court, the district~~
2 ~~attorney and the municipality. For the purposes of this subsection,~~
3 ~~"district court" shall mean the district court judicial district or~~
4 ~~districts in which the contracting municipality is situated. The~~
5 ~~chief juvenile judge of the district court judicial district is~~
6 ~~hereby authorized to enter into the interlocal cooperation agreement~~
7 ~~as provided for in this section for and on behalf of said judicial~~
8 ~~district if the judge determines that the agreement is~~
9 ~~constitutional and complies with state and federal law. Provided,~~
10 ~~if there is no chief juvenile judge in the judicial district, then~~
11 ~~the presiding judge of the judicial administrative district that~~
12 ~~includes the contracting judicial district may enter into the~~
13 ~~agreement for and on behalf of said judicial district if the judge~~
14 ~~determines that the agreement is constitutional and complies with~~
15 ~~state and federal law.~~

16 2. ~~A child under eighteen (18) years of age who is taken into~~
17 ~~custody for the alleged violation of a municipal ordinance relating~~
18 ~~to truancy may be held pursuant to Section 10-109 of Title 70 of the~~
19 ~~Oklahoma Statutes. In no event shall the child be placed in a jail,~~
20 ~~lockup, or detention facility. In no event shall the child be~~
21 ~~placed in a juvenile detention facility for more than twenty-four~~
22 ~~(24) hours, excluding weekends and legal holidays, prior to an~~
23 ~~initial court appearance and for an additional twenty-four (24)~~

1 ~~hours, excluding weekends and legal holidays, immediately following~~
2 ~~an initial court appearance; provided, however, this provision shall~~
3 ~~not restrict or prohibit placing the child in a community~~
4 ~~intervention center pursuant to Section 7302 3.5 of this title.~~

5 ~~3.— A child under eighteen (18) years of age who is taken into~~
6 ~~custody for the alleged violation of a municipal ordinance relating~~
7 ~~to curfews may be held temporarily under the custodial care of a~~
8 ~~peace officer or other person employed by a police department only~~
9 ~~until the child's parent, legal guardian, legal custodian, attorney~~
10 ~~or other responsible adult assumes custody or, if such a person~~
11 ~~cannot be located within a reasonable time of the taking of the~~
12 ~~child into custody or if such a person refuses to assume custody,~~
13 ~~until temporary shelter is found for the child. In no event shall~~
14 ~~the child be placed in a jail, lockup, or adult detention facility.~~
15 ~~In no event shall the child be placed in a juvenile detention~~
16 ~~facility for more than twenty four (24) hours, excluding weekends~~
17 ~~and legal holidays, prior to an initial court appearance and for an~~
18 ~~additional twenty four (24) hours, excluding weekends and legal~~
19 ~~holidays, immediately following an initial court appearance;~~
20 ~~provided however, this provision shall not restrict or prohibit~~
21 ~~placing the child in a community intervention center pursuant to~~
22 ~~Section 7302 3.5 of this title. The temporary custody provided for~~

1 ~~by this paragraph shall be utilized as a means of returning the~~
2 ~~child to the child's home or other place of shelter.~~

3 ~~4. Notwithstanding any other provision of this Code, a child~~
4 ~~less than eighteen (18) years of age, who is taken into custody for~~
5 ~~the alleged violation of a municipal ordinance, and who can be~~
6 ~~prosecuted in municipal court for such offense pursuant to~~
7 ~~jurisdiction assumed by the municipal court pursuant to the~~
8 ~~provisions of paragraph 1 of this subsection, may be temporarily~~
9 ~~detained by the municipality in a municipal juvenile facility, as~~
10 ~~defined by this paragraph, but only pursuant to the following~~
11 ~~conditions:~~

12 ~~a. the municipality shall immediately take all reasonable~~
13 ~~steps to attempt to locate the child's parent, legal~~
14 ~~guardian, legal custodian, attorney or another~~
15 ~~responsible adult and determine if said parent, legal~~
16 ~~guardian, legal custodian, attorney or other~~
17 ~~responsible adult is willing to appear at the~~
18 ~~municipal juvenile facility and assume personal~~
19 ~~custody of the child upon the child's release from~~
20 ~~such facility,~~

21 ~~b. the child shall be released to the personal custody of~~
22 ~~the child's parent, legal guardian, legal custodian,~~
23 ~~attorney or other responsible adult as soon as~~

1 ~~practicable and upon the written promise of such~~
2 ~~person to return the child to municipal court to~~
3 ~~answer the municipal charges on the date and at the~~
4 ~~time set by the municipal court and to assume~~
5 ~~responsibility for costs for damages by the child if~~
6 ~~the child causes damages while committing any acts in~~
7 ~~violation of municipal ordinances listed in this~~
8 ~~section after being released. Municipalities may~~
9 ~~enact ordinances providing penalties for failure to~~
10 ~~comply with the written promise and for refusal to~~
11 ~~assume custody of a child in a timely manner,~~
12 ~~e. the child shall be detained in the municipal juvenile~~
13 ~~facility for no longer than twenty four (24) hours;~~
14 ~~provided, if the child's parent, legal guardian, legal~~
15 ~~custodian, attorney or other responsible adult fails~~
16 ~~to appear at the municipal juvenile facility and~~
17 ~~assume personal custody of the child within said~~
18 ~~twenty four hour period, then custody or release of~~
19 ~~the child shall be determined pursuant to the~~
20 ~~provisions of Section 7303 1.1 of this title,~~
21 ~~d. the child shall be provided with adequate fresh~~
22 ~~drinking water,~~

- 1 e. ~~the child shall be provided with adequate food not~~
2 ~~less than three times in a twenty four hour period,~~
3 f. ~~the child shall be provided with adequate bathroom~~
4 ~~facilities and bedding, and~~
5 g. ~~the child shall be provided with any necessary medical~~
6 ~~care and treatment.~~

7 ~~Prior to the temporary detention of any child pursuant to the~~
8 ~~authority of this subsection, the municipal juvenile facility shall~~
9 ~~be certified by the Office of Juvenile Affairs pursuant to the~~
10 ~~applicable certification standards set by the Board of Juvenile~~
11 ~~Affairs, and each member of the staff of the municipal juvenile~~
12 ~~facility shall have satisfactorily completed a training program~~
13 ~~provided or approved by the Department of Juvenile Justice. In~~
14 ~~furtherance of this subsection, the Office of Juvenile Affairs is~~
15 ~~directed to and shall establish standards for the certification of~~
16 ~~municipal juvenile facilities, with said standards to include, but~~
17 ~~not be limited to, the conditions set forth in subparagraphs a~~
18 ~~through g, inclusive, of this paragraph, and the Department of~~
19 ~~Juvenile Justice is directed to and shall provide or approve an~~
20 ~~appropriate training program for staff members of such facilities.~~
21 ~~In lieu of operating a municipal juvenile facility with trained~~
22 ~~municipal employees, the municipality may contract with an~~
23 ~~independent public or private facility properly certified by the~~

1 ~~Office of Juvenile Affairs for performance of the detention services~~
2 ~~authorized by the provisions of this paragraph. For the purposes of~~
3 ~~this section, a "municipal juvenile facility" shall mean a secure~~
4 ~~facility which is entirely separate from any jail, adult lockup, or~~
5 ~~other adult facility, or is spatially separate if contained inside~~
6 ~~any jail, adult lockup, or other adult facility which is certified~~
7 ~~by the Office of Juvenile Affairs for use for the temporary~~
8 ~~detention of juveniles as authorized by the provisions of this~~
9 ~~paragraph. The provisions of this paragraph shall not restrict or~~
10 ~~limit the use of municipal juvenile facilities for detention of~~
11 ~~juveniles who are detained pursuant to other provisions of law. In~~
12 ~~no event shall a juvenile be held in an adult facility that does not~~
13 ~~meet the definition of a municipal juvenile facility.~~

14 ~~5. Pursuant to an interlocal cooperation agreement between a~~
15 ~~municipality and the district court, as authorized by the provisions~~
16 ~~of paragraph 1 of this subsection, a child less than eighteen (18)~~
17 ~~years of age may be charged, prosecuted and, if convicted, fined for~~
18 ~~violating a municipal ordinance for which provision is made in~~
19 ~~paragraph 1 of this subsection; provided, that the maximum fine~~
20 ~~which may be imposed shall not exceed the maximum fine authorized by~~
21 ~~law. When assessing punishment, the court also may require~~
22 ~~appropriate community service work, not to exceed ninety (90) hours,~~
23 ~~in lieu of or in addition to a fine if the product of multiplying~~

1 ~~the number of hours of community service work by the prevailing~~
2 ~~minimum wage plus any fine imposed does not result in a number which~~
3 ~~exceeds the maximum fine authorized by law, or restitution, or both~~
4 ~~community service work and restitution. If the child fails to~~
5 ~~complete the community service, a parent or guardian of the child~~
6 ~~who knew or should have known that the child failed to complete the~~
7 ~~community service may be fined an amount that is equal to the number~~
8 ~~of community service hours that are uncompleted by the child~~
9 ~~multiplied by the hourly minimum wage amount. In addition, during~~
10 ~~any calendar year that any child:~~

- 11 a. ~~fails to appear for a court date on more than one~~
12 ~~occasion,~~
- 13 b. ~~is convicted of two or more of the municipal offenses~~
14 ~~for which provision is made in paragraph 1 of this~~
15 ~~subsection, which offenses occurred on different days,~~
16 ~~or~~
- 17 c. ~~fails to pay any fine or cost properly assessed by a~~
18 ~~municipal court,~~

19 ~~and after the expiration of ninety (90) days, the court clerk shall~~
20 ~~mail notice of such occurrence to the Department of Public Safety,~~
21 ~~which department shall thereafter suspend or deny driving privileges~~
22 ~~for such child for six (6) months. The suspension may be modified~~
23 ~~as provided in Section 6-107.2 of Title 47 of the Oklahoma Statutes.~~

1 ~~In addition, the court may require the child to receive counseling~~
2 ~~or other community based services, as necessary.~~

3 ~~If a child is prosecuted for an offense in a municipal court,~~
4 ~~the child shall not be prosecuted for the offense in the district~~
5 ~~court. The municipal court may also impose costs as authorized by~~
6 ~~law.~~

7 ~~6. Any fines and costs properly assessed against any child and~~
8 ~~which remain unpaid after three (3) months may be assessed by the~~
9 ~~municipal judge against the child's parent, parents, legal guardian~~
10 ~~or legal custodian and collected and paid as provided for in~~
11 ~~Articles XXVII and XXVIII of Title 11 of the Oklahoma Statutes.~~
12 ~~Provided however, prior to such latter assessment, the court clerk~~
13 ~~shall give such child's parent, parents, legal guardian or legal~~
14 ~~custodian notice by certified mail to their place of residence or~~
15 ~~personal service of such action proposed to be taken.~~

16 ~~7. All municipal arrest records, prosecution records, court~~
17 ~~records, and court proceedings for cases involving children less~~
18 ~~than eighteen (18) years of age charged with violating municipal~~
19 ~~ordinances shall be kept confidential and shall not be open to~~
20 ~~public inspection except by order of the municipal court or as~~
21 ~~otherwise provided by Article VII of this Code and Section 620.6 of~~
22 ~~this title. Municipal conviction records involving children less~~
23 ~~than eighteen (18) years of age convicted of violating municipal~~

1 ~~ordinances shall be open to public inspection~~ If, during the
2 pendency of a criminal charge against any person, it shall be
3 ascertained that the person was a child at the time of committing
4 the alleged offense, the district court or municipal court shall
5 transfer the case, together with all the papers, documents and
6 testimony connected therewith, to the juvenile division of the
7 district court. The division making the transfer shall order the
8 child to be taken forthwith to the place of detention designated by
9 the juvenile division, to that division itself, or release the child
10 to the custody of a suitable person to be brought before the
11 juvenile division.

12 F. ~~Funds generated from fines paid pursuant to an interlocal~~
13 ~~cooperation agreement between a municipality and the district court~~
14 ~~pursuant to the provisions of subsection E of this section shall be~~
15 ~~earmarked and used by the municipality only for the following~~
16 ~~purposes:~~

17 1. ~~To fund local programs which address problems of juvenile~~
18 ~~crime;~~

19 2. ~~To fund the costs of prosecutions authorized pursuant to the~~
20 ~~provisions of subsection E of this section;~~

21 3. ~~To fund the costs of detention authorized pursuant to the~~
22 ~~provisions of subsection E of this section;~~

1 4. ~~To fund administrative costs related to local programs that~~
2 ~~address problems of juvenile crime or related to the prosecution,~~
3 ~~detention, or punishment authorized pursuant to the provisions of~~
4 ~~subsection E of this section; and~~

5 5. ~~To fund the costs of community intervention centers~~
6 ~~authorized pursuant to Section 7302 3.5 of this title.~~

7 Such earmarked funds shall not be used by the municipality for
8 any purpose other than the purposes set forth in paragraphs 1
9 ~~through 5 of this subsection~~ Nothing in this act shall be construed
10 to prevent the exercise of concurrent jurisdiction by another
11 division of the district court or by the municipal courts in cases
12 involving children wherein the child is charged with the violation
13 of a state or municipal traffic law or ordinance.

14 SECTION 42. AMENDATORY 10 O.S. 2001, Section 7303-1.3,
15 as last amended by Section 1, Chapter 176, O.S.L. 2007 (10 O.S.
16 Supp. 2008, Section 7303-1.3), is amended to read as follows:

17 Section 7303-1.3 A. ~~The court may provide by rule who shall~~
18 ~~make a~~ A preliminary inquiry shall be conducted to determine whether
19 the interests of the public or of the child who is within the
20 purview of the Oklahoma Juvenile Code require that further court
21 action be taken. ~~Provided, that where intake is to be provided by~~
22 ~~the Department of Juvenile Justice under contract with the Supreme~~
23 ~~Court, or under the provision of rules issued by the Supreme Court,~~

1 ~~the preliminary inquiry shall follow the uniform contractual~~
2 ~~procedures as agreed to by the Supreme Court and the Department. If~~
3 ~~it is determined by the preliminary inquiry that no further action~~
4 ~~be taken and if agreed to by the district attorney, the person or~~
5 ~~the court intake worker may make such informal adjustment as is~~
6 ~~practicable without a petition.~~

7 B. ~~A petition in a juvenile proceeding may be filed by the~~
8 ~~district attorney to determine if further action is necessary. The~~
9 ~~proceeding shall be entitled "In the matter of _____, an~~
10 ~~alleged (delinquent) or (a child alleged to be in need of~~
11 ~~supervision)".~~

12 ~~The petition shall be verified and may be upon information and~~
13 ~~belief. It shall set forth:~~

14 ~~1. With particularity facts which bring the child within the~~
15 ~~purview of the Oklahoma Juvenile Code;~~

16 ~~2. The name, age and residence of the child;~~

17 ~~3. The names and residences of the parents of the child;~~

18 ~~4. The name and residence of the legal guardian of the child,~~
19 ~~if applicable;~~

20 ~~5. The name and residence of the person or persons having~~
21 ~~custody or control of the child;~~

22 ~~6. The name and residence of the nearest known relative, if no~~
23 ~~parent or guardian can be found;~~

1 ~~7. The relief requested, and~~

2 ~~8. The specific federal law, state law or municipal ordinance~~
3 ~~under which the child is charged, and an endorsement of witnesses~~
4 ~~intended to be called by the petitioner, where the child is sought~~
5 ~~to be adjudged a delinquent child.~~

6 ~~If a termination of parental rights is desired, it must be~~
7 ~~stated in the petition and summons, and if an order for the payment~~
8 ~~of funds for the care and maintenance of the child is desired, it~~
9 ~~must be stated in the petition and summons. If any of the facts~~
10 ~~herein required are not known by the petitioner, the petition shall~~
11 ~~so state, along with the reasons why the facts are not known to the~~
12 ~~petitioner.~~

13 ~~C. A petition alleging a child to be a minor in need of~~
14 ~~treatment shall be filed by a district attorney pursuant to the~~
15 ~~Inpatient Mental Health and Substance Abuse Treatment of Minors Act.~~

16 ~~D. A copy of the petition shall be attached to and delivered~~
17 ~~with the summons.~~

18 ~~E. A district attorney may defer filing a petition alleging a~~
19 ~~child to be delinquent or in need of supervision for a period of up~~
20 ~~to six (6) months if the child participates in a teen court program,~~
21 ~~a graduated sanctions program, a first-time offender program, as~~
22 ~~defined in Section 7303 4.6 of this title, or such other program as~~
23 ~~may be approved by the juvenile court and the district attorney. If~~

1 ~~the child successfully completes the program, the district attorney~~
2 ~~shall not file the petition. If the district attorney defers filing~~
3 ~~a petition pursuant to this subsection, the deferral~~ Informal
4 adjustment may be provided to the child by the intake worker only
5 where the facts reasonably appear to establish prima facie
6 jurisdiction and are admitted and where consent is obtained from the
7 district attorney, the parent of the child, legal guardian, legal
8 custodian, or legal counsel, if any, and the child. The informal
9 adjustment is an agreement whereby the child agrees to fulfill
10 certain conditions in exchange for not having a petition filed
11 against the child. The informal adjustment shall be completed
12 within a period of time not to exceed six (6) months and shall:
13 1. Be voluntarily entered into by all parties;
14 2. Be revocable by the child at any time by a written
15 revocation;
16 3. Be revocable by the intake worker in the event there is
17 reasonable cause to believe the child has failed to carry out the
18 terms of the informal adjustment or has committed a subsequent
19 offense;
20 4. Not be used as evidence against the child at any
21 adjudication hearing;
22 5. Be executed in writing and expressed in language
23 understandable to the persons involved; and

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

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

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

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

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

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

19 If the intake worker has reasonable cause to believe that the child
20 has failed to carry out the terms of the adjustment agreement or has
21 committed a subsequent offense, in lieu of revoking the agreement,
22 the intake worker may modify the terms of the agreement and extend
23 the period of the agreement for an additional six (6) months from

1 the date on which the modification was made with the consent of the
2 child or counsel of the child, if any.

3 D. If an informal adjustment is agreed to pursuant to
4 subsection B of this section, the informal adjustment agreement may
5 require the child to pay a fee equal to no more than what the court
6 costs would have been had a petition been filed. The juvenile child
7 shall remit the fee directly to the agency responsible for the
8 monitoring and supervision of the juvenile child. If the
9 supervising agency is a juvenile bureau, then the fee shall be
10 remitted to a revolving fund of the county in which the juvenile
11 bureau is located to be designated the "Juvenile Deferral Fee
12 Revolving Fund" and shall be used by the juvenile bureau to defray
13 costs for the operation of the juvenile bureau. In those counties
14 without juvenile bureaus and in which the Office of Juvenile Affairs
15 or one of their contracting agencies provides the monitoring and
16 supervision of the juvenile, the fee shall be paid directly to the
17 Office of Juvenile Affairs and shall be used to defray the costs for
18 the operation of the Office of Juvenile Affairs. ~~The records of a~~
19 ~~case for which a petition is not filed shall be subject to the~~
20 ~~provisions of Article VII of the Oklahoma Juvenile Code.~~

21 SECTION 43. AMENDATORY 10 O.S. 2001, Section 7303-1.4,
22 as amended by Section 3, Chapter 473, O.S.L. 2002 (10 O.S. Supp.
23 2008, Section 7303-1.4), is amended to read as follows:

1 Section 7303-1.4 ~~A. If a child has been taken into custody~~
2 ~~pursuant to the provisions of the Juvenile Justice Code before a~~
3 ~~petition has been filed, a petition shall be filed and a summons~~
4 ~~issued within five (5) judicial days from the date of such~~
5 ~~assumption of custody, or custody of the child shall be relinquished~~
6 ~~to the child's parent, legal guardian, legal custodian, or other~~
7 ~~responsible adult, unless otherwise provided for in the Oklahoma~~
8 ~~Juvenile Code.~~

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

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

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

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

4 a. a court of competent jurisdiction has determined that
5 the parent has subjected the child to one of the
6 following aggravated circumstances: abandonment,
7 torture, chronic abuse, sexual abuse or chronic, life-
8 threatening neglect of the child,

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

- 11 (1) murder of another child of the parent,
12 (2) voluntary manslaughter of another child of the
13 parent,
14 (3) aiding or abetting, attempting, conspiring, or
15 soliciting to commit such a murder or such a
16 voluntary manslaughter, or
17 (4) a felony assault that results in serious bodily
18 injury to the child or another child of the
19 parent, or

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

22 ~~C. For purposes of this section and Sections 7303 1.1 and 7303-~~
23 ~~1.2 of this title, "responsible adult" means a stepparent, foster~~

1 ~~parent, person related to the juvenile in any manner who is eighteen~~
2 ~~(18) years of age or older, or any person having an obligation and~~
3 ~~authority to care for or safeguard the juvenile in another person's~~
4 ~~absence who is eighteen (18) years of age or older.~~

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

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

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

18 ~~B.~~ C. A petition may be amended by order of the court at any
19 time before an order of adjudication has been made, provided that
20 the court shall grant the parties such additional time to prepare as
21 may be required to insure a full and fair hearing. A petition shall
22 be deemed to have been amended to conform to the proof where the
23 proof does not change the substance of the act, omission or

1 circumstance alleged. However, the court shall not amend the
2 adjudicatory category prayed for in the petition.

3 D. A petition in a juvenile proceeding may be filed by the
4 district attorney to determine if further action is necessary. The
5 proceeding shall be entitled "In the matter of _____, an
6 alleged (delinquent) or (a child alleged to be in need of
7 supervision)". The petition shall be verified and may be upon
8 information and belief. It shall set forth:

9 1. With particularity facts which bring the child within the
10 purview of the Oklahoma Juvenile Code;

11 2. The name, age and residence of the child;

12 3. The names and residences of the parents of the child;

13 4. The name and residence of the legal guardian of the child,
14 if applicable;

15 5. The name and residence of the person or persons having
16 custody or control of the child;

17 6. The name and residence of the nearest known relative, if no
18 parent or guardian can be found;

19 7. The relief requested; and

20 8. The specific law under which the child is charged and an
21 endorsement of witnesses intended to be called by the petitioner,
22 where the child is sought to be adjudged a delinquent child.

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

3 SECTION 45. AMENDATORY 10 O.S. 2001, Section 7303-1.6,
4 is amended to read as follows:

5 Section 7303-1.6 A. After a petition shall have been filed,
6 unless the parties provided for in this section shall voluntarily
7 appear, a summons shall be issued which shall recite briefly the
8 nature of the proceeding with the phrase "as described more fully in
9 the attached petition" and requiring the person or persons who have
10 the custody or control of the child to appear personally and bring
11 the child before the court at a time and place stated. The summons
12 shall state the relief requested, and shall set forth the right of
13 the child, parents and other interested parties to have an attorney
14 present at the hearing on the petition.

15 B. The summons shall be served on the person who has actual
16 custody of the child, and if the child has reached the age of twelve
17 (12) years, a copy shall be served on the child. If the person who
18 has actual custody of the child shall be other than a parent or
19 guardian of the child, a copy of the summons shall be served on the
20 parent or guardian, or both. A copy of the summons shall be served
21 on a custodial parent, guardian or next friend. If no parent or
22 guardian can be found, a summons shall be served on such other
23 person or persons as the court shall designate.

1 Summons may be issued requiring the appearance of any other
2 person whose presence is necessary.

3 C. If it subsequently appears that a person who should have
4 been served was not served and has not entered an appearance, the
5 court shall immediately order the issuance of a summons which shall
6 be served on said person.

7 D. Service of summons shall be made as provided for service in
8 civil actions.

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

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

16 E. If after a petition has been filed, it appears that the
17 child is in such condition or surroundings that the welfare of the
18 child requires that custody be immediately assumed by the court, the
19 judge may immediately issue a detention order or warrant authorizing
20 the taking of said child into emergency custody. Any such child
21 shall not be considered to be in the custody of the Office of
22 Juvenile Affairs.

1 ~~E.~~ F. In a delinquency proceeding, whenever a warrant for the
2 arrest of a child shall issue, it shall state the offense the child
3 is being charged with having committed; in a child in need of
4 supervision proceeding, whenever a warrant for detention of a child
5 shall issue, it shall state the reason for detention. Warrants for
6 the arrest or detention of a child shall comport with all other
7 requirements of issuance of arrest warrants for adult criminal
8 offenders.

9 G. In case the summons cannot be served, or the parties served
10 fail to obey the same, or in any case when it shall be made to
11 appear to the judge that the service will be ineffectual or that the
12 welfare of the child requires that the child should be brought into
13 the custody of the court, a warrant may be issued against the parent
14 or guardian or against the child.

15 SECTION 46. AMENDATORY 10 O.S. 2001, Section 7303-1.7,
16 as amended by Section 26, Chapter 327, O.S.L. 2002 (10 O.S. Supp.
17 2008, Section 7303-1.7), is amended to read as follows:

18 Section 7303-1.7 A. After a petition under the provisions of
19 this article has been filed, the court may order the child to be
20 examined and evaluated for medical issues, including behavioral
21 health diagnoses, by a physician or other appropriate professional
22 to aid the court in making the proper disposition concerning the
23 child. ~~The court may order a mental health evaluation of a child as~~

1 ~~provided by the Inpatient Mental Health and Substance Abuse~~
2 ~~Treatment of Minors Act.~~

3 B. Whenever a child concerning whom a petition has been filed
4 appears to be in need of nursing, medical or surgical care, the
5 court may order the parent or other person responsible for the care
6 and support of the child to provide such care in a hospital or
7 otherwise. If the parent or other person fails to provide such
8 care, the court may, after due notice, enter an order therefor, and
9 the expense thereof, when approved by the court, shall be a charge
10 upon the county, but the court may adjudge that the person having
11 the duty under the law to support the child pay part or all of the
12 expenses of such care. In an emergency the court may, when health
13 or condition of the child may require it, cause the child to be
14 placed in a public hospital or institution for treatment or special
15 care, or in a private hospital or institution which will receive the
16 child for like purpose, and consent to emergency treatment or
17 surgery.

18 ~~C. After adjudication and at the request of a judge in any~~
19 ~~juvenile proceeding, the Department of Juvenile Justice shall~~
20 ~~investigate the home conditions and environment of the child and the~~
21 ~~financial ability, occupation and earning capacity of the parent,~~
22 ~~legal guardian or custodian of the child. Upon request by the court~~

1 ~~of another state, the Department may conduct a similar~~
2 ~~investigation.~~

3 SECTION 47. AMENDATORY 10 O.S. 2001, Section 7303-3.1,
4 is amended to read as follows:

5 Section 7303-3.1 A. No information gained by a custodial
6 interrogation of a youthful offender under sixteen (16) years of age
7 or a child ~~or a youthful offender under sixteen (16) years of age~~
8 nor any evidence subsequently obtained as a result of such
9 interrogation shall be admissible into evidence against the ~~child or~~
10 youthful offender or child unless the custodial interrogation about
11 any alleged offense by any law enforcement officer or investigative
12 agency, or employee of the court, or employee of the ~~Department~~
13 Office of Juvenile Justice Affairs is done in the presence of the
14 parents, guardian, attorney, adult relative, adult caretaker, or
15 legal custodian of the ~~child or~~ youthful offender or child. No such
16 custodial interrogation shall commence until the youthful offender
17 or child and the parents, guardian, attorney, adult relative, adult
18 caretaker, or legal custodian of the youthful offender or child have
19 been fully advised of the constitutional and legal rights of the
20 ~~child or~~ youthful offender or child, including the right to be
21 represented by counsel at every stage of the proceedings, and the
22 right to have counsel appointed by the court if the parties are
23 without sufficient financial means; provided, however, that no legal

1 aid or other public or charitable legal service shall make claim for
2 compensation as contemplated herein. It is further provided that
3 where private counsel is appointed in such cases, the court shall
4 set reasonable compensation and order the payment out of the court
5 fund. As used in this section, "custodial interrogation" means
6 questioning of a ~~child or~~ youthful offender under sixteen (16) years
7 of age or child while that ~~child or~~ youthful offender or child is in
8 law enforcement custody or while that ~~child or~~ youthful offender or
9 child is being deprived of freedom of action in any significant way
10 by a law enforcement officer, employee of the court, or employee of
11 the ~~Department~~ Office. Custodial interrogation shall conform with
12 all requirements for interrogation of adult criminal offenders. The
13 term "custodial interrogation" shall not be deemed to mean
14 questioning of a ~~child or~~ youthful offender or child by a public
15 school administrator or teacher, so long as such questioning is not
16 being conducted on behalf of a law enforcement officer, an employee
17 of the court or an employee of the ~~Department~~ Office. Any
18 information gained from noncustodial questioning of a child or
19 youthful offender by a public school administrator or teacher
20 concerning a wrongful act committed on public school property shall
21 be admissible into evidence against the ~~child or~~ youthful offender
22 or child.

1 B. ~~If the parents, guardian, or other legal custodian of the~~
2 ~~child being interrogated requests an attorney and is found to be~~
3 ~~without sufficient financial means, counsel shall be appointed by~~
4 ~~the court if a petition has been filed alleging that the child is a~~
5 ~~child in need of supervision, or if termination of parental rights~~
6 ~~is a possible remedy, provided that the court may appoint counsel~~
7 ~~without such request, if it deems representation by counsel~~
8 ~~necessary to protect the interest of the parents, guardian or other~~
9 ~~legal custodian~~ A custodial interrogation of a youthful offender
10 over sixteen (16) years of age shall conform with all the
11 requirements for the interrogation of an adult.

12 C. If the youthful offender or child is not otherwise
13 represented by counsel, whenever a petition is filed pursuant to the
14 provisions of Section ~~7303-1.3~~ 2-2-104 of this title, the court
15 shall appoint ~~a separate~~ an attorney, who shall not be a district
16 attorney, for the youthful offender or child regardless of any
17 attempted waiver by the parent or other legal custodian of the
18 youthful offender or child of the right of the youthful offender or
19 child to be represented by counsel. Counsel shall be appointed by
20 the court only upon determination by the court that the parent,
21 legal guardian or legal custodian is found to be indigent.

22 ~~E.~~ D. Whenever a petition is filed alleging that a child is a
23 delinquent child or a child in need of supervision, the court may

1 appoint a guardian ad litem for the child at any time subsequent to
2 the filing of the petition and shall appoint a guardian ad litem
3 upon the request of the child or the attorney of the child. The
4 guardian ad litem shall not be a district attorney, an employee of
5 the office of the district attorney, an employee of the court, an
6 employee of a juvenile bureau, or an employee of any public agency
7 having duties or responsibilities towards the child.

8 ~~D.~~ E. The guardian ad litem shall be given access to the court
9 file and access to all records and reports relevant to the case and
10 to any records and reports of examination of the child's parent or
11 other custodian, made pursuant to this section or Section 846 of
12 Title 21 of the Oklahoma Statutes.

13 ~~E. It shall be unlawful and a misdemeanor for the Office of~~
14 ~~Juvenile Affairs, the Department of Juvenile Justice, any person~~
15 ~~employed by the Office or the Department, or any other public~~
16 ~~officer or employee, to furnish or permit to be taken off of the~~
17 ~~records any information therein contained for commercial, political~~
18 ~~or any other unauthorized purpose.~~

19 SECTION 48. AMENDATORY 10 O.S. 2001, Section 7303-4.2,
20 is amended to read as follows:

21 Section 7303-4.2 A. All cases of children shall be heard
22 separately from the trial of cases against adults. The adjudicative

1 hearings shall be conducted according to the rules of evidence, and
2 may be adjourned from time to time.

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

17 2. Hearings related to the second or subsequent delinquency
18 adjudication of a child shall be public proceedings. The
19 adjudications relied upon to determine whether a hearing is a public
20 proceeding pursuant to this paragraph shall not have arisen out of
21 the same transaction or occurrence or series of events closely
22 related in time and location. Upon its own motion or the motion of
23 any of the parties to the hearing and for good cause shown, the

1 court may order specific testimony or evidence to be heard in
2 private; provided, the court shall not exclude any relative, legal
3 guardian of a victim, or a person designated by the victim who is
4 not subject to the rule of sequestration as a witness from the
5 hearing during testimony of the victim. For the purposes of this
6 paragraph, "good cause" shall mean a showing that it would be
7 substantially harmful to the mental or physical well-being of the
8 child if such testimony or evidence were presented at a public
9 hearing.

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

14 C. A decision determining a child to come within the purview of
15 the Oklahoma Juvenile Code shall be based on sworn testimony and the
16 child shall have the opportunity for cross-examination unless the
17 facts are stipulated. In proceedings pursuant to the Oklahoma
18 Juvenile Code, the court may allow mileage as in civil actions to
19 witnesses and reimbursement for expert witnesses but such shall not
20 be tendered in advance of the hearing. If a child is alleged to be
21 delinquent and the facts are stipulated, the judge shall ascertain
22 from the child if the child agrees with the stipulation and if the
23 child understands the consequences of stipulating the facts.

1 D. If the court finds that the allegations of a petition
2 alleging a child to be delinquent or in need of supervision are
3 supported by the evidence, the court shall sustain the petition, and
4 shall make an order of adjudication setting forth whether the child
5 is delinquent or in need of supervision and shall adjudge the child
6 as a ward of the court.

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

13 SECTION 49. AMENDATORY 10 O.S. 2001, Section 7303-4.3,
14 as amended by Section 1, Chapter 75, O.S.L. 2004 (10 O.S. Supp.
15 2008, Section 7303-4.3), is amended to read as follows:

16 Section 7303-4.3 A. ~~Except as otherwise provided in the~~
17 ~~Oklahoma Juvenile Code, a child who is charged with having violated~~
18 ~~any state statute or municipal ordinance other than those enumerated~~
19 ~~in Section 7306-1.1, 7306-2.5 or 7306-2.6 of this title, shall not~~
20 ~~be tried in a criminal action but in a juvenile proceeding. The~~
21 ~~juvenile proceeding may be filed before the child becomes eighteen~~
22 ~~(18) years of age or within ninety (90) days after the date of the~~
23 ~~eighteenth birthday of the child. If, during the pendency of a~~

1 ~~criminal or quasi-criminal charge against any person, it shall be~~
2 ~~ascertained that the person was a child at the time of committing~~
3 ~~the alleged offense, the district court or municipal court shall~~
4 ~~transfer the case, together with all the papers, documents and~~
5 ~~testimony connected therewith, to the juvenile division of the~~
6 ~~district court. The division making the transfer shall order the~~
7 ~~child to be taken forthwith to the place of detention designated by~~
8 ~~the juvenile division, to that division itself, or release the child~~
9 ~~to the custody of some suitable person to be brought before the~~
10 ~~juvenile division. However, nothing in this act shall be construed~~
11 ~~to prevent the exercise of concurrent jurisdiction by another~~
12 ~~division of the district court or by municipal courts in cases~~
13 ~~involving children wherein the child is charged with the violation~~
14 ~~of a state or municipal traffic law or ordinance.~~

15 ~~B.~~ Except as otherwise provided by law, if a child is charged
16 with ~~delinquency~~ a delinquent act as a result of an offense which
17 would be a felony if committed by an adult, the court on its own
18 motion or at the request of the district attorney shall conduct a
19 preliminary hearing to determine whether or not there is prosecutive
20 merit to the complaint. If the court finds that prosecutive merit
21 exists, it shall continue the hearing for a sufficient period of
22 time to conduct an investigation and further hearing to determine if
23 the child should be held accountable for acts of the child as if the

1 child were an adult if the child should be found to have committed
2 the alleged act or omission.

3 Consideration shall be given to:

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

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

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

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

21 5. The prospects for adequate protection of the public;

22 6. The likelihood of reasonable rehabilitation of the juvenile
23 if the juvenile is found to have committed the alleged offense, by

1 the use of procedures and facilities currently available to the
2 juvenile court; and

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

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

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

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

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

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

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

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

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

1 SECTION 50. AMENDATORY 10 O.S. 2001, Section 7303-4.6,
2 as last amended by Section 8, Chapter 124, O.S.L. 2006 (10 O.S.
3 Supp. 2008, Section 7303-4.6), is amended to read as follows:

4 Section 7303-4.6 A. ~~If the court finds that the allegations of~~
5 ~~a petition alleging a child to be delinquent or in need of~~
6 ~~supervision are supported by the evidence, the court shall sustain~~
7 ~~the petition, and shall make an order of adjudication setting forth~~
8 ~~whether the child is delinquent or in need of supervision and shall~~
9 ~~adjudge the child as a ward of the court.~~

10 B. A court may defer delinquency adjudication proceedings or
11 proceedings to determine if a child is in need of supervision for
12 one hundred eighty (180) days if the child:

13 1. Is alleged to have committed or attempted to commit a
14 delinquent offense that if committed by an adult would be a
15 misdemeanor or that if committed by an adult would be grand larceny
16 of property valued at One Hundred Dollars (\$100.00) or less;

17 2. Waives the privilege against self-incrimination and
18 testifies, under oath, that the allegations are true; and

19 3. Has not been previously adjudicated a delinquent; ~~and~~

20 4. ~~Presents to the court an oral or written request to attend a~~
21 ~~Teen Court program or graduated sanctions program.~~

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

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

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

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

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

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

19 4. An alternative diversion program; or

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

22 C. The court shall dismiss the case with prejudice at the
23 conclusion of the deferral period if the child presents satisfactory

1 evidence that the ~~Teen Court program, graduated sanctions program or~~
2 ~~a juvenile drug court has~~ requirements of the court have been
3 successfully completed.

4 ~~F. The court may require a child who requests a Teen Court~~
5 ~~program to pay a fee, as determined by the court, not to exceed~~
6 ~~Twenty Dollars (\$20.00) to cover the costs of administration. The~~
7 ~~fee shall be deposited in the court clerk's official depository~~
8 ~~account. Eighty percent (80%) of the costs so paid shall be~~
9 ~~distributed to the organization sponsoring the Teen Court to be used~~
10 ~~for Teen Court operating expenses. The remaining twenty percent~~
11 ~~(20%) of the cost shall be paid by the court clerk to the court~~
12 ~~fund.~~

13 ~~G. A court may defer delinquency proceedings or proceedings to~~
14 ~~determine if a child is in need of supervision for one hundred~~
15 ~~eighty (180) days for any child that has not been previously~~
16 ~~adjudicated delinquent, if the child and, if required by the court,~~
17 ~~the parent or legal guardian of the child agree to participate in an~~
18 ~~alternative diversion program for first time offenders that has been~~
19 ~~approved by the court. The court shall dismiss the case with~~
20 ~~prejudice at the conclusion of the deferral period if the child~~
21 ~~presents satisfactory evidence that the alternative diversion~~
22 ~~program for first time offenders has been successfully completed.~~
23 ~~The records of a case dismissed pursuant to this subsection shall be~~

1 ~~subject to the provisions of Article VII of the Oklahoma Juvenile~~
2 ~~Code.~~

3 ~~H. A court may defer delinquency proceedings for one hundred~~
4 ~~eighty (180) days for any child that has not been previously~~
5 ~~adjudicated delinquent, if the child agrees to participate in a~~
6 ~~counseling program that has been approved by the court. The court~~
7 ~~shall dismiss the case with prejudice at the conclusion of the~~
8 ~~deferral period if the child presents satisfactory evidence that the~~
9 ~~counseling program has been successfully completed. The records of~~
10 ~~a case dismissed pursuant to this subsection shall be subject to the~~
11 ~~provisions of Article VII of the Oklahoma Juvenile Code.~~

12 ~~F. D. As used in this section:~~

13 ~~1. "Alternative, alternative diversion programs for first-time~~
14 ~~offenders program" means ~~programs~~ a program for juveniles who have~~
15 ~~been identified by law enforcement personnel, the district attorney,~~
16 ~~or the court as having committed acts which are not serious enough~~
17 ~~to warrant adjudication through the juvenile court process, but~~
18 ~~which do indicate a need for intervention to prevent further~~
19 ~~development toward juvenile delinquency. The program shall be~~
20 ~~administered, pursuant to ~~contact~~ contract with the ~~Department~~~~
21 ~~Office of Juvenile Justice Affairs, by organizations designated as~~
22 ~~youth services agencies by law.~~

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

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

8 ~~4. "Supervising staff" means a community provider assigned to~~
9 ~~monitor juveniles in the program, a state or local agency~~
10 ~~representative or a certified treatment provider participating in~~
11 ~~the program, or a person designated by the judge to perform drug~~
12 ~~court investigations; and~~

13 ~~5. "Teen Court program" means a program which provides an~~
14 ~~alternative judicial forum for cases involving juvenile offenders,~~
15 ~~in which teenage participants, under the supervision of an adult~~
16 ~~coordinator, may serve in various capacities within the courtroom,~~
17 ~~including jurors, lawyers, bailiffs and judges. Such program also~~
18 ~~may include participation by volunteer adult attorneys. The Teen~~
19 ~~Court hears cases involving juvenile offenders who are referred to~~
20 ~~the Teen Court by the district attorney or the district court and~~
21 ~~assesses sentences such as participation in community work projects,~~
22 ~~counseling or rehabilitation programs.~~

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

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

10 B. Before making an order of disposition, the court shall
11 advise the district attorney, the parents, guardian, custodian or
12 responsible relative, and their counsel, of the factual contents and
13 the conclusion of reports prepared for the use of the court and
14 considered by it, and afford fair opportunity, if requested, to
15 controvert them. An order of disposition shall include a specific
16 finding and order of the court relative to the liability and
17 accountability of the parents for the care and maintenance of the
18 child as authorized by Section ~~7303-7.6~~ 2-2-706 of this title,
19 unless custody is placed with the parent or parents of the child.

20 C. On its own motion or that of the district attorney, or of
21 the parent, guardian, custodian, responsible relative or counsel,
22 the court may adjourn the hearing for a reasonable period to receive
23 reports or other evidence and, in such event, shall make an

1 appropriate order for detention of the child, or release of the
2 child from detention subject to supervision by the court, during the
3 period of the continuance.

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

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

11 Section 7303-5.2 A. An individual treatment and service plan
12 shall be filed with the court within the thirty (30) days after any
13 child has been adjudicated to be delinquent or in need of
14 supervision. Said plan shall be filed by the person, department or
15 agency responsible for the supervision of the case or by the legal
16 custodian if the child has been removed from the custody of its
17 lawful parent or parents. The treatment and service plan shall be
18 based on a comprehensive assessment and evaluation of the child and
19 family and include but not be limited to:

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

22 2. Identification of the specific services available to the
23 child to remediate or alleviate the conditions that led to the

1 adjudication, including but not limited to educational, vocational-
2 educational, medical, drug or alcohol abuse treatment or counseling
3 or other treatment services;

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

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

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

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

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

22 1. The reasons for such placement and a statement as to the
23 unavailability or inappropriateness of local placement, or other

1 good cause, for any placement more than ~~forty (40)~~ fifty (50) miles
2 from the home of the child;

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

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

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

10 C. Whenever a child who is subject to the provisions of this
11 section is committed for inpatient mental health or substance abuse
12 treatment pursuant to the Inpatient Mental Health and Substance
13 Abuse Treatment of Minors Act, the individual treatment and service
14 plan shall be amended as necessary and appropriate, including but
15 not limited to identification of the treatment and services to be
16 provided to the child and his family upon discharge of the child
17 from inpatient mental health or substance abuse treatment.

18 SECTION 53. AMENDATORY 10 O.S. 2001, Section 7303-5.3,
19 as last amended by Section 9, Chapter 124, O.S.L. 2006 (10 O.S.
20 Supp. 2008, Section 7303-5.3), is amended to read as follows:

21 Section 7303-5.3 A. The following kinds of orders of
22 disposition may be made in respect to children adjudicated in need
23 of supervision or delinquent:

1 1. The court may place the child on probation ~~or under~~ with or
2 without supervision in the home of the child, or in the custody of a
3 suitable person, upon such conditions as the court shall determine.
4 ~~The court may require the parent or other person to give security by~~
5 ~~bond, with surety or sureties approved by the court, for compliance~~
6 ~~with such order.~~ If the child is placed on probation, the court may
7 impose a probation ~~supervision~~ fee of not more than Twenty-five
8 Dollars (\$25.00) per month, if the court finds that the child or
9 parent or legal guardian of the child has the ability to pay the
10 fee. In counties having a juvenile bureau, the fee shall be paid to
11 the juvenile bureau; in all other counties, the fee shall be paid to
12 the Office of Juvenile Affairs.

13 2. If it is consistent with the welfare of the child, the child
14 shall be placed with the parent or legal guardian of the child, but
15 if it appears to the court that the conduct of such parent,
16 guardian, legal guardian, stepparent or other adult person living in
17 the home has contributed to the child becoming delinquent or in need
18 of supervision, the court may issue a written order specifying
19 conduct to be followed by such parent, guardian, legal custodian,
20 stepparent or other adult person living in the home with respect to
21 such child. The conduct specified shall be such as would reasonably
22 prevent the child from continuing to be delinquent or in need of
23 supervision. ~~Such order shall remain in effect for a period of not~~

1 ~~more than one (1) year to be specified by the court, and the order~~
2 ~~may be extended or renewed by the court.~~

3 a. If it is consistent with the welfare of the child, in
4 cases where the child has been adjudicated to be in
5 need of supervision due to repeated absence from
6 school, the court may order counseling and treatment
7 for the child and the parents of the child to be
8 provided by the local school district, the county, the
9 ~~Department~~ Office or a private individual or entity.
10 Prior to final disposition, the court shall require
11 that it be shown by the appropriate school district
12 that a child found to be truant has been evaluated for
13 learning disabilities, hearing and visual impairments
14 and other impediments which could constitute an
15 educational handicap or has been evaluated to
16 determine whether the child has a disability if it is
17 suspected that the child may require special education
18 services in accordance with the Individuals with
19 Disabilities Education Act (IDEA). The results of
20 such tests shall be made available to the court for
21 use by the court in determining the disposition of the
22 case.

1 b. In issuing orders to a parent, guardian, legal
2 guardian, stepparent or other adult person living in
3 the home of a child adjudicated to be a delinquent
4 child or in making other disposition of said
5 delinquent child, the court may consider the testimony
6 of said parent, guardian, legal guardian, stepparent
7 or other adult person concerning the behavior of the
8 juvenile and the ability of such person to exercise
9 parental control over the behavior of the juvenile.

10 c. In any dispositional order involving a child age
11 sixteen (16) or older, the court shall make a
12 determination, where appropriate, of the services
13 needed to assist the child to make the transition to
14 independent living.

15 No child who has been adjudicated in need of supervision only
16 upon the basis of truancy or noncompliance with the mandatory school
17 attendance law shall be placed in a public or private institutional
18 facility or be removed from the custody of the lawful parent,
19 guardian or custodian of the child.

20 3. The court may commit the child to the custody of a private
21 institution or agency, including any institution established and
22 operated by the county, authorized to care for children or to place
23 them in family homes. In committing a child to a private

1 institution or agency, the court shall select one that is licensed
2 by any state department supervising or licensing private
3 institutions and agencies; or, if such institution or agency is in
4 another state, by the analogous department of that state. Whenever
5 the court shall commit a child to any institution or agency, it
6 shall transmit with the order of commitment a summary of its
7 information concerning the child, and such institution or agency
8 shall give to the court such information concerning the child as the
9 court may at any time require.

10 4. The court may order the child to receive counseling or other
11 community-based services as necessary.

12 5. The court may commit the child to the custody of the Office
13 of Juvenile Affairs ~~under the supervision of the Department of~~
14 ~~Juvenile Justice~~. Any order adjudicating the child to be delinquent
15 and committing the child to the ~~Department~~ Office of Juvenile
16 ~~Justice Affairs~~ shall be for an indeterminate period of time.

17 6. If the child has been placed outside the home, and it
18 appears to the court that the parent, guardian, legal custodian, or
19 stepparent, or other adult person living in the home has contributed
20 to the child becoming delinquent or in need of supervision, the
21 court may order that the parent, guardian, legal custodian,
22 stepparent, or other adult living in the home be made subject to any

1 treatment or placement plan prescribed by the ~~Department~~ Office or
2 other person or agency receiving custody of the child.

3 7. With respect to a child adjudicated a delinquent child, the
4 court may:

- 5 a. for acts involving criminally injurious conduct as
6 defined in Section 142.3 of Title 21 of the Oklahoma
7 Statutes, order the child to pay a victim compensation
8 assessment in an amount not to exceed that amount
9 specified in Section 142.18 of Title 21 of the
10 Oklahoma Statutes. The court shall forward a copy of
11 the adjudication order to the Crime Victims
12 Compensation Board for purposes of Section 142.11 of
13 Title 21 of the Oklahoma Statutes. Except as
14 otherwise provided by law, such adjudication order
15 shall be kept confidential by the Board,
- 16 b. order the child to engage in a term of community
17 service without compensation. The state or any
18 political subdivision shall not be liable if a loss or
19 claim results from any acts or omission of a child
20 ordered to engage in a term of community service
21 pursuant to the provisions of this paragraph,
- 22 ~~c. if it is consistent with the welfare of the child,~~
23 ~~require community service or restitution or both~~

1 ~~community service and restitution for acts of~~
2 ~~delinquency. The immunities provided by Sections 227~~
3 ~~and 228 of Title 57 of the Oklahoma Statutes shall~~
4 ~~apply to community services directed pursuant to this~~
5 ~~section. The court may order the child, the parent or~~
6 ~~parents or custodial parent of the child, legal~~
7 ~~guardian of any the child living with the parents or~~
8 ~~custodial parent to supervise the performance of~~
9 ~~community service by the child. The court may order~~
10 ~~the parents or custodial parent of any child living~~
11 ~~with the parents or custodial parent, or both the~~
12 ~~child and the parent or parents of the child or legal~~
13 ~~guardian at the time of the ~~criminal or delinquent~~ act~~
14 ~~of the child to ~~remit the amount of~~ make full or~~
15 ~~partial restitution ordered by the court. The court~~
16 ~~may consider any hardship of such order on the parents~~
17 ~~or custodial parent of the child. The parents or~~
18 ~~custodial parent may be represented by an attorney in~~
19 ~~the matter of the order for remittance of the~~
20 ~~restitution by the parents or custodial parent.~~
21 ~~Provided however, if the court orders the parents or~~
22 ~~custodial parent to remit the amount of restitution as~~
23 ~~provided for in this paragraph, in addition to any~~

1 ~~other dispositional orders of the court, the court~~
2 ~~shall order the child to perform community service for~~
3 ~~the number of hours commensurate with the number of~~
4 ~~hours it would require under federal or state minimum~~
5 ~~wage to earn the amount paid by such child's parents~~
6 ~~or custodial parent under the order to remit~~
7 restitution to the victim of the offense which
8 resulted in property damage or personal injury.

9 (1) The court shall notify the victim of the
10 dispositional hearing. The court may consider a
11 verified statement from the victim concerning
12 damages for injury or loss of property and actual
13 expenses of medical treatment for personal
14 injury, excluding pain and suffering. If
15 contested, a restitution hearing to determine the
16 liability of the child, the parent or parents of
17 the child, or legal guardian shall be held not
18 later than thirty (30) days after the disposition
19 hearing and may be extended by the court for good
20 cause. The parent or parents of the child or
21 legal guardian may be represented by an attorney
22 in the matter of the order for remittance of the
23 restitution by the parent or parents of the child

1 or legal guardian. The burden of proving that
2 the amount indicated on the verified statement is
3 not fair and reasonable shall be on the person
4 challenging the fairness and reasonableness of
5 the amount.

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

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

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

20 (5) Upon the juvenile attaining eighteen (18) years
21 of age, the court shall determine whether the
22 restitution order has been satisfied. If the
23 restitution order has not been satisfied, the

1 court shall enter a judgment of restitution in
2 favor of each person entitled to restitution for
3 the unpaid balance of any restitution ordered
4 pursuant to this subparagraph. The clerk of the
5 court shall send a copy of the judgment of
6 restitution to each person who is entitled to
7 restitution. The judgment shall be a lien
8 against all property of the individual or
9 individuals ordered to pay restitution and may be
10 enforced by the victim or any other person or
11 entity named in the judgment to receive
12 restitution in the same manner as enforcing
13 monetary judgments. The restitution judgment
14 does not expire until paid in full and is deemed
15 to be a criminal penalty for the purposes of a
16 federal bankruptcy involving the child,

17 d. order the child to pay the fine which would have been
18 imposed had such child been convicted of such crime as
19 an adult. Any such fine collected pursuant to this
20 paragraph shall be deposited in a special Work
21 Restitution Fund to be established by the court to
22 allow children otherwise unable to pay restitution to
23 work in community service projects in the private or

1 public sector to earn money to compensate their
2 victims,
3 e. order the cancellation or denial of driving privileges
4 as provided by Sections 6-107.1 and 6-107.2 of Title
5 47 of the Oklahoma Statutes,
6 f. ~~in accordance with the guidelines approved and adopted~~
7 ~~by the Oklahoma Supreme Court for the implementation~~
8 ~~of the Serious and Habitual Juvenile Offender Program,~~
9 ~~make the following orders:~~ sanction detention in the
10 residence of the child or facility designated by the
11 Department of Juvenile Justice or the juvenile bureau
12 for such purpose for up to five (5) days~~, order~~
13 weekend detention in a place other than a juvenile
14 detention facility or shelter~~, tracking, or house~~
15 arrest with electronic monitoring. ~~On and after the~~
16 ~~adoption of guidelines by the Oklahoma Supreme Court~~
17 ~~for the implementation of the Serious and Habitual~~
18 ~~Juvenile Offender Program, the provisions of~~
19 ~~subparagraphs a through e of this paragraph shall be~~
20 ~~subject to said guidelines,~~
21 g. ~~in accordance with the guidelines approved and adopted~~
22 ~~by the Oklahoma Supreme Court for the implementation~~
23 ~~of the Serious and Habitual Juvenile Offender Program,~~

1 impose sanctions for the violation of preadjudicatory
2 or postadjudicatory violations of probation.

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

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

7 ~~9.~~ 10. In any dispositional order removing a child from the
8 home of the child, the court shall, in addition to the findings
9 required by subsection ~~B~~ A of Section ~~7303-1.4~~ 2-2-105 of this
10 title, make a determination that, in accordance with the best
11 interests of the child and the protection of the public, reasonable
12 efforts have been made to provide for the return of the child to the
13 ~~child's own~~ home of the child, or that efforts to reunite the family
14 are not required as provided in subsection ~~B~~ A of Section ~~7303-1.4~~
15 2-2-105 of this title, and reasonable efforts are being made to
16 finalize an alternate permanent placement for the child.

17 B. Prior to adjudication or as directed by a law enforcement
18 subpoena or court order, a school district may disclose educational
19 records to the court or juvenile justice system for purposes of
20 determining the ability of the juvenile justice system to
21 effectively serve a child. Any disclosure of educational records
22 shall be in accordance with the requirements of the Family
23 Educational Rights and Privacy Act of 1974 (FERPA). If the parent,

1 guardian, or custodian of a child adjudicated a delinquent child
2 asserts that the child has approval not to attend school pursuant to
3 Section 10-105 of Title 70 of the Oklahoma Statutes, the court or
4 the Office of Juvenile Affairs may require the parent to provide a
5 copy of the written, joint agreement to that effect between the
6 school administrator of the school district where the child attends
7 school and the parent, guardian, or custodian of the child.

8 C. With respect to a child adjudicated a delinquent child for a
9 violent offense, within thirty (30) days of the date of the
10 adjudication either the juvenile bureau in counties which have a
11 juvenile bureau or the Office of Juvenile Affairs in all other
12 counties shall notify the superintendent of the school district in
13 which the child is enrolled or intends to enroll of the delinquency
14 adjudication and the offense for which the child was adjudicated.

15 D. No child who has been adjudicated in need of supervision may
16 be placed in a ~~state training school~~ secure facility.

17 E. No child charged in a state or municipal court with a
18 violation of state or municipal traffic laws or ordinances, or
19 convicted therefor, may be incarcerated in jail for the violation
20 unless the charge for which the arrest was made would constitute a
21 felony if the child were an adult. Nothing contained in this
22 subsection shall prohibit the detention of a juvenile for traffic-
23 related offenses prior to the filing of a petition in the district

1 court alleging delinquency as a result of the acts and nothing
2 contained in this section shall prohibit detaining a juvenile
3 pursuant to Section ~~7303-1.2~~ 2-2-102 of this title.

4 F. The court may revoke or modify a disposition order and may
5 order redispotion. The child whose disposition is being
6 considered for revocation or modification at said hearing shall have
7 the right to be represented by counsel, to present evidence ~~in the~~
8 child's on behalf of the child and to be confronted by witnesses
9 against the child. Any revocation, modification or redispotion of
10 the court in whole or in part shall be subject to review on appeal,
11 as in other appeals of criminal cases. Bail may be allowed pending
12 appeal.

13 G. Any arrest or detention under the Oklahoma Juvenile Code or
14 any adjudication in a juvenile proceeding shall not be considered an
15 arrest, detention or conviction for purposes of employment, civil
16 rights, or any statute, regulation, license, questionnaire,
17 application, or any other public or private purposes, unless
18 otherwise provided by law.

19 SECTION 54. AMENDATORY 10 O.S. 2001, Section 7303-5.4,
20 as amended by Section 6, Chapter 473, O.S.L. 2002 (10 O.S. Supp.
21 2008, Section 7303-5.4), is amended to read as follows:

22 Section 7303-5.4 A. 1. Every disposition order regarding a
23 child adjudicated to be delinquent or in need of supervision shall

1 be reviewed by the court at least once every six (6) months until
2 such time as the conditions which caused the child to be adjudicated
3 have been corrected or the parental rights of the parent or parents
4 are terminated pursuant to the Oklahoma Children's Code.

5 2. A dispositional order removing a child from the custody of
6 the parents of the child shall be reviewed at a hearing by the court
7 at least once every six (6) months until such time as the child is
8 returned to the custody of the ~~child's~~ parents of the child. No
9 later than twelve (12) months after placing a child in out-of-home
10 care and every twelve (12) months thereafter, the court making the
11 original order of adjudication shall conduct a permanency hearing to
12 determine whether or not reasonable efforts have been made to
13 finalize one of the following permanent placement plans:

- 14 a. the child should be returned to the parents of the
15 child or other family member,
- 16 b. the child should be continued in out-of-home care for
17 a specified period,
- 18 c. the rights of the parents of the child should be
19 terminated and the child placed for adoption or legal
20 guardianship pursuant to the Oklahoma Children's Code,
21 or
- 22 d. the child, because of exceptional circumstances,
23 should remain in out-of-home care on a long-term basis

1 as a permanent plan or with a goal of independent
2 living.

3 3. The provisions of this section also shall apply to a child
4 who has been removed from the home of the lawful parent or parents
5 of the child after the child has been returned to that home until
6 such time as the court orders the case closed.

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

16 B. 1. The agency having supervision of the case or, if the
17 child has been removed from the custody of its parents, the legal
18 custodian of such child shall cause to be prepared for each review
19 hearing required herein a written report concerning each child who
20 is the subject of such review.

21 2. The report shall include, but not be limited to, a summary
22 of the physical, mental, and emotional condition of the child, the
23 conditions existing in the home or institution where the child has

1 been placed, and the ~~child's~~ adjustment of the child thereto, a
2 report on the ~~child's~~ progress of the child in school and, if the
3 child has been placed outside the home of the child, the visitation
4 exercised by the parents of such child or other persons authorized
5 by the court, and services being provided to a child sixteen (16)
6 years of age or older to assist in the transition from out-of-home
7 care or other community placement to independent living.

8 3. If the Office of Juvenile Affairs is the legal custodian of
9 the child, the report also shall include any efforts on the part of
10 the parent or parents to correct the conditions which caused the
11 child to be adjudicated. The report shall specifically recommend,
12 giving reasons therefor, whether or not the parental rights of the
13 parent or parents of the child should be terminated and the child
14 placed for adoption, whether or not the child should remain in the
15 home or if placed outside the home of the ~~child's~~ lawful parents of
16 the child, whether or not the child should remain outside the home
17 or be returned to the home from which the child was removed.

18 C. At each such review hearing, the court shall specifically
19 inquire as to the nature and extent of services being provided the
20 child and parent or parents of the child and shall direct additional
21 services be provided if necessary to protect the child from further
22 physical, mental, or emotional harm or to correct the conditions
23 that led to the adjudication.

1 In any review order, the court shall further make a
2 determination:

3 1. As to whether reasonable efforts have been made to provide
4 for the return of the child to the ~~child's own~~ home of the child.
5 If reasonable efforts have failed or are not feasible, the court
6 shall make a finding that the efforts to reunite the family have
7 failed, or are not feasible, and reasonable efforts are being made
8 to secure an alternate permanent placement for the child; and

9 2. Where appropriate, when the child is age sixteen (16) or
10 older, that services are being provided that will assist the child
11 in making the transition from out-of-home care to independent
12 living.

13 D. The attorney representing a child whose case is being
14 reviewed may submit a report to the court for presentation at the
15 review hearing to assist the court in reviewing the placement or
16 status of the child. The legal custodian shall not deny to a child
17 the right of access to counsel and shall facilitate such access.

18 E. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs shall
19 notify the court having jurisdiction, the appropriate review board
20 and the appropriate district attorney whenever the placement of a
21 child in the custody of the ~~Department~~ Office is changed and shall
22 inform said court and attorney regarding the location of the child
23 unless placement modification results from an emergency situation,

1 in which case the notification required by this subsection shall be
2 within one (1) business day after the change of placement. As used
3 in this subsection, "emergency situation" means a placement change
4 requested by a person having actual custody of a child, if the
5 request is made at a time when the business offices of the parties
6 to be notified are closed, or a placement for emergency medical
7 treatment.

8 F. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs shall
9 provide the foster parent of a child and any preadoptive parent or
10 relative providing care for the child with timely notice of and an
11 opportunity to be heard in six-month review hearings and twelve-
12 month permanency hearings held with respect to the child during the
13 time the child is in foster care of such foster parent, preadoptive
14 parent or relative caregiver. Notice of hearings and an opportunity
15 to be heard does not include the right to standing as a party to the
16 case.

17 SECTION 55. AMENDATORY 10 O.S. 2001, Section 7303-5.5,
18 as amended by Section 2, Chapter 226, O.S.L. 2005 (10 O.S. Supp.
19 2008, Section 7303-5.5), is amended to read as follows:

20 Section 7303-5.5 A. The court is hereby authorized to
21 establish a juvenile drug court ~~similar to the authority of the~~
22 ~~Oklahoma Drug Court Act~~ for the purpose of treating ~~alleged or~~
23 adjudicated juveniles who have a substance abuse disorder. The

1 Department of Mental Health and Substance Abuse Services shall
2 assist in the establishment of juvenile drug courts.

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

7 1. ~~Any~~ there are any statutory ~~preclusion~~ preclusions, other
8 ~~prohibition~~ prohibitions, or program ~~limitation exists~~ limitations
9 that exist and ~~is~~ are applicable to considering the juvenile for
10 participation in the drug court program;

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

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

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

22 D. ~~If the juvenile and the person responsible for the health or~~
23 ~~welfare of the juvenile voluntarily consent to be considered for the~~

1 ~~juvenile drug court program and have signed and filed the required~~
2 ~~form requesting consideration, the court may refer the juvenile for~~
3 ~~a A juvenile drug court investigation as provided in Section 3 of~~
4 ~~this act and shall be ordered by the court, upon the motion of the~~
5 ~~district attorney, the juvenile, or the judge, once the requirements~~
6 ~~of subsection B of this section are met. The court shall set a date~~
7 ~~for a hearing to determine final eligibility for admittance into the~~
8 ~~program.~~

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

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

17 SECTION 56. AMENDATORY Section 3, Chapter 226, O.S.L.
18 2005 (10 O.S. Supp. 2008, Section 7303-5.6), is amended to read as
19 follows:

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

- 1 1. Would benefit from the juvenile drug court program; and
2 2. ~~Is otherwise appropriate for the juvenile drug court program~~
3 Committed a delinquent act wherein the underlying act or cause of
4 the underlying act involved alcohol or substance abuse.

5 B. 1. The juvenile drug court investigation shall be conducted
6 through a standardized screening test, personal interview, and home
7 study. A more comprehensive assessment may take place at the time
8 the juvenile enters the treatment portion of the program and may
9 take place at any time after placement in the juvenile drug court
10 program.

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

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

- 19 a. the age and physical condition of the juvenile,
20 b. employment,
21 c. educational background and literacy level,
22 d. community and family relations,
23 e. prior and current drug and alcohol use,

- 1 f. ~~mental~~ behavioral health and medical treatment
2 ~~history, including substance abuse treatment history,~~
3 g. demonstrable motivation of the juvenile and family of
4 the juvenile,
5 h. the willingness of the person responsible for the
6 health or welfare of the juvenile, as defined in
7 Section ~~7301-1.3~~ 2-1-103 of ~~Title 10 of the Oklahoma~~
8 ~~Statutes~~ this title, to actively support the
9 participation of the juvenile in the program, and
10 i. other mitigating or aggravating factors.

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

- 14 a. describing the strong linkage between participating
15 agencies,
16 b. access by all participating parties of a case to
17 information on the progress of the juvenile,
18 c. vigilant supervision and monitoring procedures,
19 d. random substance abuse testing,
20 e. provisions for noncompliance, modification of the
21 treatment plan and revocation proceedings,
22 f. availability of residential treatment facilities and
23 outpatient services,

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

2 h. methods for measuring application of disciplinary

3 sanctions, including provisions for:

4 (1) increased supervision,

5 (2) urinalysis testing,

6 (3) intensive treatment,

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

8 days,

9 (5) reinstating the juvenile into the program after a

10 disciplinary action for a violation of the

11 treatment plan, and

12 (6) revocation from the program.

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

16 ~~2-~~ When a juvenile is determined to be appropriate for
17 admittance to the program, regardless of whether the juvenile is in
18 the custody of the Office of Juvenile Affairs, the treatment staff
19 shall make a recommendation for the treatment program or programs
20 that are available in the jurisdiction and which would benefit the
21 juvenile and accept the juvenile.

22 ~~3-~~ 2. Prior to the next scheduled hearing, the investigation
23 findings and recommendations for program placement shall be reported

1 to the ~~juvenile drug~~ court judge, the district attorney, the
2 juvenile and the person responsible for the health or welfare of the
3 juvenile, as defined in Section ~~7301-1.3~~ 2-1-103 of ~~Title 10 of the~~
4 ~~Oklahoma Statutes~~ this title, and the defense attorney of the
5 juvenile.

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

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

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

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

21 E. The hearing to determine final eligibility shall be set not
22 less than three (3) ~~workdays~~ judicial days nor more than seven (7)

1 ~~workdays~~ judicial days from the date of the initial hearing for
2 consideration, unless extended by the court.

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

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

13 SECTION 57. AMENDATORY Section 5, Chapter 226, O.S.L.
14 2005 (10 O.S. Supp. 2008, Section 7303-5.8), is amended to read as
15 follows:

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

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

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

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

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

13 ~~5.~~ 4. Any information relevant to determining eligibility. A
14 juvenile shall not be denied admittance to any juvenile drug court
15 program based upon the inability of the juvenile and the person
16 responsible for the health or welfare of the juvenile, as defined in
17 Section ~~7301-1.3~~ 2-1-103 of Title 10 of the Oklahoma Statutes this
18 title, to pay court costs or other costs or fees.

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

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

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

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

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

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

10 C. The judge shall require the person responsible for the
11 health or welfare of the juvenile, as defined in Section ~~7301-1.3~~ of
12 Title ~~10~~ 2-1-103 of the Oklahoma Statutes this title, to demonstrate
13 support for the participation of the juvenile in the program. In
14 order for the juvenile to be admitted to the program, every person
15 responsible for the health or welfare of the juvenile shall accept
16 the personal jurisdiction of the court. Any adult who establishes a
17 permanent residence in the home where the juvenile resides after the
18 juvenile has been admitted to the program shall also accept the
19 personal jurisdiction of the court. Failure of the adult
20 responsible for the health or welfare of the juvenile or the adult
21 who resides in the home with the juvenile to accept personal
22 jurisdiction of the court shall result in either contempt of court
23 proceedings for the adult, removal of the juvenile from the home, or

1 both. A juvenile shall not be removed from the drug court program
2 based solely on the failure of the adult to comply with the
3 provisions of this subsection.

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

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

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

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

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

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

5 ~~4. 2.~~ A statement requiring the juvenile to enter the treatment
6 program as directed by the court and to participate until
7 completion, withdrawal, or removal by the court; and

8 ~~5. 3.~~ A statement signed voluntarily by the person or persons
9 responsible for the health or welfare of the juvenile that such
10 person will comply with the orders of the court and any conditions
11 of the treatment program and supervising staff for as long as the
12 juvenile participates in the juvenile drug court program.

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

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

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

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

10 2. All participating treatment providers shall be certified by
11 the Department of Mental Health and Substance Abuse Services and
12 shall be selected and evaluated for performance-based effectiveness
13 annually by the Department of Mental Health and Substance Abuse
14 Services. Treatment programs shall be designed to be completed
15 within twelve (12) months and shall have relapse prevention and
16 evaluation components.

17 SECTION 58. AMENDATORY Section 6, Chapter 226, O.S.L.
18 2005 (10 O.S. Supp. 2008, Section 7303-5.9), is amended to read as
19 follows:

20 Section 7303-5.9 A. The ~~juvenile drug court judge~~ shall make
21 all judicial decisions concerning any case assigned to the juvenile
22 drug court docket or program. The ~~judge~~ court shall require
23 progress reports and a periodic review of each juvenile during their

1 period of participation in the drug court program or for purposes of
2 collecting costs and fees after completion of the treatment portion
3 of the program. Reports from the treatment providers and the
4 supervising staff shall be presented to the ~~drug~~ court judge as
5 specified by the treatment plan or as ordered by the court.

6 ~~B. Upon the written or oral motion of the treatment provider,~~
7 ~~the district attorney, the defense attorney, the juvenile, the~~
8 ~~person responsible for the health or welfare of the juvenile, as~~
9 ~~defined in Section 7301-1.3 of Title 10 of the Oklahoma Statutes, or~~
10 ~~the supervising staff, the juvenile drug court judge shall set a~~
11 ~~date for a hearing to review the progress of the juvenile and the~~
12 ~~treatment plan. Notice shall be given to the juvenile and the~~
13 ~~person responsible for the health or welfare of the juvenile, as~~
14 ~~defined in Section 7301-1.3 of Title 10 of the Oklahoma Statutes,~~
15 ~~and the other parties participating in the drug court case three (3)~~
16 ~~days before the hearing may be held.~~

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

22 ~~D.~~ C. The treatment provider, the supervising staff, the
23 district attorney, and the ~~defense attorney~~ for the juvenile shall

1 be allowed access to all information in the drug court case file of
2 the juvenile and all information presented to the judge court at any
3 periodic review or progress hearing.

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

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

12 3. Any ~~revocation~~ removal from the drug court program shall
13 require notice to the juvenile and the person responsible for the
14 health or welfare of the juvenile, as defined in Section ~~7301-1.3~~ of
15 ~~Title 10 of the Oklahoma Statutes~~ 2-1-103 of this title, and other
16 participating parties in the case and a ~~revocation~~ hearing.

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

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

11 ~~G.~~ ~~The judge shall be prohibited from amending the written plea~~
12 ~~agreement after a juvenile has been admitted to the drug court~~
13 ~~program. Nothing in this provision shall be construed to limit the~~
14 ~~authority of the judge to remove a juvenile from the program and~~
15 ~~proceed with adjudication or traditional processing of the juvenile~~
16 ~~as stated in the plea agreement after application, notice, and~~
17 ~~hearing.~~

18 ~~H.~~ F. The ~~juvenile drug~~ court judge shall be authorized to
19 modify the responsibilities of any person responsible for the health
20 and welfare of the juvenile, as defined in Section ~~7301-1.3~~ of Title
21 ~~10 of the Oklahoma Statutes~~ 2-1-103 of this title, for noncompliance
22 with any condition established by the court. The ~~juvenile drug~~
23 court judge is also authorized to sanction the person responsible

1 for the health and welfare of the juvenile or any adult residing
2 with the juvenile, for noncompliance of such person with any
3 condition established in the court.

4 SECTION 59. AMENDATORY Section 7, Chapter 226, O.S.L.
5 2005 (10 O.S. Supp. 2008, Section 7303-5.10), is amended to read as
6 follows:

7 Section 7303-5.10 A. 1. The ~~juvenile drug court judge shall~~
8 may order the juvenile or the person responsible for the health or
9 welfare of the juvenile, as defined in Section ~~7301-1.3~~ 2-1-103 of
10 ~~Title 10 of the Oklahoma Statutes~~ this title, to pay court costs,
11 treatment costs, drug-testing costs, ~~a program user fee,~~ and
12 supervision fees ~~unless.~~ The court shall order the juvenile ~~and~~ or
13 the person responsible for the health or welfare of the juvenile ~~are~~
14 ~~indigent~~ to pay a program user fee, not to exceed Twenty Dollars
15 (\$20.00) per month.

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

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

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

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

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

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

15 C. 1. The cost for treatment, drug testing, and supervision
16 ~~and program user~~ fees shall be set by the juvenile drug court team
17 and shall reflect actual expenses or rates established by the
18 Department of Mental Health and Substance Abuse Services and made
19 part of the ~~court's~~ order of the court for payment.

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

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

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

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

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

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

14 Section 7303-6.2 A. Any interested party aggrieved by any
15 order or decree may appeal to the ~~Supreme Court in the same manner~~
16 ~~as other appeals are taken to the Supreme Court of this state,~~
17 ~~provided, however, that appeals taken from a trial court's decision~~
18 ~~in a proceeding for an adjudication of juvenile delinquency or in a~~
19 ~~proceeding certifying a juvenile to stand trial as an adult or~~
20 ~~denying such certification shall be taken to the Court of Criminal~~
21 Appeals in the same manner as other appeals are taken to the Court
22 of Criminal Appeals of this state, ~~and provided further that an~~
23 ~~order either certifying a juvenile to stand trial as an adult or~~

1 ~~denying such certification shall be a final order, appealable when~~
2 ~~entered.~~

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

7 C. The pendency of an appeal thus taken shall not suspend the
8 order of the district court regarding a child, nor shall it
9 discharge the child from the custody of that court or of the person,
10 institution or agency to whose care such child has been committed,
11 unless the ~~Supreme Court or the~~ Court of Criminal Appeals shall so
12 order. The pendency of an appeal from an order of adjudication
13 shall not prevent the district court from holding a dispositional
14 hearing unless the appellate court shall so order. The pendency of
15 an appeal from an order certifying a juvenile to stand trial as an
16 adult shall not prevent the commencement of criminal proceedings
17 against the juvenile unless stayed by the judge who issued the order
18 of certification or by the appellate court. If the ~~Supreme Court or~~
19 ~~the~~ Court of Criminal Appeals does not dismiss the proceedings and
20 discharge the child, it shall affirm or modify the order of the
21 district court and remand the child to the jurisdiction of that
22 court for supervision and care; and thereafter the child shall be
23 and remain under the jurisdiction of the district court in the same

1 manner as if such court had made such order without an appeal having
2 been taken.

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

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

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

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

20 Section 7303-7.5 A. Any judge who is assigned to hear juvenile
21 cases in counties having a population in excess of ~~one hundred~~
22 ~~thousand (100,000)~~ eighty thousand (80,000), and where county
23 funding is available, may appoint a suitable person or persons to

1 act as referee or referees, to hold office at the pleasure of the
2 judge. Such referees shall be lawyers and shall be specially
3 qualified for their duties. ~~The judge may direct that any case, or~~
4 ~~all cases of a class or within a county to be designated by the~~
5 ~~judge, shall be heard in the first instance by a referee in the~~
6 ~~manner provided for the hearing of cases by the court. Upon the~~
7 ~~conclusion of the hearing in each case, the referee shall transmit~~
8 ~~to the court all papers relating to the case, together with the~~
9 ~~referee's findings of fact and conclusions of law, and~~
10 ~~recommendations in writing~~ Reasonable compensation shall be fixed by
11 the presiding judge of the administrative district.

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

1 objects in writing to the assignment of a referee to hear the
2 matter. The duties and powers of referees shall be to hear and
3 report all matters assigned by the chief juvenile judge and to
4 recommend findings of fact, conclusions of law, temporary and
5 interim orders, and final orders of judgment. All recommended
6 orders and findings of a referee shall be subject to confirmation by
7 the judge.

8 C. 1. Upon the conclusion of the hearing in each case, the
9 referee shall transmit to the judge the recommended findings and
10 orders in writing. The recommended findings and orders of a referee
11 become the findings and orders of the court when confirmed by the
12 judge. The order of the court shall be proof of such confirmation
13 and also of the fact that the matter was duly referred to the
14 referee. A copy of the order entered by the referee shall be served
15 upon the parties and counsel without delay or as provided in Section
16 696.2 of Title 12 of the Oklahoma Statutes.

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

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

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

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

- 14 1. Expressly stays the effect of the order;
15 2. Changes the order during the pendency of the review; or
16 3. Changes or vacates the order upon completion of the review.

17 SECTION 63. AMENDATORY 10 O.S. 2001, Section 7303-7.6,
18 is amended to read as follows:

19 Section 7303-7.6 A. ~~In any hearing concerning the status of a~~
20 ~~child, the court, if~~ If, after notice to the parent or parents of
21 the child or other persons legally obligated to care for and support
22 the child, and after affording said person or persons an opportunity
23 to be heard, the court determines finds that the parent or parents

1 of the child or other person is able to pay, shall have authority to
2 adjudge the parent, who has been served with notice of the hearing,
3 liable and accountable for the care and maintenance of any child or
4 children, and to all or part of the costs and expenses set forth in
5 paragraphs 1 through 4 of this subsection, the court may order the
6 person or persons to pay the same and prescribe the method of
7 payment, as follows:

8 1. Reimburse the court fund, in whole or in part, for any
9 disbursements made from the court fund in conjunction with the case,
10 including, but not limited to, court-appointed attorney fees, expert
11 witness fees, sheriff's fees, witness fees, transcripts and postage;

12 2. Pay for the care and maintenance of the child, including,
13 but not limited to, all or some part of placement services, medical
14 care and ~~mental~~ behavioral health services, and reasonable monthly
15 expenses, as authorized by law;

16 3. ~~Assign the benefits of medical insurance coverage for the~~
17 ~~child to the Department of Juvenile Justice for the period of time~~
18 ~~the child is in the custody of the Department of Juvenile Justice;~~

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

1 ~~5.~~ 4. Reimburse any law enforcement agency, in whole or in
2 part, for any costs or expenses incurred by the law enforcement
3 agency for custodial services or other authorized actions taken
4 pursuant to the Oklahoma Juvenile Justice Code.

5 The court may also order the assignment of benefits of medical
6 insurance coverage for the child to the Office of Juvenile Affairs
7 for the period of time the child is in the custody of the Office of
8 Juvenile Affairs.

9 B. ~~1.~~ The court shall use the child support guidelines
10 provided for in Section 118 of Title 43 of the Oklahoma Statutes in
11 determining the amount a parent is to pay for care and maintenance
12 of a child. If any parent is financially able but has willfully
13 failed to pay any costs or reimbursements as ordered by the court
14 pursuant to this section, the parent may be held in indirect civil
15 contempt of court and, upon conviction, shall be punished pursuant
16 to Section 566 of Title 21 of the Oklahoma Statutes.

17 ~~2. After a judicial determination that the child, the parent of~~
18 ~~the child, or both such child or parent, are able to pay the costs~~
19 ~~and reimbursements, in whole or in part, specified by this section,~~
20 ~~the court shall order the costs and reimbursements. The court may~~
21 ~~order such payments and reimbursements to be paid in installments~~
22 ~~and shall set the amount and due date of each installment.~~

1 ~~3. Even though the court has previously found the parent~~
2 ~~indigent, if a parent is subsequently found to be financially able~~
3 ~~to pay costs and reimbursements, the court may order such payments~~
4 ~~and reimbursements paid in installments.~~

5 ~~C. The court shall have all powers incident to such orders~~
6 ~~necessary for their enforcement, including the power and authority~~
7 ~~to require bond or other security for the payment of such order; and~~
8 ~~may resort to execution and the power of punishment for contempt for~~
9 ~~noncompliance with such order.~~

10 ~~D.—1. The court shall have the right, upon conducting an~~
11 ~~evidentiary hearing, to increase, decrease, or otherwise modify its~~
12 ~~orders for care and maintenance, as the conditions or needs of the~~
13 ~~child or children may require and the ability of the person or~~
14 ~~persons held to pay may afford. The court may order support~~
15 ~~payments to be made direct to the person, organization or~~
16 ~~institution having the care and custody of the child or children,~~
17 ~~or, pursuant to Section 413 of Title 43 of the Oklahoma Statutes, to~~
18 ~~the Department of Human Services Centralized Support Registry.~~

19 ~~2. All such funds ordered and paid to the clerk shall be~~
20 ~~accounted for; provided, that when payments are made in advance for~~
21 ~~any child, and custody of the court is terminated before the end of~~
22 ~~the period, then any unused or unaccrued portion of such payment~~

1 ~~shall be returned by proper voucher, or the refund may be authorized~~
2 ~~and paid on claim properly verified and approved by the judge.~~

3 ~~E. 1. The Department may effectuate the order for payment of~~
4 ~~any costs and expenses authorized pursuant to the provisions of this~~
5 ~~section against any asset of the parent. Any assignment,~~
6 ~~attachment, garnishment, or lien against such assets shall be served~~
7 ~~upon the person in possession of the assets or shall be recorded in~~
8 ~~the office of the county clerk in the county in which the parent~~
9 ~~resides or in which the asset is located.~~

10 ~~2. Pursuant to Section 7302 2.1 of this title, the Department~~
11 ~~may contract on a contingency fee basis with private attorneys for~~
12 ~~the collection and enforcement of orders against such assets. Any~~
13 ~~such third party payment shall be paid directly to the Department.~~

14 ~~F. When there is an existing order which provides for payment~~
15 ~~of child support, and the Department of Juvenile Justice places~~
16 ~~physical custody of the child with any person or facility without~~
17 ~~obtaining a modification of the child support order, the change in~~
18 ~~placement, by operation of law, shall create a presumption that such~~
19 ~~person or entity with whom the child was placed has legal physical~~
20 ~~custody of the child for the purposes of the payment of child~~
21 ~~support, unless the person or entity is receiving foster care~~
22 ~~payments or payments for care of the child pursuant to contract with~~
23 ~~the Office of Juvenile Affairs.~~

1 SECTION 64. AMENDATORY 10 O.S. 2001, Section 7303-8.1,
2 as amended by Section 28, Chapter 327, O.S.L. 2002 (10 O.S. Supp.
3 2008, Section 7303-8.1), is amended to read as follows:

4 Section 7303-8.1 A. 1. Whenever the court transfers custody
5 of a child as provided in this article, the person, institution,
6 agency, or department receiving custody shall have the right to, and
7 shall be responsible for, the care and control of the child, and
8 shall have the duty and authority to provide food, clothing,
9 shelter, medical care, education, and discipline for the child, and
10 to authorize and consent to medical care for the child provided by a
11 qualified health care professional. ~~Except for an emergency~~
12 ~~psychiatric admission pursuant to the Inpatient Mental Health and~~
13 ~~Substance Abuse Treatment of Minors Act, said The person,~~
14 institution, agency or department may provide or arrange for the
15 provision of ~~an inpatient evaluation or~~ inpatient treatment of such
16 minor only ~~pursuant to a court order~~ as provided by the Inpatient
17 Mental Health and Substance Abuse Treatment of Minors Act. Nothing
18 in this subsection shall be interpreted to prohibit or preclude the
19 provision of outpatient services, including an outpatient
20 examination, counseling, educational, rehabilitative or other
21 similar services to said minor, as necessary and appropriate, in the
22 absence of a specific court order for such services.

1 2. The medical care, surgery and extraordinary care shall be
2 charged to the appropriate agency where the child qualifies for the
3 care under law, rule or administrative order or decision.

4 3. Nothing in this subsection shall be interpreted to:

5 a. relieve a parent of the obligation to provide for the
6 support of the child as otherwise provided by law, or

7 b. limit the authority of the court to order a parent to
8 make support payments or to make payments or
9 reimbursements for medical care or treatment,
10 including ~~mental~~ behavioral health care or treatment,
11 to the person, institution, agency or Department
12 having custody of the child, or

13 c. abrogate the right of the child to any benefits
14 provided through public funds for which the child is
15 otherwise eligible.

16 4. No person, agency or institution shall be liable in a civil
17 suit for damages for authorizing or not authorizing surgery or
18 extraordinary care in an emergency, as determined by competent
19 medical authority. No state employee shall be liable for the costs
20 of any medical care or ~~mental~~ behavioral health services provided to
21 any child in the custody of the Office of Juvenile Affairs.

22 B. The person, institution, agency, or department having legal
23 custody of a child pursuant to an order of the court shall receive

1 notice of court proceedings regarding the child as provided in
2 Sections ~~7303-2.1~~ 2-2-107 and ~~7303-5.1~~ 2-2-501 of this title and
3 shall be allowed to intervene upon application as a party to all
4 court proceedings pertaining to the care and custody of the child
5 including, but not limited to: adjudication, disposition, review of
6 disposition, termination of parental rights and proceedings pursuant
7 to the Inpatient Mental Health and Substance Abuse Treatment of
8 Minors Act.

9 SECTION 65. AMENDATORY 10 O.S. 2001, Section 7303-8.2,
11 is amended to read as follows:

12 Section 7303-8.2 A. The finding that a child is delinquent or
13 in need of supervision shall not deprive the parents of the child of
14 their parental rights, but a court may terminate the rights of a
15 parent to a child for any reason authorized in the Oklahoma
16 Children's Code. The provision of the Oklahoma Children's Code
17 shall govern termination of parental rights.

18 B. Whenever parental rights of the parents of a child have been
19 terminated and the child is committed to the ~~Department~~ Office of
20 Juvenile ~~Justice~~ Affairs, the Executive Director of the Office of
21 Juvenile Affairs shall serve as the legal guardian of the estate of
22 the child, until another guardian is legally appointed, for the
23 purpose of preserving the child's property rights, securing for the
child any benefits to which he may be entitled under social security

1 programs, insurance, claims against third parties, and otherwise,
2 and receiving and administering such funds or property for the care
3 and education of the child.

4 SECTION 66. AMENDATORY 10 O.S. 2001, Section 7303-8.3,
5 is amended to read as follows:

6 Section 7303-8.3 A. The ~~Department~~ Office of Juvenile Justice
7 Affairs shall review and assess each child committed to the
8 ~~Department~~ Office to determine the type of placement consistent with
9 the treatment needs of the child in the nearest geographic proximity
10 to the home of the child and, in the case of delinquent children,
11 the protection of the public. Such review and assessment shall
12 include an investigation of the personal and family history of the
13 child, and his environment, and any physical or mental examinations
14 considered necessary.

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

18 SECTION 67. AMENDATORY 10 O.S. 2001, Section 7303-8.4,
19 as amended by Section 29, Chapter 327, O.S.L. 2002 (10 O.S. Supp.
20 2008, Section 7303-8.4), is amended to read as follows:

21 Section 7303-8.4 A. The ~~Department~~ Office of Juvenile Justice
22 Affairs may provide for the care of a child who is in the custody of
23 the Office of Juvenile Affairs and found by a court to be a minor in

1 need of treatment pursuant to the Inpatient Mental Health and
2 Substance Abuse Treatment of Minors Act:

3 ~~1. In the home of the child, the home of a relative of the~~
4 ~~child, a foster home, a group home, a transitional living program,~~
5 ~~an independent living program or in any other community-based child~~
6 ~~care facility determined by the Department to be appropriate for the~~
7 ~~care of the child, or as otherwise provided by the Oklahoma Juvenile~~
8 ~~Code, and shall provide for the outpatient care and treatment of the~~
9 ~~child, or~~

10 ~~2. The Department shall place a child who has been committed by~~
11 ~~a court for inpatient mental health or substance abuse treatment as~~
12 ~~provided by the Inpatient Mental Health and Substance Abuse~~
13 ~~Treatment of Minors Act in a Department-operated treatment center or~~
14 ~~a public or private facility as determined by the Department. The~~
15 ~~Department may place such child with the Department of Mental Health~~
16 ~~and Substance Abuse Services upon the consent of the Commissioner of~~
17 ~~Mental Health and Substance Abuse Services or his designee. The~~
18 ~~Department shall establish a system for the regular review by a~~
19 ~~qualified mental health professional, at intervals of not more than~~
20 ~~thirty (30) days, of the case of each child in need of treatment in~~
21 ~~the custody of the Department and receiving inpatient care and~~
22 ~~treatment to determine whether or not continued inpatient treatment~~
23 ~~is required and appropriate for the child. When such child no~~

1 ~~longer requires inpatient care and treatment in a mental health~~
2 ~~treatment facility, the Department shall place the child as provided~~
3 ~~in paragraph 1 of this subsection.~~

4 B. In providing for the outpatient ~~mental~~ behavioral health
5 care and the treatment of children in its custody, the ~~Department~~
6 Office of Juvenile Justice Affairs shall utilize to the maximum
7 extent possible and appropriate the services available through:

8 1. The guidance centers operated by the State Department of
9 Health; and

10 2. The Department of Mental Health and Substance Abuse
11 Services;

12 3. The Department of Human Services; and

13 4. Community-based private agencies and organizations.

14 SECTION 68. AMENDATORY 10 O.S. 2001, Section 7303-8.6,
15 as amended by Section 10, Chapter 124, O.S.L. 2006 (10 O.S. Supp.
16 2008, Section 7303-8.6), is amended to read as follows:

17 Section 7303-8.6 When a child is committed to the custody of
18 the ~~Department~~ Office of Juvenile Justice Affairs under the
19 provisions of this article, the court shall order the child to be
20 delivered by the sheriff or by a private contractor pursuant to the
21 provisions of Section ~~7304-1.3~~ 2-3-103 of this title to an
22 institution, or other place, designated by the ~~Department~~ Office,
23 and the cost of transportation shall be paid from the ~~county's~~

1 general fund of the county. The ~~Department~~ Office of Juvenile
2 ~~Justice Affairs~~ shall not be ordered to provide transportation as
3 provided for in this section for a juvenile who has been committed
4 to the custody of the ~~Department~~ Office and is destined for a secure
5 institution.

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

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

10 CHAPTER 3 - DETENTION

11 SECTION 70. AMENDATORY 10 O.S. 2001, Section 7304-1.1,
12 as last amended by Section 9, Chapter 3, O.S.L. 2003 (10 O.S. Supp.
13 2008, Section 7304-1.1), is amended to read as follows:

14 Section 7304-1.1 A. When a child is taken into custody
15 pursuant to the provisions of the Oklahoma Juvenile Code, the child
16 shall be detained only if it is necessary to assure the appearance
17 of the child in court or for the protection of the child or the
18 public.

19 1. a. No preadjudicatory or predisposition detention or
20 custody order shall remain in force and effect for
21 more than thirty (30) days. The court, for good and
22 sufficient cause shown, may extend the effective
23 period of such an order for an additional period not

1 to exceed sixty (60) days. If the child is being
2 detained for the commission of a murder, the court
3 may, if it is in the best interests of justice, extend
4 the effective period of such an order an additional
5 sixty (60) days.

6 b. Whenever the court orders a child to be held in a
7 juvenile detention facility, an order for secure
8 detention shall remain in force and effect for not
9 more than ~~ten (10)~~ fifteen (15) days after such order.
10 Upon an application of the district attorney and after
11 a hearing on such application, the court, for good and
12 sufficient cause shown, may extend the effective
13 period of such an order for an additional period not
14 to exceed ~~ten (10)~~ fifteen (15) days after such
15 hearing. The total period of preadjudicatory or
16 predisposition shall not exceed the ninety-day
17 limitation as specified in subparagraph a of this
18 paragraph. The child shall be present at the hearing
19 on the application for extension unless, as authorized
20 and approved by the court, the attorney for the child
21 is present at the hearing and the child is available
22 to participate in the hearing via telephone conference
23 communication. For the purpose of this paragraph,

1 "telephone conference communication" means use of a
2 telephone device that allows all parties, including
3 the child, to hear and be heard by the other parties
4 at the hearing. After the hearing, the court may
5 order continued detention in a juvenile detention
6 center, may order the child detained in an alternative
7 to secure detention or may order the release of the
8 child from detention.

9 2. No child alleged or adjudicated to be deprived or in need of
10 supervision or who is or appears to be a minor in need of treatment
11 as defined by the Inpatient Mental Health and Substance Abuse
12 Treatment of Minors Act, shall be confined in any jail, adult
13 lockup, or adult detention facility. No child shall be transported
14 or detained in association with criminal, vicious, or dissolute
15 persons.

16 3. Except as otherwise authorized by this section a child who
17 has been taken into custody as a deprived child, a child in need of
18 supervision, or who appears to be a minor in need of treatment, may
19 not be placed in any detention facility pending court proceedings,
20 but must be placed in shelter care or foster care or, with regard to
21 a child who appears to be a minor in need of treatment, a ~~mental~~
22 behavioral health ~~or substance abuse~~ treatment facility in
23 accordance with the provisions of the Inpatient Mental Health and

1 Substance Abuse Treatment of Minors Act, or released to the custody
2 of the ~~child's~~ parents of the child or some other responsible party.
3 When a child is taken into custody as a child in need of supervision
4 as a result of being a runaway, the court may order the child placed
5 in a juvenile detention facility pending court proceedings if it
6 finds the detention to be essential for the safety of the child.

7 B. No child shall be placed in secure detention unless:

8 1. The child is an escapee from any delinquent placement;

9 2. The child is a fugitive from another jurisdiction with a
10 warrant on a delinquency charge or confirmation of delinquency
11 charges by the home jurisdiction;

12 3. The child is seriously assaultive or destructive towards
13 others or self;

14 ~~4. The child is detained for the commission of a crime that~~
15 ~~would constitute a serious act as defined by Section 7302-9.2 of~~
16 ~~this title;~~

17 ~~5. The child is detained for the commission of a crime that~~
18 ~~would constitute a habitual criminal act as defined by Section 7302-~~
19 ~~9.2 of this title;~~

20 ~~6. The child is currently charged with a felony act as defined~~
21 ~~by Section 7302-9.2 of this title~~ any criminal offense that would
22 constitute a felony if committed by an adult or a misdemeanor and:

- 1 a. is on probation or parole on a prior delinquent
2 offense,
3 b. is on preadjudicatory community supervision,
4 c. is currently on release status on a prior delinquent
5 offense, or
6 d. has willfully failed or there is reason to believe
7 that the child will willfully fail to appear for
8 juvenile court proceedings.

9 C. A child who has violated a court order and has had the order
10 revoked or modified pursuant to Section ~~7303-5.3~~ 2-2-503 of this
11 title may be placed into an Office_of_Juvenile_Affairs-designated
12 sanction detention bed or an Office_of_Juvenile_Affairs-approved
13 sanction program.

14 D. ~~A child shall be detained in secure~~ Priority shall be given
15 to the use of juvenile detention ~~only in accordance with the~~
16 ~~guidelines adopted pursuant to Section 7302-9.3 of this title~~
17 facilities for the detention of juvenile offenders through
18 provisions requiring the removal from detention of a juvenile with a
19 lower priority status if an empty detention bed is not available at
20 the time of referral of a juvenile with a higher priority status and
21 if the juvenile with a higher priority status would be more of a
22 danger to the public than the juvenile with the lower priority
23 status.

1 E. 1. Except as otherwise provided in this section, no child
2 shall be placed in secure detention in a jail, adult lockup, or
3 other adult detention facility unless:

4 a. the child is detained for the commission of a crime
5 that would constitute a felony if committed by an
6 adult, and

7 b. the child is awaiting an initial court appearance, and

8 c. the ~~child's~~ initial court appearance of the child is
9 scheduled within twenty-four (24) hours after being
10 taken into custody, excluding weekends and holidays,
11 and

12 d. the court of jurisdiction is outside of the Standard
13 Metropolitan Statistical Area as defined by the Bureau
14 of Census, and

15 e. there is no existing acceptable alternative placement
16 for the child, and

17 f. the jail, adult lockup or adult detention facility
18 provides sight and sound separation for juveniles,
19 pursuant to standards required by subsection E of
20 Section ~~7304-1.3~~ 2-3-103 of this title, or

21 g. the jail, adult lockup or adult detention facility
22 meets the requirements for licensure of juvenile
23 detention facilities, as adopted by the Office of

1 Juvenile Affairs, is appropriately licensed, and
2 provides sight and sound separation for juveniles,
3 which includes:

4 (1) total separation between juveniles and adult
5 facility spatial areas such that there could be
6 no haphazard or accidental contact between
7 juvenile and adult residents in the respective
8 facilities,

9 (2) total separation in all juvenile and adult
10 program activities within the facilities,
11 including recreation, education, counseling,
12 health care, dining, sleeping and general living
13 activities, and

14 (3) separate juvenile and adult staff, specifically
15 direct care staff such as recreation, education
16 and counseling.

17 Specialized services staff, such as cooks,
18 bookkeepers, and medical professionals who are not
19 normally in contact with detainees or whose infrequent
20 contacts occur under conditions of separation of
21 juvenile and adults can serve both.

22 2. Nothing in this section shall preclude a child who is
23 detained for the commission of a crime that would constitute a

1 felony if committed by an adult, or a child who is an escapee from a
2 juvenile training school or from a ~~Department~~ an Office of Juvenile
3 ~~Justice Affairs~~ group home from being held in any jail certified by
4 the State Department of Health, police station or similar law
5 enforcement offices for up to six (6) hours for purposes of
6 identification, processing or arranging for transfer to a secure
7 detention or alternative to secure detention. Such holding shall be
8 limited to the absolute minimum time necessary to complete these
9 actions.

10 a. The time limitations for holding a child in a jail for
11 the purposes of identification, processing or
12 arranging transfer established by this section shall
13 not include the actual travel time required for
14 transporting a child from a jail to a juvenile
15 detention facility or alternative to secure detention.

16 b. Whenever the time limitations established by this
17 subsection are exceeded, this circumstance shall not
18 constitute a defense in a subsequent delinquency or
19 criminal proceeding.

20 3. Nothing in this section shall preclude detaining in a county
21 jail or other adult detention facility an eighteen-year old charged
22 in a juvenile petition for whom certification to stand trial as an
23 adult is prayed.

1 4. Nothing in this section shall preclude detaining in a county
2 jail or other adult detention facility a person provided for in
3 Section ~~7304-1.2~~ 2-3-102 of this title if written or electronically
4 transmitted confirmation is received from the state seeking return
5 of the individual that the person is a person provided for in
6 Section ~~7304-1.2~~ 2-3-102 of this title and if, during the time of
7 detention, the person is detained in a facility meeting the
8 requirements of ~~7304-1.3~~ Section 2-3-103 of this title.

9 5. Nothing in this section shall preclude detaining a person,
10 whose age is not immediately ascertainable and who is being detained
11 for the commission of a felony, in a jail certified by the State
12 Department of Health, a police station or similar law enforcement
13 office for up to twenty-four (24) hours for the purpose of
14 determining whether or not the person is a child, if:

- 15 a. there is a reasonable belief that the person is
16 eighteen (18) years of age or older,
- 17 b. there is a reasonable belief that a felony has been
18 committed by the person,
- 19 c. a court order for such detention is obtained from a
20 judge of the district court within six (6) hours of
21 initially detaining the person,
- 22 d. there is no juvenile detention facility that has space
23 available for the person and that is within thirty

1 (30) miles of the jail, police station, or law
2 enforcement office in which the person is to be
3 detained, and

4 e. during the time of detention the person is detained in
5 a facility meeting the requirements of subparagraph g
6 of paragraph 1 of this subsection.

7 The time limitation provided for in this paragraph shall include the
8 time the person is detained prior to the issuance of the court
9 order.

10 The time limitation provided for in this paragraph shall not include
11 the actual travel time required for transporting the person to the
12 jail, police station, or similar law enforcement office. If the
13 time limitation established by this paragraph is exceeded, this
14 circumstance shall not constitute a defense in any subsequent
15 delinquency or criminal proceeding.

16 F. Nothing contained in this section shall in any way reduce or
17 eliminate ~~a county's~~ the liability of a county as otherwise provided
18 by law for injury or damages resulting from the placement of a child
19 in a jail, adult lockup, or other adult detention facility.

20 G. Any juvenile detention facility shall be available for use
21 by any eligible Indian child as that term is defined by the Oklahoma
22 Indian Child Welfare Act, providing that the use of the juvenile
23 detention facility meets the requirements of the Oklahoma Juvenile

1 Code. The Indian tribe may contract with any juvenile detention
2 facility for the providing of detention services.

3 H. Each member of the staff of a juvenile detention facility
4 shall satisfactorily complete a training program provided or
5 approved by the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs.

6 SECTION 71. AMENDATORY 10 O.S. 2001, Section 7304-1.3,
7 is amended to read as follows:

8 Section 7304-1.3 A. Provision shall be made for the temporary
9 detention of children in a juvenile detention facility or the court
10 may arrange for the care and custody of such children temporarily in
11 private homes, subject to the supervision of the court, or the court
12 may provide shelter or may enter into a contract with any
13 institution or agency to receive, for temporary care and custody,
14 children within the jurisdiction of the court. The ~~Department~~
15 Office of Juvenile ~~Justice~~ Affairs shall not be ordered to provide
16 detention unless said ~~Department~~ Office has designated and is
17 operating detention services or facilities.

18 B. County sheriffs, their designee, private contractors under
19 contract with the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs for
20 transportation services, or juvenile court officers shall provide
21 for the transportation of juveniles to and from secure detention for
22 purposes of admission, interfacility transfer, discharge, medical or
23 dental attention, court appearance, or placement designated by the

1 ~~Department~~ Office. No private contract for transportation services
2 shall be entered into by the ~~Department~~ Office unless the private
3 contractor demonstrates to the satisfaction of the ~~Department~~ Office
4 that such contractor is able to obtain insurance or provide self-
5 insurance to indemnify the ~~Department~~ Office against possible
6 lawsuits and meets the requirements of subparagraphs a, b and d of
7 paragraph 4 of subsection C of this section. The ~~Department~~ Office
8 of Juvenile ~~Justice~~ Affairs shall not be ordered to provide
9 transportation for a juvenile who is detained in or is destined for
10 secure detention. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs
11 shall provide reimbursement to the entity transporting juveniles for
12 necessary and actual expenses for transporting juveniles who are
13 detained in or destined for a secure detention center as follows:

- 14 1. A fee for the cost of personal services at the rate of
15 Twelve Dollars (\$12.00) per hour;
- 16 2. Mileage reimbursement for each mile actually traveled at the
17 rate established in the State Travel Reimbursement Act;
- 18 3. Meals for transporting personnel, not to exceed Six Dollars
19 (\$6.00) per meal; and
- 20 4. Meals for juveniles being transported, not to exceed Six
21 Dollars (\$6.00) per meal.

22 The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs shall process
23 and mail reimbursement claims within sixty (60) days of receipt.

1 Payments for services provided by a county sheriff's office shall be
2 paid to the county and deposited in the ~~sheriff~~ service fee account
3 of the sheriff.

4 C. 1. All juvenile detention facilities shall be certified by
5 the Office of Juvenile Affairs. To be certified, a juvenile
6 detention facility shall be required to meet standards for
7 certification promulgated by the Board of Juvenile Affairs. ~~Until~~
8 ~~such standards are promulgated, the standards promulgated by the~~
9 ~~Oklahoma Commission for Human Services shall remain in effect.~~

10 2. The board of county commissioners of every county shall
11 provide for the temporary detention of a child who is or who may be
12 subject to secure detention and may construct a building or rent
13 space for such purpose. The boards of county commissioners shall
14 provide for temporary detention services and facilities in
15 accordance with the provisions of the State Plan for the
16 Establishment of Juvenile Detention Services adopted pursuant to
17 subsection D of this section and in accordance with Section ~~7302-6.8~~
18 2-7-608 of this title. The boards of county commissioners are
19 hereby authorized to create multicounty trust authorities for the
20 purpose of operating juvenile detention facilities.

21 3. In order to operate the juvenile detention facilities
22 designated in the State Plan for the Establishment of Juvenile
23 Detention Services and in Section ~~7302-6.8~~ 2-7-608 of this title,

1 the boards of county commissioners in the designated host counties
2 shall:

- 3 a. operate the juvenile detention facility through a
4 statutorily constituted juvenile bureau subject to the
5 supervision of the district court, or
- 6 b. operate the juvenile detention facility by employing a
7 manager who may employ personnel and incur other
8 expenses as may be necessary for its operation and
9 maintenance, or
- 10 c. contract with a public agency, private agency,
11 federally recognized tribe, or single or multi-county
12 trust authority for the operation of the juvenile
13 detention facility. In the event any board of county
14 commissioners contracts with a public or private
15 agency or a federally recognized tribe, pursuant to
16 the provisions of this section, the ~~Department~~ Office
17 is authorized to directly contract with and pay such
18 public or private agency or federally recognized tribe
19 for provision of detention services. Any contract
20 with a federally recognized tribe shall become
21 effective upon approval by the board of county
22 commissioners.

1 4. Management contracts for privately operated detention
2 facilities shall be negotiated with the firm found most qualified by
3 the board of county commissioners. However, no private management
4 contract shall be entered into by the board unless the private
5 contractor demonstrates to the satisfaction of the board:

- 6 a. that the contractor has the qualifications,
7 experience, and personnel necessary to implement the
8 terms of the contract,
9 b. that the financial condition of the contractor is such
10 that the term of the contract can be fulfilled,
11 c. that the ability of the contractor to obtain insurance
12 or provide self-insurance to indemnify the county
13 against possible lawsuits and to compensate the county
14 for any property damage or expenses incurred due to
15 the private operation of the juvenile detention
16 facility, and
17 d. that the contractor has the ability to comply with
18 applicable court orders and rules of the ~~Department~~
19 Office of Juvenile ~~Justice~~ Affairs.

20 5. All counties to be served by a secure juvenile detention
21 facility may, upon the opening of such facility, contract with the
22 operators for the use of the facility for the temporary detention of
23 children who are subject to secure detention; provided, however, a

1 jail, adult lockup, or other adult detention facility may be used
2 for the secure detention of a child as provided for in Section ~~7304-~~
3 ~~1-1~~ 2-3-101 of this title.

4 6. Expenses incurred in carrying out the provisions of this
5 section shall be paid from the general fund of the county or from
6 other public funds lawfully appropriated for such purposes or from
7 private funds that are available for such purposes. A county may
8 also issue bonds for the construction of detention facilities.

9 7. The operation of a juvenile detention facility by a county
10 shall constitute a quasi-judicial function and is also hereby
11 declared to be a function of the State of Oklahoma for purposes of
12 the Eleventh Amendment to the United States Constitution. In
13 addition, no contract authorized by the provisions of this section
14 for the providing of transportation services or for the operation of
15 a juvenile detention facility shall be awarded until the contractor
16 demonstrates to the satisfaction of the county that the contractor
17 has obtained liability insurance with the limits specified by the
18 Governmental Tort Claims Act against lawsuits arising from the
19 operation of the juvenile detention facility by the contractor, or
20 if the contract is for the providing of transportation services, the
21 contractor has obtained liability insurance with the limits
22 specified by the Governmental Tort Claims Act against lawsuits

1 arising from the transportation of juveniles as authorized by
2 subsection A of this section.

3 D. The Board of Juvenile Affairs, from monies appropriated for
4 that purpose, shall develop, adopt, and implement a plan for secure
5 juvenile detention services and alternatives to secure detention, to
6 be known as the State Plan for the Establishment of Juvenile
7 Detention Services, which shall provide for the establishment of
8 juvenile detention facilities and services with due regard for
9 appropriate geographical distribution and existing juvenile
10 detention programs operated by statutorily constituted juvenile
11 bureaus. Said plan may be amended or modified by the Board as
12 necessary and appropriate. Until said plan is adopted by the Board,
13 the plan adopted by the Oklahoma Commission for Human Services shall
14 remain in effect.

15 1. The Board of Juvenile Affairs shall establish procedures for
16 the letting of contracts or grants, including grants to existing
17 juvenile detention programs operated by statutorily constituted
18 juvenile bureaus, and the conditions and requirements for the
19 receipt of said grants or contracts for juvenile detention services
20 and facilities as provided in this section and Section ~~7302-4.1~~ 2-7-
21 401 of this title. A copy of such procedures shall be made
22 available to any member of the general public upon request. All
23 such grants or contracts shall require the participation of local

1 resources in the funding of juvenile detention facilities. A
2 contract for services shall be based upon a formula approved by the
3 Board which shall set the contract amount in accordance with the
4 services offered and the degree of compliance with standards for
5 certification. ~~Until the procedures are established by the Board,~~
6 ~~the procedures established by the Commission for Human Services~~
7 ~~shall remain in effect.~~

8 2. The Board of Juvenile Affairs shall establish standards for
9 the certification of detention services and juvenile detention
10 facilities. Such standards may include, but not be limited to:
11 screening for detention; education and recreation opportunities for
12 juveniles in secure detention; and accreditation by the American
13 Correctional Association. As a condition of continuing eligibility
14 for grants or contracts, secure juvenile detention services and
15 facilities shall be certified by the Board within two (2) years of
16 the date of the initial grant or contract.

17 E. The State Department of Health, with the assistance of the
18 Office of Juvenile Affairs, shall establish standards for the
19 certification of jails, adult lockups, and adult detention
20 facilities used to detain juveniles. Such standards shall include
21 but not be limited to: separation of juveniles from adults;
22 supervision of juveniles; and health and safety measures for
23 juveniles. The Department of Health is authorized to inspect any

1 jail, adult lockup, or adult detention facility for the purpose of
2 determining compliance with such standards. No jail, adult lockup,
3 or other adult detention facility shall be used to detain juveniles
4 unless such jail, adult lockup, or other adult detention facility
5 complies with the standards established by the Department of Health
6 and is designated as a place for the detention of juveniles by the
7 judge having juvenile docket responsibility in the county from a
8 list of eligible facilities supplied by the Department of Health.

9 The development and approval of the standards provided for in
10 this paragraph shall comply with the provisions of the
11 Administrative Procedures Act.

12 F. The State Board of Health shall promulgate rules providing
13 for the routine recording and reporting of the use of any adult
14 jail, lockup or other adult facility for the detention of any person
15 under the age of eighteen (18).

16 1. For the purpose of ensuring the uniformity and compatibility
17 of information related to the detention of persons under age
18 eighteen (18), said rules shall be reviewed and approved by the
19 Oklahoma Commission on Children and Youth prior to their adoption by
20 the Board; and

21 2. Said records of detention shall be reviewed during each
22 routine inspection of adult jails, lockups or other adult detention
23 facilities inspected by the State Department of Health and a

1 statistical report of said detentions shall be submitted to the
2 Office of Juvenile Affairs at least every six (6) months in a form
3 approved by the Board of Juvenile Affairs.

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

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

8 CHAPTER 4 - JUVENILE BUREAUS

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

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

18 B. In each county having a duly constituted juvenile bureau as
19 of January 1, 2005, as provided for in subsection A of this section,
20 the juvenile bureau shall remain in place and continue in operation.
21 No other counties shall establish juvenile bureaus.

1 ~~C. The Department of Juvenile Justice shall provide intake,~~
2 ~~probation and parole services in all counties not having juvenile~~
3 ~~bureaus as provided for in Section 7302-2.3 of this title.~~

4 SECTION 74. AMENDATORY 10 O.S. 2001, Section 7305-1.3,
5 is amended to read as follows:

6 Section 7305-1.3 A. The director, under the general
7 supervision of the judge, shall organize, direct and develop the
8 administrative work of the court, including the social, financial
9 and clerical work, and the director shall perform such other duties
10 as to children as any judge of the court shall direct. The
11 technical and professional employees shall have charge of cases
12 assigned to them for investigation or treatment and shall perform
13 such other duties as may be assigned to them by the director.

14 B. To assure uniformity of procedures and care throughout the
15 state, each juvenile bureau shall perform its statutory duties for
16 children alleged or adjudicated to be in need of supervision or
17 delinquent in accordance with the procedures and guidelines
18 promulgated by the Board of Juvenile Affairs and implemented by the
19 ~~Department of Juvenile Justice of the~~ Office of Juvenile Affairs.

20 ~~C. All information obtained in discharge of official duty by~~
21 ~~any officer or other employee of the court shall be privileged and~~
22 ~~shall not be disclosed to anyone other than the judge and others~~

1 ~~entitled under this act to receive such information, unless and~~
2 ~~until otherwise ordered by the judge.~~

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

6 Section 7305-1.7 A. 1. The salary of the director and other
7 employees of the bureau and any detention home established pursuant
8 to Section ~~7305-1.8~~ 2-4-108 of this title shall be fixed by the
9 judge of the Juvenile Division, subject to the general
10 administrative authority of the county commissioners of the
11 contracting county. The salary of the director shall not exceed
12 ninety percent (90%) of salaries of county Class A officers. ~~The~~
13 ~~salary of a referee shall not be greater than that of the associate~~
14 ~~district judge of the county.~~

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

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

1 B. The judge of the Juvenile Division, subject to the general
2 administrative authority of the county commissioners of the
3 contracting county, may fix a limit on the amount of expenses that
4 may be incurred by the director and assistants to the director, such
5 limit to be in the judgment of the judge adequate to care for the
6 expenses necessary to carrying out the orders of the court in an
7 efficient and expedient manner. The director and assistants to the
8 director and other personnel of the court shall keep and maintain
9 their offices at the place where the office of the judge of the
10 court is kept, unless the judge of the Juvenile Division, subject to
11 the general administrative authority of the county commissioners of
12 the contracting county, shall direct otherwise. The offices of the
13 director and assistants to the director shall contain adequate
14 equipment, desk space and consultation rooms necessary for
15 appropriate office procedure.

16 C. In addition to their salaries, the director and assistants
17 to the director shall be reimbursed at the same rate as state
18 employees for mileage traveled by them in the investigation of court
19 cases and in supervising probationers, ~~with the approval of the~~
20 ~~judge in charge of the Juvenile Division, the~~. The director and
21 assistants may also receive reimbursement, at the rate and in the
22 manner applicable to other county officers, for actual and necessary
23 expenses incurred by them in attending conferences, meetings,

1 seminars or official business of the court either within or outside
2 of the State of Oklahoma.

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

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

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

12 3. It is made the duty of the county excise board to make the
13 necessary appropriation and levy for the payment of salaries of the
14 director and all other employees, together with the expenses of
15 administering the bureau, consistent with the duty to do likewise
16 with the budget estimates of other county officers under the board's
17 jurisdiction, as required by the Constitution and laws of this
18 state.

19 4. Except in instances where it is entitled to representation
20 because of insurance coverage, the district attorney of the county
21 in which the juvenile bureau is located shall represent the juvenile
22 bureau and any employee who was acting in his or her official
23 capacity at the time of the act or omission complained of in any

1 lawsuit. If the district attorney has a conflict of interest or
2 otherwise declines to represent the juvenile bureau or its
3 employees, the county commissioners may request the assistance of
4 the Attorney General or authorize the employment of private counsel
5 for the juvenile bureau and its employees in their official
6 capacity.

7 ~~E. All expenses incurred by the director and counselor in~~
8 ~~carrying out the orders of the judge of the court shall be reported~~
9 ~~to the judge of the Juvenile Division under oath, and such expenses~~
10 ~~shall not be paid by the board of county commissioners until such~~
11 ~~judge shall, by order entered of record, approve such accounts, and~~
12 ~~such judge may hear testimony as to the correctness thereof. A~~
13 ~~certified copy of the order of approval shall be filed in the office~~
14 ~~of the county clerk and shall be authority to the board of county~~
15 ~~commissioners to disburse the necessary funds in payment thereof,~~
16 ~~provided payment of the same comes within the budgetary provisions~~
17 ~~of the bureau as established in subsection D of this section.~~

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

20 Section 7305-1.10 The provisions of this article shall govern
21 the appointment of all personnel for the Juvenile Docket of the
22 district court in any county referred to in Section ~~7305-1.1~~ 2-4-101
23 of this title. Provided, employees now holding positions in a

1 Juvenile or Children's Court shall remain in similar positions in
2 the juvenile bureau until such time as the judge of the Juvenile
3 Division, subject to the general administrative authority of the
4 Presiding Judge of the Judicial Administrative District, shall
5 otherwise direct, and any balances in appropriations for the
6 maintenance and operation of the administrative personnel and
7 organization under a Juvenile Court Act or Children's Court Act
8 shall continue to be appropriated and shall be used for the
9 operation of the juvenile bureau in the performance of duties set
10 forth in this article.

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

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

15 CHAPTER 5 - TREATMENT OF SERIOUS ACTS

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

18 Section 7306-1.1. A. Any person sixteen (16) or seventeen (17)
19 years of age who is charged with murder, kidnapping, robbery with a
20 dangerous weapon, robbery in the first degree if personal injury
21 results, rape in the first degree, rape by instrumentation, use of
22 firearm or other offensive weapon while committing a felony, arson
23 in the first degree, burglary with explosives, burglary in the first

1 or second degree after three or more adjudications for committing
2 either burglary in the first degree or burglary in the second
3 degree, shooting with intent to kill, discharging a firearm,
4 crossbow or other weapon from a vehicle pursuant to subsection B of
5 Section 652 of Title 21 of the Oklahoma Statutes, intimidating a
6 witness, manslaughter in the first degree, sodomy, trafficking in
7 illegal drugs, manufacturing, distributing, dispensing, or
8 possessing with intent to manufacture, distribute, or dispense a
9 controlled dangerous substance, or assault and battery with a deadly
10 weapon, shall be considered as an adult.

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

14 C. Upon the arrest and detention, such accused person shall
15 have all the statutory and constitutional rights and protections of
16 an adult accused of a crime, but shall be detained in a jail cell or
17 ward entirely separate from prisoners who are eighteen (18) years of
18 age or over.

19 D. 1. Upon the filing of an information against such accused
20 person, a warrant shall be issued which shall set forth the rights
21 of the accused person, and the rights of the parents, guardian or
22 next friend of the accused person to be present at the preliminary
23 hearing, to have an attorney present and to make application for

1 certification of such accused person as a child to the juvenile
2 division of the district court. The warrant shall be personally
3 served together with a certified copy of the information on the
4 accused person and on a custodial parent, guardian or next friend of
5 the accused person.

6 2. When personal service of a custodial parent, guardian or
7 next friend of the accused person cannot be effected, service may be
8 made by certified mail to ~~such person's~~ the last-known address of
9 the person, requesting a return receipt from the addressee only. If
10 delivery is refused, notice may be given by mailing the warrant and
11 a copy of the information on the accused person by regular first
12 class mail to the address where the person to be notified refused
13 delivery of the notice sent by certified mail. Where the address of
14 a custodial parent, guardian or next friend is not known, or if the
15 mailed warrant and copy of the information on the accused person is
16 returned for any reason other than refusal of the addressee to
17 accept delivery, after a distinct and meaningful search of all
18 reasonably available sources to ascertain the whereabouts of a
19 custodial parent, guardian or next friend has been conducted, the
20 court may order that notice of the hearing be given by publication
21 one time in a newspaper of general circulation in the county. In
22 addition, the court may order other means of service of notice that
23 the court deems advisable or in the interests of justice.

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

6 E. The accused person shall file a motion for certification as
7 a child before the start of the criminal preliminary hearing. Upon
8 the filing of such motion, the complete juvenile record of the
9 accused shall be made available to the district attorney and the
10 accused person.

11 At the conclusion of the state's case at the criminal
12 preliminary hearing, the accused person may offer evidence to
13 support the motion for certification as a child.

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

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

21 2. Whether the offense was against persons or property, greater
22 weight being given for retaining the accused person within the adult

1 criminal system for offenses against persons, especially if personal
2 injury resulted;

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

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

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

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

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

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

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

3 Section 7306-2.1 Sections ~~7306-2.1~~ 2-5-201 through ~~7306-2.13~~ 2-
4 5-213 of this title shall be known and may be cited as the "Youthful
5 Offender Act". The Youthful Offender Act shall be implemented
6 beginning January 1, 1998.

7 SECTION 80. AMENDATORY 10 O.S. 2001, Section 7306-2.2,
8 as last amended by Section 1, Chapter 277, O.S.L. 2008 (10 O.S.
9 Supp. 2008, Section 7306-2.2), is amended to read as follows:

10 Section 7306-2.2 A. For the purposes of the Youthful Offender
11 Act:

12 1. "Youthful offender" means a person:

13 a. thirteen (13) or fourteen (14) years of age who is
14 charged with murder in the first degree and certified
15 as a youthful offender as provided by Section ~~7306-2.5~~
16 2-5-205 of this title,

17 b. fifteen (15), sixteen (16), or seventeen (17) years of
18 age and charged with a crime listed in subsection A of
19 Section ~~7306-2.6~~ 2-5-206 of this title, and

20 c. sixteen (16) or seventeen (17) years of age and
21 charged with a crime listed in subsection B of Section
22 ~~7306-2.6~~ 2-5-206 of this title,

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

1 2. "Sentenced as a youthful offender" means the imposition of a
2 court order making disposition of a youthful offender as provided by
3 Section ~~7306-2.9~~ 2-5-209 of this title which shall constitute an
4 adult criminal sentence if the youthful offender is transferred to
5 the custody or supervision of the Department of Corrections; and

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

10 B. It is the purpose of the Youthful Offender Act to better
11 ensure the public safety by holding youths accountable for the
12 commission of serious crimes, while affording courts methods of
13 rehabilitation for those youths the courts determine, at their
14 discretion, may be amenable to such methods. It is the further
15 purpose of the Youthful Offender Act to allow those youthful
16 offenders whom the courts find to be amenable to rehabilitation by
17 the methods prescribed in the Youthful Offender Act to be placed in
18 the custody or under the supervision of the Office of Juvenile
19 Affairs for the purpose of accessing the rehabilitative programs
20 provided by that Office.

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

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

7 2. However, when multiple offenses occur within the same course
8 of conduct within the same county and the person is prosecuted for
9 at least one offense as a youthful offender pursuant to Section
10 ~~7306-2.5~~ 2-5-205 or ~~7306-2.6~~ 2-5-206 of this title, then all the
11 charges may be prosecuted under the same action pursuant to the
12 provisions of the Youthful Offender Act, if so ordered by the court.
13 The decision to join the cases shall not be appealable as a final
14 order. If the offense listed in Section ~~7306-2.5~~ 2-5-205 or Section
15 ~~7306-2.6~~ 2-5-206 of this title is subsequently dismissed for any
16 reason, then any remaining pending charges shall be transferred to
17 the juvenile court.

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

1 such transfer shall order the child to be taken forthwith to the
2 place of detention designated by the juvenile division, to that
3 division itself, or release such child to the custody of some
4 suitable person to be brought before the juvenile division.

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

10 SECTION 82. AMENDATORY 10 O.S. 2001, Section 7306-2.4,
11 as last amended by Section 2, Chapter 277, O.S.L. 2008 (10 O.S.
12 Supp. 2008, Section 7306-2.4), is amended to read as follows:

13 Section 7306-2.4 A. A child who is arrested for an offense
14 pursuant to subsection A or B of Section ~~7306-2.6~~ 2-5-206 of this
15 title, or who is certified as a youthful offender pursuant to
16 Section ~~7306-2.5~~ 2-5-205 of this title, shall be charged by
17 information in the same manner as provided for adults.

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

1 right of the child to be represented by counsel. Counsel shall be
2 appointed by the court only upon determination by the court that the
3 parent, legal guardian or legal custodian is found to be indigent.

4 C. When a person is certified to stand trial as an adult or a
5 youthful offender as provided by the Youthful Offender Act, the
6 accused person shall have all the statutory and constitutional
7 rights and protections of an adult accused of a crime. All
8 proceedings shall be as for a criminal action and the provisions of
9 Title 22 of the Oklahoma Statutes shall apply, except as provided
10 for in the Youthful Offender Act. All youthful offender court
11 records for such a person shall be considered adult records and
12 shall not be subject to the provisions of ~~Article VII~~ Chapter 6 of
13 the Oklahoma Juvenile Code.

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

16 ~~D.~~ E. Upon arrest and detention of a person subject to the
17 provisions of Section ~~7306-2.5~~ 2-5-205 or ~~7306-2.6~~ 2-5-206 of this
18 title, the person has the same right to be released on bail as would
19 an adult in the same circumstances and, if detained, may be detained
20 in a county jail if separated by sight and sound from the adult
21 population as otherwise authorized by law. If no such county jail
22 is available, then such person may be detained at a juvenile
23 detention facility. The sheriff, chief of police, or juvenile or

1 adult detention facility operator shall forthwith notify the Office
2 of Juvenile Affairs of any such arrest and detention.

3 ~~E.~~ F. Upon certification for the imposition of an adult
4 sentence, a verdict of guilty or entry of a plea of guilty or nolo
5 contendere by a youthful offender who has been certified for the
6 imposition of an adult sentence as provided by Section ~~7306-2.8~~ 2-5-
7 208 of this title, the person may be detained as an adult and, if
8 incarcerated, may be incarcerated with the adult population.

9 ~~F.~~ G. A child or youthful offender shall be tried as an adult
10 in all subsequent criminal prosecutions, and shall not be subject to
11 the jurisdiction of the juvenile court as a juvenile delinquent or
12 youthful offender processes in any further proceedings if:

13 1. The child or youthful offender has been certified to stand
14 trial as an adult pursuant to any certification procedure provided
15 by law and is subsequently convicted of the alleged offense or
16 against whom the imposition of judgment and sentence has been
17 deferred; or

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

1 ~~G.~~ H. Except as otherwise provided in the Youthful Offender
2 Act, a person who has been certified as a youthful offender shall be
3 prosecuted as a youthful offender in all subsequent criminal
4 proceedings until the youthful offender has attained eighteen (18)
5 years of age.

6 All proceedings for the commission of a crime committed after a
7 youthful offender has reached eighteen (18) years of age shall be
8 adult proceedings.

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

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

19 B. Any person fifteen (15), sixteen (16) or seventeen (17)
20 years of age who is charged with murder in the first degree at that
21 time shall be held accountable for his or her act as if the person
22 was an adult and shall not be subject to the provisions of the
23 Youthful Offender Act or the provisions of the Juvenile Code for

1 certification as a juvenile. The person shall have all the
2 statutory rights and protections of an adult accused of a crime.
3 All proceedings shall be as for a criminal action and the provisions
4 of Title 22 of the Oklahoma Statutes shall apply. A person having
5 been convicted as an adult pursuant to this paragraph shall be tried
6 as an adult for every subsequent offense.

7 C. 1. Upon the filing of an adult criminal information against
8 such accused person, a warrant shall be issued which shall set forth
9 the rights of the accused person, and the rights of the parents,
10 guardian or next friend of the accused person to be present at the
11 preliminary hearing, to have an attorney present and to make
12 application for certification of such accused person as a youthful
13 offender to the district court for the purpose of prosecution as a
14 youthful offender.

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

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

1 requesting a return receipt from the addressee only. If delivery is
2 refused, notice may be given by mailing the warrant and a copy of
3 the information on the accused person by regular first-class mail to
4 the address where the person to be notified refused delivery of the
5 notice sent by certified mail. Where the address of a custodial
6 parent, guardian or next friend is not known, or if the mailed
7 warrant and copy of the information on the accused person is
8 returned for any reason other than refusal of the addressee to
9 accept delivery, after a thorough search of all reasonably available
10 sources to ascertain the whereabouts of a custodial parent, guardian
11 or next friend has been conducted, the court may order that notice
12 of the hearing be given by publication one time in a newspaper of
13 general circulation in the county. In addition, the court may order
14 other means of service of notice that the court deems advisable or
15 in the interests of justice.

16 4. Before service by publication is ordered, the court shall
17 conduct an inquiry to determine whether a thorough search has been
18 made of all reasonably available sources to ascertain the
19 whereabouts of any party for whom notice by publication is sought.

20 D. 1. The accused person shall file any motions for
21 certification as a youthful offender or a juvenile before the start
22 of the criminal preliminary hearing. If both a motion for
23 certification as a youthful offender and a motion for certification

1 as a juvenile are filed, they shall both be heard at the same time.
2 No motion for certification as a youthful offender or certification
3 as a juvenile may be filed after the time specified in this
4 subsection. Upon the filing of such motion, the complete juvenile
5 record of the accused shall be made available to the district
6 attorney and the accused person.

7 2. The court shall commence a preliminary hearing within ninety
8 (90) days of the filing of the information, pursuant to Section 258
9 of Title 22 of the Oklahoma Statutes, to determine whether the crime
10 was committed and whether there is probable cause to believe the
11 accused person committed a crime. If the preliminary hearing is not
12 commenced within ninety (90) days of the date the accused person is
13 charged, the district court shall hold a hearing to determine the
14 reasons for delay utilizing the procedure set out in Section 812.2
15 of Title 22 of the Oklahoma Statutes, to ensure the preliminary
16 hearing is expedited. If the whereabouts of the accused are unknown
17 at the time of the filing of the information or if the accused is a
18 fugitive, the State of Oklahoma shall make reasonable efforts to
19 locate the accused in order to commence the proceedings. An accused
20 who flees the jurisdiction of the court or purposely avoids
21 apprehension for the charges, waives the right to have the
22 preliminary hearing commenced within ninety (90) days of the filing
23 of the information. An accused who fails to cooperate with

1 providing information in locating the parents of the accused,
2 guardian, or next friend for purpose of notice waives the right to
3 have the preliminary hearing commence within ninety (90) days of the
4 filing of the information.

5 3. At the conclusion of the state's case at the criminal
6 preliminary hearing, the state and the accused person may offer
7 evidence to support or oppose the motions for certification as a
8 youthful offender or an alleged juvenile delinquent.

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

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

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

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

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

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

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

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

15 The court, in its decision on a motion for certification as a
16 youthful offender or juvenile, shall detail findings of fact and
17 conclusions of law to each of the above considerations, and shall
18 state that the court has considered each of the guidelines in
19 reaching its decision.

20 F. The order certifying a person as a youthful offender or an
21 alleged juvenile delinquent or denying the request for certification
22 as either a youthful offender or an alleged juvenile delinquent

1 shall be a final order, appealable to the Court of Criminal Appeals
2 when entered.

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

6 H. If the accused person is prosecuted as an adult and is
7 subsequently convicted of the alleged offense or against whom the
8 imposition of judgment and sentencing has been deferred, the person
9 may be incarcerated with the adult population and shall be
10 prosecuted as an adult in all subsequent criminal proceedings.

11 SECTION 84. AMENDATORY 10 O.S. 2001, Section 7306-2.6,
12 as amended by Section 5, Chapter 286, O.S.L. 2006 (10 O.S. Supp.
13 2008, Section 7306-2.6), is amended to read as follows:

14 Section 7306-2.6 A. Any person fifteen (15), sixteen (16) or
15 seventeen (17) years of age who is charged with:

- 16 1. Murder in the second degree;
- 17 2. Kidnapping;
- 18 3. Manslaughter in the first degree;
- 19 4. Robbery with a dangerous weapon or attempt thereof;
- 20 5. Robbery with a firearm or attempt thereof;
- 21 6. Rape in the first degree or attempt thereof;
- 22 7. Rape by instrumentation or attempt thereof;
- 23 8. Forcible sodomy;

- 1 9. Lewd molestation;
- 2 10. Arson in the first degree or attempt thereof; or
- 3 11. Any offense in violation of Section 652 of Title 21 of the
4 Oklahoma Statutes,
5 shall be held accountable for ~~his~~ such acts as a youthful offender.
- 6 B. Any person sixteen (16) or seventeen (17) years of age who
7 is charged with:
- 8 1. Burglary in the first degree or attempted burglary in the
9 first degree;
- 10 2. Battery or assault and battery on a state employee or
11 contractor while in the custody or supervision of the Office of
12 Juvenile Affairs;
- 13 3. Aggravated assault and battery of a police officer;
- 14 4. Intimidating a witness;
- 15 5. Trafficking in or manufacturing illegal drugs;
- 16 6. Assault or assault and battery with a deadly weapon;
- 17 7. Maiming;
- 18 8. Residential burglary in the second degree after two or more
19 adjudications that are separated in time for delinquency for
20 committing burglary in the first degree or residential burglary in
21 the second degree;
- 22 9. Rape in the second degree; or
- 23 10. Use of a firearm while in commission of a felony,

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

2 C. The district attorney may file a petition alleging the
3 person to be a delinquent or may file an information against the
4 accused person charging the person as a youthful offender. The
5 district attorney shall notify the ~~Department~~ Office of Juvenile
6 ~~Justice~~ Affairs upon the filing of youthful offender charges.

7 D. 1. Upon the filing of the information against such alleged
8 youthful offender, a warrant shall be issued which shall set forth
9 the rights of the accused person, and the rights of the parents,
10 guardian or next friend of the accused person to be present at the
11 preliminary hearing, and to have an attorney present.

12 2. The warrant shall be personally served together with a
13 certified copy of the information on the alleged youthful offender
14 and on a custodial parent, guardian or next friend of the accused
15 person.

16 3. When personal service of a custodial parent, guardian or
17 next friend of the alleged youthful offender cannot be effected,
18 service may be made by certified mail to ~~such person's~~ the last-
19 known address of the person, requesting a return receipt from the
20 addressee only. If delivery is refused, notice may be given by
21 mailing the warrant and a copy of the information on the accused
22 person by regular first-class mail to the address where the person
23 to be notified refused delivery of the notice sent by certified

1 mail. Where the address of a custodial parent, guardian or next
2 friend is not known, or if the mailed warrant and copy of the
3 information on the accused person is returned for any reason other
4 than refusal of the addressee to accept delivery, after a distinct
5 and meaningful search of all reasonably available sources to
6 ascertain the whereabouts of a custodial parent, guardian or next
7 friend has been conducted, the court may order that notice of the
8 hearing be given by publication one time in a newspaper of general
9 circulation in the county. In addition, the court may order other
10 means of service of notice that the court deems advisable or in the
11 interests of justice.

12 4. Before service by publication is ordered, the court shall
13 conduct an inquiry to determine whether a thorough search has been
14 made of all reasonably available sources to ascertain the
15 whereabouts of any party for whom notice by publication is sought.

16 E. The court shall commence a preliminary hearing within ninety
17 (90) days of the filing of the information pursuant to Section 258
18 of Title 22 of the Oklahoma Statutes, to determine whether the crime
19 was committed and whether there is probable cause to believe the
20 accused person committed the crime. If the preliminary hearing is
21 not commenced within ninety (90) days, the state shall be prohibited
22 from seeking an adult sentence unless the ninety-day requirement is
23 waived by the defendant. If the whereabouts of the accused are

1 unknown at the time of the filing of the information or if the
2 accused is a fugitive, the State of Oklahoma shall make reasonable
3 efforts to locate the accused in order to commence the proceedings.
4 An accused who flees the jurisdiction of the court or purposely
5 avoids apprehension for the charges, waives the right to have the
6 preliminary hearing commenced within ninety (90) days of the filing
7 of the information. An accused who fails to cooperate with
8 providing information in locating the accused parent, guardian, or
9 next friend for purpose of notice waives the right to have the
10 preliminary hearing commence within ninety (90) days of the filing
11 of the information.

12 F. 1. The accused person may file a motion for certification
13 to the juvenile justice system before the start of the criminal
14 preliminary hearing:

- 15 a. upon the filing of such motion, the complete juvenile
16 record of the accused shall be made available to the
17 district attorney and the accused person,
18 b. at the conclusion of the state's case at the criminal
19 preliminary hearing, the accused person may offer
20 evidence to support the motion for certification as a
21 child.

22 2. If no motion to certify the accused person to the juvenile
23 justice system has been filed, at the conclusion of the criminal

1 preliminary hearing the court may on its own motion hold a hearing
2 on the matter of the certification of the accused youthful offender
3 to the juvenile system.

4 3. The court shall rule on the certification motion before
5 ruling on whether to bind the accused over for trial. When ruling
6 on the certification motion, the court shall give consideration to
7 the following guidelines with the greatest weight given to
8 subparagraphs a, b and c:

- 9 a. whether the alleged offense was committed in an
10 aggressive, violent, premeditated or willful manner,
- 11 b. whether the offense was against persons, and if
12 personal injury resulted, the degree of personal
13 injury,
- 14 c. the record and past history of the accused person,
15 including previous contacts with law enforcement
16 agencies and juvenile or criminal courts, prior
17 periods of probation and commitments to juvenile
18 institutions,
- 19 d. the sophistication and maturity of the accused person
20 and the accused person's capability of distinguishing
21 right from wrong as determined by consideration of the
22 accused person's psychological evaluation, home,

1 environmental situation, emotional attitude and
2 pattern of living,
3 e. the prospects for adequate protection of the public if
4 the accused person is processed through the youthful
5 offender system or the juvenile system,
6 f. the reasonable likelihood of rehabilitation of the
7 accused person if the accused is found to have
8 committed the alleged offense, by the use of
9 procedures and facilities currently available to the
10 juvenile court, and
11 g. whether the offense occurred while the accused person
12 was escaping or in an escape status from an
13 institution for youthful offenders or juvenile
14 delinquents.

15 4. In its decision on the motion for certification as an
16 alleged juvenile delinquent, the court shall detail findings of fact
17 and conclusions of law to each of the above considerations and shall
18 state that the court has considered each of the guidelines in
19 reaching its decision.

20 5. An order certifying a person or denying such certification
21 to the juvenile justice system shall be a final order, appealable
22 when entered.

1 G. Upon conviction, sentence may be imposed as a sentence for a
2 youthful offender as provided by Section ~~7306-2.9~~ 2-5-209 of this
3 title. If the youthful offender sentence is imposed as an adult
4 sentence as provided by Section ~~7306-2.8~~ 2-5-208 of this title, the
5 convicted person may be incarcerated with the adult population.

6 SECTION 85. AMENDATORY Section 2, Chapter 239, O.S.L.
7 2006 (10 O.S. Supp. 2008, Section 7306-2.7a), is amended to read as
8 follows:

9 Section 7306-2.7a It is the intent of the Legislature to fully
10 utilize the Youthful Offender Act as a means to protect the public
11 while rehabilitating and holding youth accountable for serious
12 crimes. The Legislature finds that eligible seventeen-year-olds
13 should have the opportunity to be processed as youthful offenders as
14 provided by law and held accountable through the various provisions
15 of the Youthful Offender Act for custody, institutional placement,
16 supervision, extended jurisdiction within the ~~Department~~ Office of
17 Juvenile ~~Justice~~ Affairs, and the ability to transfer youthful
18 offenders to the Department of Corrections when incarceration or
19 additional supervision is required beyond the maximum age allowed in
20 the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs. No older youth
21 should be deemed ineligible or denied consideration as a youthful
22 offender who is otherwise lawfully eligible based upon the ~~youth's~~
23 age of the youth being seventeen (17) years. To deny access to an

1 otherwise eligible older youth without cause is to circumvent the
2 original intent of the Legislature in creating the Youthful Offender
3 Act.

4 SECTION 86. AMENDATORY 10 O.S. 2001, Section 7306-2.8,
5 as amended by Section 6, Chapter 286, O.S.L. 2006 (10 O.S. Supp.
6 2008, Section 7306-2.8), is amended to read as follows:

7 Section 7306-2.8 A. Whenever the district attorney believes
8 that there is good cause to believe that a person charged as a
9 youthful offender would not reasonably complete a plan of
10 rehabilitation or the public would not be adequately protected if
11 the person were to be sentenced as a youthful offender, and should
12 receive an adult sentence, the district attorney shall file a motion
13 for consideration of the imposition of the sentence as for an adult
14 if the person is convicted:

15 1. Not more than thirty (30) days following formal arraignment
16 and such motion will be ruled upon by the trial court; or the
17 district attorney may file the motion to impose adult sentence
18 fourteen (14) days prior to the start of the preliminary hearing and
19 the preliminary hearing magistrate will rule on that motion. The
20 district attorney must elect when to file the motion for adult
21 sentence and if the motion is filed and argued to the magistrate, it
22 cannot again be filed and argued to the trial court after
23 arraignment; or

1 2. If, prior to that time, the accused person indicates to the
2 court that the accused person wishes to plead guilty or nolo
3 contendere, the court shall grant the state ten (10) days from that
4 date to file the motion required by this subsection, if requested by
5 the state.

6 B. Upon the filing of such motion and prior to the trial or
7 before the entry of the plea of guilty or nolo contendere the court
8 shall hold a hearing to determine the matter.

9 C. 1. The court shall order an investigation to be conducted
10 unless waived by the accused person with approval of the court. Any
11 such investigation required shall be conducted by the ~~Department~~
12 Office of Juvenile Justice Affairs.

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

- 15 a. whether the offense was committed in an aggressive,
16 violent, premeditated or willful manner,
17 b. whether the offense was against persons and, if
18 personal injury resulted, the degree of injury,
19 c. the record and past history of the accused person,
20 including previous contacts with law enforcement
21 agencies and juvenile or criminal courts, prior
22 periods of probation and commitments to juvenile
23 institutions,

- 1 d. the sophistication and maturity of the accused person
2 and the ~~accused person's~~ capability of distinguishing
3 right from wrong as determined by consideration of the
4 ~~accused person's~~ psychological evaluation, home,
5 environmental situation, emotional attitude and
6 pattern of living of the accused person,
- 7 e. the prospects for adequate protection of the public if
8 the accused person is processed through the youthful
9 offender system or the juvenile system,
- 10 f. the reasonable likelihood of rehabilitation of the
11 accused person if the accused person is found to have
12 committed the alleged offense, by the use of
13 procedures and facilities currently available to the
14 juvenile court, and
- 15 g. whether the offense occurred while the accused person
16 was escaping or on escape status from an institution
17 for youthful offenders or delinquent children.

18 D. After the hearing and consideration of the report of the
19 investigation, the court shall certify the person as eligible for
20 the imposition of an adult sentence only if it finds by clear and
21 convincing evidence that there is good cause to believe that the
22 accused person would not reasonably complete a plan of

1 rehabilitation or that the public would not be adequately protected
2 if the person were to be sentenced as a youthful offender.

3 In its decision on the motion of the state for imposition of an
4 adult sentence, the court shall detail findings of fact and
5 conclusions of law to each of the considerations in subsection C of
6 this section and shall state that the court has considered each of
7 its guidelines in reaching its decision.

8 E. An order certifying or denying certification for imposition
9 of an adult sentence shall be a final order, appealable when
10 entered.

11 F. If the person has been certified as eligible to be sentenced
12 as an adult, the court shall, upon a verdict of guilty or the entry
13 of a plea of guilty or nolo contendere, impose sentence as provided
14 by law for an adult for punishment of the offense committed, subject
15 to the power and authority of the court to suspend or delay
16 sentence, defer judgment, or otherwise structure, limit, or modify
17 sentence as provided in Title 22 of the Oklahoma Statutes or the
18 Youthful Offender Act. When sentence is imposed pursuant to this
19 subsection, the person shall be treated as an adult for purposes of
20 supervision, incarceration and in all subsequent criminal
21 proceedings.

22 G. Upon a verdict of guilty or a plea of guilty or nolo
23 contendere, the court may order the person to pay a fee to the

1 ~~Department~~ Office of Juvenile ~~Justice~~ Affairs of not less than
2 Twenty-five Dollars (\$25.00), nor more than Five Hundred Dollars
3 (\$500.00), for the presentence investigation. In hardship cases,
4 the court may waive the fee or set the amount of the fee and
5 establish a payment schedule.

6 SECTION 87. AMENDATORY 10 O.S. 2001, Section 7306-2.9,
7 as last amended by Section 3, Chapter 277, O.S.L. 2008 (10 O.S.
8 Supp. 2008, Section 7306-2.9), is amended to read as follows:

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

12 1. A youthful offender presentence investigation shall be
13 conducted unless waived by the youthful offender with approval of
14 the court or unless an investigation is conducted pursuant to
15 subsection C of Section ~~7306-2.8~~ 2-5-208 of this title. Any
16 presentence investigation required by this section shall be
17 conducted by the Office of Juvenile Affairs; and

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

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

- 1 b. whether the offense was against persons and, if
2 personal injury resulted, the degree of personal
3 injury,
4 c. the record and past history of the person, including
5 previous contacts with law enforcement agencies and
6 juvenile or criminal courts, prior periods of
7 probation and commitments to juvenile institutions,
8 d. the sophistication and maturity of the person and the
9 ~~person's~~ capability of distinguishing right from wrong
10 as determined by consideration of the ~~person's~~
11 psychological evaluation, home, environmental
12 situation, emotional attitude and pattern of living of
13 the person,
14 e. the prospects for adequate protection of the public if
15 the person is processed through the youthful offender
16 system or the juvenile system,
17 f. the reasonable likelihood of rehabilitation of the
18 person if found to have committed the offense, by the
19 use of procedures and facilities currently available
20 to the juvenile, and
21 g. whether the offense occurred while the person was
22 escaping or on escape status from an institution for
23 youthful offenders or delinquent children.

1 B. 1. After the hearing and consideration of the report of the
2 presentence investigation, the court shall impose sentence as a
3 youthful offender, and such youthful offender shall be subject to
4 the same type of sentencing procedures and duration of sentence,
5 except for capital offenses, including suspension or deferment, as
6 an adult convicted of a felony offense, except that any sentence
7 imposed upon the youthful offender shall be served in the custody or
8 under the supervision of the Office of Juvenile Affairs until the
9 expiration of the sentence, ~~the youthful offender is paroled,~~ the
10 youthful offender is discharged, or the youthful offender reaches
11 eighteen (18) years of age, whichever first occurs. If an
12 individual sentenced as a youthful offender attains eighteen (18)
13 years of age prior to the expiration of the sentence, such
14 individual shall be returned to the sentencing court. At that time,
15 the sentencing court shall make one of the following determinations:
16 a. whether the youthful offender shall be returned to the
17 Office of Juvenile Affairs to complete a treatment
18 program, provided that the treatment program shall not
19 exceed the youthful offender's attainment of eighteen
20 (18) years of age and five (5) months. At the
21 conclusion of the treatment program, the individual
22 shall be returned to the sentencing court for a

1 determination under subparagraph b, c or d of this
2 paragraph,

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

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

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

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

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

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

- 1 a. the Office of Juvenile Affairs or designated
2 representative, if the youthful offender is under
3 eighteen (18) years of age, or
4 b. the Department of Corrections or designated
5 representative, upon the youthful offender attaining
6 eighteen (18) years of age.

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

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

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

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

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

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

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

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

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

22 B. The court shall schedule an annual review hearing in open
23 court for every youthful offender in the custody of the Office of

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

15 1. Order the youthful offender discharged from the custody of
16 the Office of Juvenile Affairs without a court judgment of guilt,
17 and order the verdict or plea of guilty or plea of nolo contendere
18 expunged from the record as provided in paragraphs 1 through 5 of
19 subsection C of Section 991c of Title 22 of the Oklahoma Statutes
20 and dismiss the charge with prejudice to any further action, if the
21 court finds that the youthful offender has reasonably completed the
22 rehabilitation plan and objectives and that such dismissal will not
23 jeopardize public safety. If a youthful offender has been

1 discharged without a court judgment of guilt and the charge has been
2 dismissed with prejudice as provided in this paragraph, upon the
3 motion of the youthful offender and the passage of three (3) years
4 after the date of such discharge and dismissal, the court may, in
5 addition, order any law enforcement agency over which the court has
6 jurisdiction to produce all files and records pertaining to the
7 arrest and conviction of the youthful offender, and shall order the
8 clerk of the court to destroy the entire file and record of the
9 case, including docket sheets, index entries, court records,
10 summonses, warrants or records in the office of the clerk or which
11 have been produced by a law enforcement agency in which the name of
12 the youthful offender is mentioned. The court may order probation
13 officers and counselors of the Office of Juvenile Affairs to destroy
14 all records, reports, and social and clinical studies relating to
15 the youthful offender that are in the possession of the Office of
16 Juvenile Affairs, except when the documents are necessary to
17 maintain state or federal funding;

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

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

1 4. Place the youthful offender if less than eighteen (18) years
2 of age in a sanction program operated or contracted for by the
3 Office of Juvenile Affairs community placement, if the youthful
4 offender fails to comply with a written plan of rehabilitation or
5 fails substantially to achieve reasonable treatment objectives while
6 in community or other nonsecure programs; or

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

- 10 a. after certification as a youthful offender, seriously
11 injured or endangered the life or health of another
12 person by such person's violent behavior,
13 b. escaped from the facility from which the youthful
14 offender is being held,
15 c. committed a felony crime while in the custody or under
16 the supervision of the Office of Juvenile Affairs as
17 shown by a judgment entered following a verdict of
18 guilty, a plea of guilty or nolo contendere, or as
19 shown by clear and convincing evidence,
20 d. committed battery or assault and battery on a state
21 employee or contractor of a juvenile facility while in
22 the custody of such facility,

- 1 e. caused disruption in the facility, smuggled contraband
2 into the facility, caused contraband to be smuggled
3 into the facility, or engaged in other types of
4 behavior which have endangered the life or health of
5 other residents or staff of the facility, or
6 f. ~~has~~ established a pattern of disruptive behavior not
7 conducive to the established policies and procedures
8 of the program.

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

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

1 adult criminal system, and the date of the imposition of the adult
2 sentence.

3 D. The court shall grant time-served credits against the adult
4 sentence imposed for any youthful offender transferred to the
5 Department of Corrections. For the purpose of calculating time
6 served to be applied toward any sentence imposed upon a youthful
7 offender, in the event a youthful offender has been placed in the
8 custody or under the supervision of the Office of Juvenile Affairs,
9 the offender shall receive day-for-day credit for the time spent in
10 the custody or under the supervision of the Office of Juvenile
11 Affairs. Upon commitment to the Department of Corrections, a
12 youthful offender shall also receive other credits as provided by
13 law for an adult inmate.

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

1 SECTION 89. AMENDATORY Section 1, Chapter 144, O.S.L.
2 2006, as amended by Section 5, Chapter 277, O.S.L. 2008 (10 O.S.
3 Supp. 2008, Section 7306-2.10a), is amended to read as follows:

4 Section 7306-2.10a When committing a person who is, or has
5 been, certified as a youthful offender and is certified eligible for
6 the imposition as an adult sentence pursuant to Section ~~7306-2.8~~ 2-
7 5-208 of this title, or certified as a youthful offender and is
8 being transferred to the Department of Corrections for custody or
9 supervision pursuant to Section ~~7306-2.10~~ 2-5-210 of this title, or
10 sentenced as an adult after previously being certified as a youthful
11 offender, the judgment and sentence shall clearly identify such
12 person as a youthful offender, or previous youthful offender, and
13 detail the history of the applications of the Youthful Offender Act
14 to such person that resulted in the current commitment to the
15 Department of Corrections.

16 SECTION 90. AMENDATORY 10 O.S. 2001, Section 7306-2.11,
17 as last amended by Section 6, Chapter 277, O.S.L. 2008 (10 O.S.
18 Supp. 2008, Section 7306-2.11), is amended to read as follows:

19 Section 7306-2.11 A. Whenever a youthful offender is committed
20 to the custody of the Office of Juvenile Affairs, the Office of
21 Juvenile Affairs may:

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

4 2. Place the youthful offender in a group home or community
5 residential facility for delinquents or youthful offenders;

6 3. Place the youthful offender under community supervision
7 prior to or after a period of placement in one or more of the
8 facilities referred to in paragraphs 1 and 2 of this subsection.
9 The Office of Juvenile Affairs may place a youthful offender in his
10 or her own home, or an independent living or other similar living
11 arrangement within the community of the residence of the youthful
12 offender only upon the approval of the court; provided, the court
13 shall not prohibit the reintegration of the youthful offender into
14 the community except upon finding that the youthful offender has not
15 reasonably completed the rehabilitation plan objectives established
16 as preconditions for reintegration into the community or that the
17 public would not be adequately protected if the youthful offender is
18 reintegrated into the community; or

19 4. Place the youthful offender in a sanction program if the
20 youthful offender fails to comply with a written plan of
21 rehabilitation or fails substantially to achieve reasonable
22 treatment objectives while in community or other nonsecure programs.

1 B. Placement of the youthful offender pursuant to this section
2 or any other provision of law shall be the responsibility of the
3 Office of Juvenile Affairs and shall occur as soon as reasonably
4 possible but not more than forty-five (45) days following the filing
5 and adoption of the written rehabilitation plan as provided in
6 Section ~~7306-2.10~~ 2-5-210 of this title. This placement time period
7 may be extended upon the declaration of an emergency by the ~~Office~~
8 Board of Juvenile Affairs ~~Board of Directors~~. For the purposes of
9 this section, "emergency" means any situation that places the
10 health, safety and well-being of the residents or staff in imminent
11 peril. The court shall not have authority to require specific
12 placement of a youthful offender in a time frame which would require
13 the removal of any other juvenile or youthful offender from such
14 placement.

15 ~~B.~~ C. The Office of Juvenile Affairs shall be responsible for
16 the care and control of a youthful offender placed in the custody of
17 the Office of Juvenile Affairs, and shall have the duty and the
18 authority to provide food, clothing, shelter, ordinary medical care,
19 education, discipline and in an emergency to authorize surgery or
20 other extraordinary care. The medical care, surgery and
21 extraordinary care shall be charged to the appropriate agency where
22 the youthful offender qualifies for the care under law, rule,
23 regulation or administrative order or decision. Nothing in this

1 section shall abrogate the right of a youthful offender to any
2 benefits provided through public funds nor the parent's statutory
3 duty or responsibility to provide said necessities; further, no
4 person, agency or institution shall be liable in a civil suit for
5 damages for authorizing or not authorizing surgery or extraordinary
6 care in an emergency, as determined by competent medical authority.
7 A youthful offender placed in the custody of the Office of Juvenile
8 Affairs who has attained eighteen (18) years of age or older may
9 authorize and consent to the medical care sought on behalf of the
10 youthful offender by the Office of Juvenile Affairs and to be
11 provided to the youthful offender by a qualified health care
12 professional. No state employee shall be liable for the costs of
13 any medical care or ~~mental~~ behavioral health services provided to
14 any child in the custody of the Office of Juvenile Affairs.

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

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

20 2. As appropriate to the age and circumstances of the youthful
21 offender, be provided education, employment, and employment skills
22 and vocational and technical or higher education services,
23 apprenticeship programs and similar opportunities.

1 SECTION 91. AMENDATORY 10 O.S. 2001, Section 7306-2.12,
2 as amended by Section 10, Chapter 286, O.S.L. 2006 (10 O.S. Supp.
3 2008, Section 7306-2.12), is amended to read as follows:

4 Section 7306-2.12 A. Upon the motion of a person who has been
5 convicted and sentenced as a youthful offender and who has been
6 subsequently transferred to the adult system pursuant to Section
7 ~~7306-2.10~~ 2-5-210 of this title, with the recommendation of the
8 sentencing court, the Governor may grant a full and complete pardon
9 and restore citizenship to any person who has been convicted and
10 sentenced as a youthful offender and who has completed the sentence
11 or been discharged from parole.

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

- 15 1. The court has previously found that the person has
16 reasonably complied with the rehabilitation plan and objectives;
- 17 2. The person was discharged from supervision by the Office of
18 Juvenile Affairs, or was granted early discharge from such
19 supervision by the court; or
- 20 3. The person has completed the sentence imposed as a result of
21 his first conviction as a youthful offender and has no subsequent
22 convictions.

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

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

8 B. As used in the Oklahoma Juvenile Code:

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

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

20 3. "Agency record" means records prepared, obtained or
21 maintained by a public or private agency with regard to a child who
22 is or has been under its care, custody or supervision or with regard

1 to a family member or other person living in the home of such child
2 and shall include but not be limited to:

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

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

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

17 5. "Law enforcement records" means any contact, incident or
18 similar reports, arrest records, disposition records, detention
19 records, fingerprints, or photographs related to a child and shall
20 include but not be limited to reports of investigations or inquiries
21 conducted by a law enforcement agency to determine whether a child
22 is or may be subject to the provisions of this chapter as a
23 delinquent child or a child in need of supervision. Law enforcement

1 records pertaining to juveniles shall be maintained separately from
2 records pertaining to adults;

3 6. "Nondirectory education records" means any records
4 maintained by a public or private school, including a technology
5 center school, regarding a child who is or has been a student at the
6 school which are categorized as private or confidential records
7 pursuant to the federal Family Educational Rights and Privacy Act of
8 1974 and any rules promulgated pursuant to the act;

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

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

18 9. "Participating agency" means any public or private agency
19 that has entered into a contract or an interagency agreement under
20 the Interlocal Cooperation Act in accordance with the rules and
21 guidelines adopted pursuant to Section 620.6 of ~~this title~~ Title 10
22 of the Oklahoma Statutes or the ~~Serious and Habitual~~ Juvenile
23 Offender Act Tracking Program for the purpose of accessing and

1 sharing information necessary for the care, treatment, and
2 supervision of children and youth.

3 SECTION 94. AMENDATORY 10 O.S. 2001, Section 7307-1.2,
4 as last amended by Section 2, Chapter 324, O.S.L. 2008 (10 O.S.
5 Supp. 2008, Section 7307-1.2), is amended to read as follows:

6 Section 7307-1.2 A. Except as provided by this section or as
7 otherwise specifically provided by state or federal laws, the
8 following juvenile records are confidential and shall not be open to
9 the general public, inspected, or their contents disclosed:

- 10 1. Juvenile court records;
- 11 2. Agency records;
- 12 3. District attorney's records;
- 13 4. Law enforcement records;
- 14 5. Nondirectory education records; and
- 15 6. Social records.

16 B. The confidentiality limitation of subsection A of this
17 section shall not apply to statistical information or information of
18 a general nature obtained pursuant to the provisions of the Oklahoma
19 Juvenile Code.

20 C. The confidentiality requirements of subsection A of this
21 section for juvenile court records and law enforcement records shall
22 not apply:

- 1 1. Upon the charging or certification of a juvenile as an adult
2 ~~pursuant to Section 7303 4.3 of this title~~ or youthful offender;
- 3 2. Upon the charging of an individual pursuant to Section ~~7306-~~
4 ~~1-1~~ 2-5-101 of this title;
- 5 3. To a violation of any traffic regulation or motor vehicle
6 regulation of Title 47 of the Oklahoma Statutes, or to a violation
7 of any city ordinance or county resolution which relates to the
8 regulation of traffic on the roads, highways or streets, or to the
9 operation of self-propelled or nonself-propelled vehicles of any
10 kind in this state;
- 11 4. To a juvenile who is fourteen (14) years of age or older and
12 who has been adjudicated delinquent and who subsequently comes
13 before the juvenile court on a new delinquency matter after July 1,
14 1995;
- 15 5. To a juvenile adjudicated a delinquent for committing a
16 delinquent act which, if committed by an adult, would be a felony
17 offense that is a crime against the person or a felony offense
18 involving a dangerous weapon;
- 19 6. To arrest records of a juvenile arrested for committing an
20 act, which if committed by an adult, would be a felony offense;
- 21 7. To a violation of the Prevention of Youth Access to Tobacco
22 Act; or

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

16 D. Following the first adjudication as a delinquent, the court
17 having jurisdiction shall note on the juvenile court record of the
18 person that any subsequent juvenile court records shall not be
19 confidential; provided, the child is at least fourteen (14) years of
20 age or older. Any juvenile court record which becomes an open
21 juvenile record as provided in this subsection may be expunged as
22 provided in Section 7307-1.8 of this title.

1 The provisions of this subsection shall only apply to the
2 juvenile court records and law enforcement records of juvenile
3 offenders certified, charged or adjudicated on and after July 1,
4 1995.

5 E. When a delinquent child has escaped or run away from a
6 training school or other institutional placement for delinquents,
7 the name and description of the child may be released to the public
8 by the agency having custody of the child as necessary and
9 appropriate for the protection of the public and the apprehension of
10 the delinquent child whether or not the juvenile record is
11 confidential or open.

12 F. Except as otherwise required by state or federal law, the
13 confidential records listed in subsection A of this section may only
14 be inspected, released, disclosed, corrected or expunged pursuant to
15 an order of the court. Except as otherwise provided in Section
16 601.6 of ~~this title~~ Title 10 of the Oklahoma Statutes or any
17 provision of this chapter, no subpoena or subpoena duces tecum
18 purporting to compel disclosure of confidential information or any
19 confidential juvenile record shall be valid.

20 G. An order of the court authorizing the inspection, release,
21 disclosure, correction or expungement of confidential records shall
22 be entered by the court only after a review of the records by the
23 court and a determination by the court, with due regard for the

1 confidentiality of the records and the privacy of persons identified
2 in the records, that a compelling reason exists and such inspection,
3 release or disclosure is necessary for the protection of a
4 legitimate public or private interest.

5 Except for district attorney records, any court order
6 authorizing the disclosure, release or inspection of a confidential
7 juvenile record may be conditioned on such terms and restrictions as
8 the court deems necessary and appropriate.

9 H. Upon receiving a written request for inspection, release,
10 disclosure, or correction of a juvenile record, the court shall
11 determine whether the record of a juvenile falls under one of the
12 exceptions listed in subsection C of this section. If the record
13 falls under one of the exceptions in subsection C of this section,
14 the court shall issue an order authorizing inspection, release,
15 disclosure or correction of the juvenile record. If the release of
16 a juvenile record is authorized by the court, the Office of Juvenile
17 Affairs shall provide information to the requestor regarding the
18 location of the juvenile record to be released.

19 I. Any agency or person may seek an order from the juvenile
20 court prohibiting the release of confidential information subject to
21 disclosure without an order of the court pursuant to Section 620.6
22 of ~~this title~~ Title 10 of the Oklahoma Statutes or any provision of
23 this chapter. The court may, for good cause shown, prohibit the

1 release of such information or authorize release of the information
2 upon such conditions as the court deems necessary and appropriate.

3 J. In accordance with the provisions of the ~~Serious and~~
4 ~~Habitual Juvenile Offender Act~~ Tracking Program and Section 620.6 of
5 ~~this title~~ Title 10 of the Oklahoma Statutes:

6 1. Information included in the records listed in subsection A
7 of this section may be entered in and maintained in the Juvenile
8 Justice Information System and other automated information systems
9 related to services to children and youth whether or not the record
10 is confidential or open; and

11 2. The information systems may be accessed by participating
12 agencies as defined by this chapter or as otherwise provided by law.

13 K. The court may authorize a designated person to review
14 juvenile court confidential reports and records and collect
15 statistical information and other abstract information for research
16 purposes. Such authorization shall be in writing and shall state
17 specifically the type of information which may be reviewed and
18 reported.

19 Each person granted permission to inspect confidential reports
20 and records for research purposes shall present a notarized
21 statement to the court stating that the names of juveniles, parents
22 and other persons as may be required by the court to be confidential
23 will remain confidential.

1 L. Nothing contained in the provisions of Section 620.6 of ~~this~~
2 ~~title~~ Title 10 of the Oklahoma Statutes or any provision of this
3 chapter shall be construed as:

4 1. Authorizing the inspection of records or the disclosure of
5 information contained in records relating to the provision of
6 benefits or services funded, in whole or in part, with federal
7 funds, except in accord with federal statutes and regulations
8 governing the receipt or use of such funds;

9 2. Authorizing the disclosure of information required to be
10 kept confidential by Section 7505-1.1, 7506-1.1 or 7510-1.5 of this
11 title, the Oklahoma Adoption Code or disclosure of any other
12 confidential record pursuant to the provisions of this chapter;

13 3. Abrogating any privilege, including the attorney-client
14 privilege, or affecting any limitation on such privilege found in
15 any other statutes;

16 4. Limiting or otherwise affecting access of parties to a
17 juvenile proceeding to any records filed with or submitted to the
18 court;

19 5. Limiting or otherwise affecting access of agencies to
20 information subject to disclosure, review or inspection by contract
21 or as a condition for the receipt of public funds or participation
22 in any program administered by the agency;

1 6. Prohibiting the ~~Department~~ Office of Juvenile Justice
2 Affairs from summarizing the outcome of an investigation to the
3 person who reported a known or suspected instance of child abuse or
4 neglect; or

5 7. Prohibiting the person or agency conducting a preliminary
6 inquiry relating to an alleged delinquent act from providing
7 information, as to the disposition of the matter by the district
8 attorney, to the person or agency which referred the matter,
9 including but not limited to whether a petition was filed or an
10 alternative action taken, and the basis for such action and the
11 terms of any agreement entered into by the child for payment of
12 restitution, and including but not limited to provisions for
13 community services.

14 M. The confidential records listed in subsection A of this
15 section may be inspected and their contents disclosed without a
16 court order to a school district in which the child who is the
17 subject of the record is currently enrolled or has been presented
18 for enrollment. The inspection of records and disclosure authorized
19 by this subsection may be limited to summaries or to information
20 directly necessary for the purpose of such inspection or disclosure.
21 Upon request by the school district, the agency in possession of the
22 records shall provide in writing, digitally, or by delivery to a
23 secure facsimile line, the requested information to the school

1 district within five (5) business days upon receipt of the request.
2 Any records disclosed as provided by this subsection shall remain
3 confidential. The use of any information shall be limited to the
4 purposes for which disclosure is authorized.

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

8 SECTION 95. AMENDATORY 10 O.S. 2001, Section 7307-1.3,
9 is amended to read as follows:

10 Section 7307-1.3 A. In accordance with the ~~rules adopted~~
11 ~~pursuant to the Serious and Habitual Juvenile Offender Act~~ Tracking
12 Program and Section 620.6 of ~~this title~~ Title 10 of the Oklahoma
13 Statutes, the confidential records listed in subsection A of Section
14 ~~7307-1.2~~ 2-6-102 of this title may be inspected and their contents
15 disclosed without a court order to:

16 1. Participating agencies;

17 2. The following, provided that the inspection of records and
18 disclosure authorized by this paragraph may be limited to summaries
19 or to information directly necessary for the purpose of such
20 inspection or disclosure:

21 a. pursuant to the provisions of this title, a person,
22 agency, hospital or clinic authorized or directed by
23 the court or by the ~~Department~~ Office of Juvenile

1 ~~Justice~~ Affairs to care for, treat, examine, evaluate
2 or supervise a child or to treat, examine or evaluate
3 the parent, legal guardian or other adult person
4 living in the home of the child,
5 b. a legally recognized school that is not a
6 participating agency in which the child who is the
7 subject of the record is currently enrolled, and
8 c. individuals or agencies engaged in legitimate research
9 for educational, scientific or public purposes or for
10 the purpose of an audit authorized by law. No
11 information identifying the subjects of the records
12 shall be made available or disclosed unless it is
13 essential to the research or audit purpose.

14 B. Records and their contents disclosed without an order of the
15 court as provided by this section shall remain confidential. The
16 use of any information shall be limited to the purposes for which
17 disclosure is authorized. It shall be unlawful for any person to
18 furnish any confidential record or disclose any confidential
19 information contained in any juvenile record for commercial,
20 political or any other unauthorized purpose. Any person violating
21 the provisions of this subsection shall, upon conviction, be guilty
22 of a misdemeanor.

1 SECTION 96. AMENDATORY 10 O.S. 2001, Section 7307-1.4,
2 as last amended by Section 2, Chapter 156, O.S.L. 2007 (10 O.S.
3 Supp. 2008, Section 7307-1.4), is amended to read as follows:

4 Section 7307-1.4 A. Juvenile court records which are
5 confidential may be inspected, and their contents shall be
6 disclosed, without a court order to the following persons upon
7 showing of proper credentials and pursuant to lawful duties:

8 1. The judge having the child currently before the court in any
9 proceeding pursuant to the Oklahoma Juvenile Code, or any judge of
10 the district court or tribal court to which such proceedings may be
11 transferred;

12 2. Employees and officers of the court in the performance of
13 their duties, including but not limited to guardians ad litem
14 appointed by the court;

15 3. Members of review boards established pursuant to Sections
16 1116.2 and 1116.6 of ~~this title~~ Title 10 of the Oklahoma Statutes.
17 In addition to juvenile court records, any member of such review
18 boards may inspect, without a court order, information including but
19 not limited to:

- 20 a. psychological and medical records,
21 b. placement history and information, including the names
22 and addresses of foster parents,
23 c. family assessments,

- 1 d. treatment or service plans, and
- 2 e. school records;
- 3 4. A district attorney and the employees of an office of a
- 4 district attorney in the course of their official duties;
- 5 5. The attorney representing a child who is the subject of a
- 6 juvenile proceeding pursuant to the provisions of this chapter. The
- 7 attorney representing a child or considering representing a child in
- 8 a juvenile proceeding may also access other records listed in
- 9 subsection A of Section ~~7307-1.2~~ 2-6-102 of this title for use in
- 10 the legal representation of the child;
- 11 6. Employees of juvenile bureaus in the course of their
- 12 official duties;
- 13 7. Employees of the ~~Department~~ Office of Juvenile ~~Justice~~
- 14 Affairs in the course of their official duties;
- 15 8. Employees of a law enforcement agency in the course of their
- 16 official duties pertaining to the investigation of a crime committed
- 17 or alleged to have been committed by a person under eighteen (18)
- 18 years of age. Records or information disclosed pursuant to this
- 19 paragraph may consist of summaries or may be limited to the
- 20 information or records necessary for the purpose of the
- 21 investigation;
- 22 9. The Oklahoma Commission on Children and Youth;

1 10. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs or other
2 public or private agency or any individual having court-ordered
3 custody or custody pursuant to ~~Department~~ Office of Juvenile ~~Justice~~
4 Affairs placement of the child who is the subject of the record;

5 11. The Department of Human Services;

6 12. The child who is the subject of the record and the parents,
7 legal guardian, legal custodian or foster parent of said child;

8 13. Any federally recognized Indian tribe in which the child
9 who is the subject of the record is a member, or is eligible to
10 become a member of the tribe due to the child being the biological
11 child of a member of an Indian tribe pursuant to the Federal Indian
12 Child Welfare Act, P.L. 95-608, and the Oklahoma Indian Child
13 Welfare Act; provided such Indian tribe member, in the course of
14 official duties:

15 a. is investigating a report of known or suspected child
16 abuse or neglect or crimes against children or for the
17 purpose of determining whether to place a child in
18 protective custody, or

19 b. is providing services to or for the benefit of a child
20 including but not limited to protective, emergency,
21 social and medical services;

22 14. Any federally recognized Indian tribe in which the tribe,
23 the tribal court or the tribal child welfare program has asserted

1 jurisdiction or intervened in any case in which the child is the
2 subject of the proceedings or is a party to the proceedings pursuant
3 to the authority provided in the Oklahoma Indian Child Welfare Act.

4 The records that are to be provided to Indian tribes pursuant to
5 the provisions of this subsection shall include all case records,
6 reports and documents as defined in this chapter;

7 15. The Governor or to any person the Governor designates, in
8 writing;

9 16. Any federal official of the United States Department of
10 Health and Human Services;

11 17. Any member of the Legislature, upon the written approval of
12 the Speaker of the House of Representatives or the President Pro
13 Tempore of the Senate;

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

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

18 20. Domestic violence and sexual assault advocates employed by
19 a certified domestic violence or sexual assault program pursuant to
20 Section 18p-6 of Title 74 of the Oklahoma Statutes, working within a
21 law enforcement agency or court in the course of their assigned
22 duties.

1 B. Records and their contents disclosed without an order of the
2 court as provided by the provisions of this section shall remain
3 confidential. The use of any information shall be limited to the
4 purposes for which disclosure is authorized. It shall be unlawful
5 for any person to furnish any confidential record or disclose any
6 confidential information contained in any juvenile record for
7 commercial, political or any other unauthorized purpose. Any person
8 violating the provisions of this section shall, upon conviction, be
9 guilty of a misdemeanor.

10 SECTION 97. AMENDATORY 10 O.S. 2001, Section 7307-1.5,
11 as amended by Section 2, Chapter 191, O.S.L. 2007 (10 O.S. Supp.
12 2008, Section 7307-1.5), is amended to read as follows:

13 Section 7307-1.5 A. The Office of Juvenile Affairs agency
14 records pertaining to a child which are confidential may be
15 inspected and their contents disclosed without a court order to the
16 following persons upon showing of proper credentials:

17 1. The judge having the child currently before the court in any
18 proceeding pursuant to this title, any judge of the district court
19 or tribal court to which any proceedings may be transferred;

20 2. Employees and officers of the court in the performance of
21 their duties, including but not limited to guardians ad litem
22 appointed by the court, and members of review boards established
23 pursuant to the Oklahoma Children's Code;

1 3. A district attorney and the employees of an office of a
2 district attorney in the course of their official duties pursuant to
3 this title or the prosecution of crimes against children, including
4 providing summary dispositional and placement information to the
5 victim of the delinquent acts of the child;

6 4. The attorney representing a child who is the subject of a
7 juvenile proceeding pursuant to the provisions of this title. The
8 attorney representing a child or an attorney considering
9 representing a child in a juvenile proceeding may access other
10 confidential records listed in subsection A of Section ~~7307-1.2~~ 2-6-
11 102 of this title for use in the legal representation of the child;

12 5. Employees of juvenile bureaus in the course of their
13 official duties;

14 6. Employees of a law enforcement agency of this or another
15 state and employees of a child protective service of another state
16 or any federally recognized Indian tribe member in the course of
17 their official duties pertaining to investigations of a report of
18 known or suspected child abuse or neglect or crimes against children
19 or for the purpose of determining whether to place a child in
20 protective custody;

21 7. Employees of a law enforcement agency in the course of their
22 official duties pertaining to the investigation of a crime committed
23 or alleged to have been committed by a person under eighteen (18)

1 years of age. Records or information disclosed pursuant to this
2 paragraph may consist of summaries or may be limited to the
3 information or records necessary for the purpose of the
4 investigation;

5 8. The Oklahoma Commission on Children and Youth;

6 9. The Department of Human Services;

7 10. Any public or private agency or person authorized by the
8 Office of Juvenile Affairs to diagnose, or provide care, treatment,
9 supervision or other services to a child who is the subject of a
10 report or record of delinquency, child abuse or neglect, or other
11 adjudicatory category, provided the ~~Department~~ Office may limit the
12 disclosure to summaries or to information directly necessary for the
13 purpose of the disclosure;

14 11. Any federally recognized Indian tribe or state or county
15 child protective services or child welfare agency providing for or
16 supervising the diagnosis, care, treatment, supervision or other
17 services provided such child;

18 12. The parents of the child who is the subject of any records;

19 13. Any person or agency for research purposes, if all of the
20 following conditions are met:

21 a. the person or agency conducting the research is
22 employed by the State of Oklahoma or is under contract

1 with this state and is authorized by the Office of
2 Juvenile Affairs to conduct the research, and
3 b. the person or agency conducting the research ensures
4 that all documents containing identifying information
5 are maintained in secure locations and access to any
6 documents by unauthorized persons is prohibited; that
7 no identifying information is included in documents
8 generated from the research conducted; and that all
9 identifying information is deleted from documents used
10 in the research when the research is completed;

11 14. The Governor or to any person the Governor designates, in
12 writing;

13 15. Any federal official of the United States Department of
14 Health and Human Services, the United States Social Security
15 Administration, the United States Department of Justice, the United
16 States Department of Homeland Security, or any employee of the
17 United States Probation Office;

18 16. Any member of the Legislature, upon the written approval of
19 the Speaker of the House of Representatives or the President Pro
20 Tempore of the Senate; and

21 17. Employees of the Department of Corrections in the course of
22 their official duties.

1 B. Records and their contents disclosed without an order of the
2 court as provided by the provisions of this section shall remain
3 confidential. The use of any information shall be limited to the
4 purposes for which disclosure is authorized. It shall be unlawful
5 for any person to furnish any confidential record or disclose any
6 confidential information contained in any juvenile record for
7 commercial, political or any other unauthorized purpose. Any person
8 violating the provisions of this section shall, upon conviction, be
9 guilty of a misdemeanor.

10 SECTION 98. AMENDATORY 10 O.S. 2001, Section 7307-1.7,
11 is amended to read as follows:

12 Section 7307-1.7 A. No adjudication by the court upon the
13 status of a child in a juvenile proceeding shall operate to impose
14 any of the civil disabilities ordinarily resulting from conviction
15 of a crime, nor shall a child be deemed a criminal by reason of a
16 juvenile adjudication.

17 B. The court may order the records of a person alleged to be
18 delinquent to be sealed as follows:

- 19 1. When the person has been alleged to be delinquent and:
- 20 a. one (1) year has elapsed from the later of:
- 21 (1) dismissal or closure of the case by the court, or
- 22 (2) notice to the court by the ~~Department~~ Office of
- 23 Juvenile ~~Justice~~ Affairs or a juvenile bureau of

1 final discharge of such person from the
2 supervision of the ~~Department~~ Office of Juvenile
3 ~~Justice~~ Affairs or juvenile bureau, and

4 b. the person has not been found guilty of or admitted to
5 the commission of a subsequent criminal offense in
6 either a juvenile or adult proceeding, and

7 c. no juvenile or adult proceeding for a criminal offense
8 is pending;

9 2. When a juvenile court intake has been completed and:

10 a. the case has been dismissed, or

11 b. no petition has been filed pending fulfillment of
12 conditions of a voluntary probation, or

13 c. a petition has been filed but no adjudication has
14 occurred pending the fulfillment of conditions of a
15 preadjudicatory probation;

16 3. When a juvenile participates in a court-approved alternative
17 diversion program for first-time offenders and:

18 a. the juvenile presents satisfactory evidence to the
19 court that the juvenile has successfully completed the
20 program, and

21 b. the court dismisses the case at the conclusion of the
22 deferral period; or

1 4. When a juvenile participates in a court-approved military
2 mentor program and:

3 a. the juvenile presents satisfactory evidence to the
4 court that the juvenile has successfully completed the
5 program, and

6 b. the court dismisses the case at the conclusion of the
7 deferral period.

8 The records may be sealed one (1) year after such dismissal or
9 completion of the conditions of a voluntary or preadjudicatory
10 probation, alternative diversion program for first-time offenders,
11 or military mentor program or upon the person attaining the age of
12 eighteen (18) years in the discretion of the court.

13 C. The Administrative Office of the Courts shall establish on
14 or before January 1, 1994, a system for sealing records as required
15 by subsection B of this section and records shall be sealed in
16 accordance with the procedures established pursuant to said system.

17 D. Upon the sealing of any record of a person alleged to be
18 delinquent pursuant to this title, the record and official actions
19 subject to the order shall be deemed never to have occurred, and the
20 person who is the subject of the record and all juvenile justice
21 agencies may properly reply upon any inquiry in the matter that no
22 such action ever occurred and no such record exists with respect to
23 such person.

1 E. 1. Upon the entry of an order to seal a juvenile court
2 record, the court clerk shall seal the juvenile court record
3 indicated in the court's order, except that a confidential index
4 shall be maintained for the purpose of locating records subject to
5 inspection or release pursuant to subsection G of this section.

6 2. When notified by the court clerk of a court order sealing a
7 juvenile court record, the law enforcement agency having records
8 pertaining to the person shall seal the records as ordered, except
9 basic identification information shall be maintained.

10 3. Except where such documents are necessary to maintain state
11 or federal funding, the juvenile court personnel records pertaining
12 to the person shall be sealed.

13 F. Members of the judiciary, district attorneys, the defendant,
14 the defendant's counsel and employees of juvenile bureaus, the
15 ~~Department~~ Office of Juvenile ~~Justice~~ Affairs assigned juvenile
16 court intake responsibilities, and the Department of Corrections may
17 access records that have been sealed pursuant to this section
18 without a court order for the purpose of determining whether to
19 dismiss an action, seek a voluntary probation, file a petition, or
20 for purposes of sentencing or placement in a case where the person
21 who is the subject of the sealed record is alleged to have committed
22 a subsequent juvenile delinquent act or any adult criminal offense.
23 Provided, any record sealed pursuant to this section may be used in

1 a subsequent juvenile delinquent or adult prosecution only after the
2 issuance of a court order unsealing the record.

3 G. The court may issue an order unsealing sealed juvenile court
4 records, for use for the following purposes:

5 1. In subsequent cases against the same child pursuant to this
6 title;

7 2. In an adult criminal proceeding pursuant to Section ~~7303-4.3~~
8 2-2-403 or ~~7306-1.1~~ 2-5-101 of this title;

9 3. Upon conviction of a criminal offense in an adult
10 proceeding, in connection with the sentencing of such person;

11 4. If the person is placed in the custody or under the
12 supervision of the Department of Corrections;

13 5. In accordance with the guidelines adopted pursuant to the
14 ~~Serious and Habitual Juvenile Offender Act~~ Tracking Program and
15 Section 620.6 of ~~this title~~ Title 10 of the Oklahoma Statutes, for
16 maintaining juvenile justice and criminal justice statistical
17 information;

18 6. For the purpose of a criminal investigation; or

19 7. When the court finds that there is a compelling reason and
20 it is in the interest of justice to order the record unsealed.

21 H. Any person or agency having a legitimate interest in a
22 delinquency case or proceeding may petition the court for an order
23 unsealing a juvenile court record. Upon the filing of a petition to

1 unseal any juvenile court record, the court shall set a date for a
2 hearing and shall provide thirty (30) days' notice to all interested
3 parties. The hearing may be closed at the court's discretion. If,
4 after a hearing, the court determines that there is any reason
5 enumerated in subsection G of this section and it is necessary for
6 the protection of a legitimate public or private interest to unseal
7 the records, the court shall order the record unsealed.

8 I. Any record ordered to be sealed pursuant to this section, if
9 not unsealed within ten (10) years of the order, shall be
10 obliterated or destroyed at the end of the ten-year period.

11 SECTION 99. AMENDATORY 10 O.S. 2001, Section 7307-1.8,
12 as amended by Section 13, Chapter 434, O.S.L. 2003 (10 O.S. Supp.
13 2008, Section 7307-1.8), is amended to read as follows:

14 Section 7307-1.8 A. A person who is the subject of ~~an open a~~
15 juvenile court record, that is not confidential as provided by law,
16 may petition the district court in which the juvenile court record
17 is located for an order to expunge all or any part of the record
18 pertaining to the person, except basic identification information;
19 provided:

20 1. The person has attained twenty-one (21) years of age or
21 older;

22 2. The person has not been arrested for any adult criminal
23 offense and no charge, indictment, or information has been filed or

1 is pending against the person at the time of the petition for an
2 expungement;

3 3. The person has not been subject to any deferred prosecution
4 or deferred sentence, and has not been convicted of any criminal
5 offense; and

6 4. All court costs, restitution, fines and other court-ordered
7 requirements have been completed for all juvenile proceedings.

8 B. Upon the filing of a petition for expungement of a juvenile
9 court record, the court shall set a date for a hearing, which
10 hearing may be closed at the court's discretion, and shall provide a
11 thirty (30) days' notice of the hearing to the district attorney,
12 the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, the Oklahoma
13 State Bureau of Investigation, and any other person or agency whom
14 the court has reason to believe may have relevant information
15 related to the expungement of any record.

16 C. Upon a finding that the harm to privacy of the person in
17 interest or dangers of unwarranted adverse consequences outweigh the
18 public interest in retaining the records, the court may order the
19 records, or any part thereof except basic identification
20 information, to be expunged. If the court finds that neither
21 expungement of the records nor maintaining of the records unsealed
22 by the agency would serve the ends of justice, the court may enter
23 an appropriate order limiting access to the records. Any order

1 entered pursuant to the provisions of this subsection shall specify
2 those agencies to which the court order shall apply.

3 D. Upon the entry of an order to expunge any juvenile court
4 record, or any part thereof, the subject official actions shall be
5 deemed never to have occurred, and the person in interest and all
6 juvenile and criminal justice agencies may properly reply, upon any
7 inquiry in the matter, that no such action ever occurred and that no
8 such record exists with respect to the person.

9 E. Inspection of the records included in the order may
10 thereafter be permitted by the court only upon petition by the
11 person in interest who is the subject of the records, the Attorney
12 General, or by the district attorney and only to those persons and
13 for such purposes named in the petition.

14 F. Employers, educational institutions, state and local
15 government agencies, officials, and employees shall not, in any
16 application or interview or otherwise, require an applicant to
17 disclose any information contained in any expunged juvenile records.
18 An applicant need not, in answer to any question concerning arrest,
19 juvenile and criminal records, provide information that has been
20 expunged, including any reference to or information concerning
21 expungement and may state that no such action has ever occurred.
22 Such an application may not be denied solely because of the
23 applicant's refusal to disclose information that has been expunged.

1 G. Nothing in this section shall be construed to authorize the
2 physical destruction of any juvenile records.

3 H. For the purposes of this section, expunged materials which
4 are recorded in the same document as unsealed material may be
5 recorded in a separate document, and sealed, then obliterated in the
6 original document.

7 I. For the purposes of this act, district court index reference
8 of sealed material shall be destroyed, removed or obliterated.

9 J. Any record ordered to be expunged pursuant to this section
10 shall be sealed and, if not unsealed within ten (10) years of the
11 expungement order, may be obliterated or destroyed at the end of the
12 ten-year period.

13 K. Subsequent to records being sealed as provided herein, the
14 district attorney, the ~~Department~~ Office of Juvenile Justice
15 Affairs, the Oklahoma State Bureau of Investigation, or other
16 interested person or agency may petition the court for an order
17 unsealing any records. Upon filing of a petition, the court shall
18 set a date for hearing, which hearing may be closed at the court's
19 discretion, and shall provide thirty (30) days' notice to all
20 interested parties. If, upon hearing, the court determines there
21 has been a change of conditions or that there is a compelling reason
22 to unseal the records, the court may order all or a portion of the
23 records unsealed.

1 L. Nothing herein shall prohibit the introduction of evidence
2 regarding actions sealed pursuant to the provisions of this section
3 at any hearing or trial for purposes of impeaching the credibility
4 of a witness or as evidence of character testimony pursuant to
5 Section 2608 of Title 12 of the Oklahoma Statutes.

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

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

16 Section 7307-1.9 The Office of Juvenile Affairs shall, in
17 cooperation with sheriffs in this state, develop procedures for
18 providing timely and relevant information to sheriffs concerning
19 juvenile court records and agency records of persons who have met
20 the criteria specified in paragraph 5 of subsection C of Section
21 ~~7307-1.2 of Title 10 of the Oklahoma Statutes~~ 2-6-102 of this title.
22 The procedures shall be designed to provide the type of information
23 useful and relevant to establishing security level requirements for

1 persons in the custody of a sheriff. The provisions of this section
2 shall not require the disclosure of any records or information which
3 is required by law to be kept confidential.

4 SECTION 101. NEW LAW A new section of law not to be
5 codified in the Oklahoma Statutes reads as follows:

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

8 CHAPTER 8 - JUVENILE SEX OFFENDER REGISTRATION ACT

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

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

13 SECTION 103. AMENDATORY 10 O.S. 2001, Section 7308-1.3,
14 as amended by Section 2, Chapter 164, O.S.L. 2002 (10 O.S. Supp.
15 2008, Section 7308-1.3), is amended to read as follows:

16 Section 7308-1.3 The Office of Juvenile Affairs shall establish
17 and maintain a registry for juvenile sex offenders required by the
18 court to register. The registry shall include fingerprints,
19 photographs, and information collected from forms submitted and
20 other communications relating to notice of duty to register, sex
21 offender registration, and notice of change of name or address.
22 Information in the juvenile sex offender registry is subject to
23 release to law enforcement agencies and may be released to the

1 public pursuant to court order as provided in Section ~~7308-1.4~~ 2-8-
2 104 of this title.

3 SECTION 104. AMENDATORY 10 O.S. 2001, Section 7308-1.4,
4 as amended by Section 3, Chapter 164, O.S.L. 2002 (10 O.S. Supp.
5 2008, Section 7308-1.4), is amended to read as follows:

6 Section 7308-1.4 A. When a person meets the definition of a
7 juvenile sex offender pursuant to Section ~~7308-1.2~~ 2-8-102 of this
8 title, the district attorney may make an application to include the
9 juvenile in the juvenile sex offender registry. Upon the
10 application of the district attorney, the court shall appoint two
11 persons who are qualified sex offender treatment professionals to
12 evaluate the juvenile and report to the court on the treatment
13 prognosis and likelihood that the juvenile offender represents an
14 ongoing serious or aggressive threat to the public or children under
15 sixteen (16) years of age. One appointee shall be currently
16 licensed as a physician or psychologist in Oklahoma with a minimum
17 of two hundred (200) hours of clinical experience in juvenile sex
18 offender treatment. Other criteria for qualifying as a sex offender
19 treatment professional shall include, but not be limited to, current
20 licensure as a medical or mental health professional with a minimum
21 of two hundred (200) hours of clinical experience in juvenile sex
22 offender treatment, or current licensure as a medical or mental
23 health professional with a minimum of two (2) years' combined

1 clinical experience in child abuse treatment, child or adolescent
2 anger management treatment, juvenile delinquency or criminal
3 behavior treatment, sexual abuse treatment, child or adolescent
4 psychology, or therapeutic social work. A list of sex offender
5 treatment professionals meeting the established criteria shall be
6 provided to each district court by the Office of Juvenile Affairs.
7 Where professionals are appointed to conduct an evaluation in such
8 cases, the court may set reasonable compensation and order the
9 payment out of the court fund. In the event two qualified sex
10 offender treatment professionals are not available to the court to
11 evaluate the juvenile sex offender, the Office of Juvenile Affairs
12 may, at the court's request, select additional qualified sex
13 offender treatment professionals employed by the agency to assist
14 with the evaluation report.

15 B. The court shall, after consideration of the evaluation
16 report required by subsection A of this section, make a finding of
17 whether the juvenile offender represents an ongoing serious or
18 aggressive threat to the public or children under sixteen (16) years
19 of age. If the court finds the juvenile represents such threat, the
20 court shall order the juvenile to register on the juvenile sex
21 offender registry as provided in this act.

22 C. The court, in its discretion, may order information on any
23 juvenile sex offender released from the juvenile sex offender

1 registry to any person or to the public at large when the evaluation
2 report considered by the court indicates a likelihood of an ongoing
3 serious or aggressive threat to the public or children under sixteen
4 (16) years of age. If the court orders release of this information
5 to the public at large, it shall promptly be made available for
6 public inspection or copying pursuant to rules promulgated by the
7 Office of Juvenile Affairs. If the court orders the release of this
8 information through community notification, the notification shall
9 be carried out by the local law enforcement authority applicable to
10 the person's residence.

11 D. The court may review the treatment prognosis of any
12 registered juvenile sex offender at any time and may, in its
13 discretion, order release of additional information from the
14 juvenile sex offender registry, as deemed appropriate for the
15 protection of the public.

16 SECTION 105. AMENDATORY 10 O.S. 2001, Section 7308-1.5,
17 as amended by Section 4, Chapter 164, O.S.L. 2002 (10 O.S. Supp.
18 2008, Section 7308-1.5), is amended to read as follows:

19 Section 7308-1.5 On ~~and~~ or after ~~the effective date of this act~~
20 July 1, 2001, when the court orders a juvenile sex offender to
21 register on the juvenile sex offender registry as provided in
22 Section ~~7308-1.4~~ 2-8-104 of this title, the court shall provide at
23 the time of the order written notification of the duty to register.

1 The written notification shall be a form provided by the Office of
2 Juvenile Affairs and shall be signed by the juvenile and a parent or
3 guardian who has custody and control of the juvenile. One copy
4 shall be retained by the court, one copy shall be provided to the
5 juvenile offender, and one copy shall be submitted within three (3)
6 working days to the juvenile sex offender registry.

7 SECTION 106. NEW LAW A new section of law not to be
8 codified in the Oklahoma Statutes reads as follows:

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

11 CHAPTER 9 - INTERSTATE COMPACT FOR JUVENILES ACT

12 SECTION 107. AMENDATORY Section 1, Chapter 147, O.S.L.
13 2004 (10 O.S. Supp. 2008, Section 7309-1.1), is amended to read as
14 follows:

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

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

20 A. 1. A municipality with a population of at least twenty-five
21 thousand (25,000) may, by written resolution filed with the district
22 court, assume jurisdiction of cases involving children under

1 eighteen (18) years of age charged with violating any municipal
2 ordinance identified in the resolution.

3 2. Any other municipality may enter into an interlocal
4 agreement with the district court pursuant to the Interlocal
5 Cooperation Act, to assume jurisdiction of cases involving children
6 under eighteen (18) years of age charged with violating any
7 municipal ordinance as agreed by the district court, the district
8 attorney and the municipality.

9 3. The chief juvenile judge of the district court judicial
10 district, or if there is no chief judge then the presiding judge of
11 the judicial administrative district, is hereby authorized to enter
12 into the interlocal agreement as provided for in this section for
13 and on behalf of said judicial district if the judge determines that
14 the agreement is constitutional and complies with state and federal
15 law.

16 B. 1. A child under eighteen (18) years of age who is taken
17 into custody for the alleged violation of a municipal ordinance
18 relating to truancy may be held pursuant to Section 10-109 of Title
19 70 of the Oklahoma Statutes.

20 2. A child under eighteen (18) years of age who is taken into
21 custody for the alleged violation of a municipal ordinance relating
22 to curfews may be held temporarily under the care of a peace officer
23 or other person employed by a police department only until the

1 parent of the child, legal guardian, legal custodian, attorney or
2 other responsible adult assumes custody or, if such a person cannot
3 be located within a reasonable time of the taking of the child into
4 custody or if such a person refuses to assume custody, until
5 temporary shelter is found for the child. The temporary custody
6 provided for by this paragraph shall be utilized as a means of
7 returning the child to the home of the child or other place of
8 shelter.

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

18 4. Notwithstanding any other provision of this Code, a child
19 less than eighteen (18) years of age, who is taken into custody for
20 the alleged violation of a municipal ordinance, and who can be
21 prosecuted in municipal court for such offense pursuant to
22 jurisdiction assumed by the municipal court pursuant to the
23 provisions of paragraph 1 of this subsection, may be temporarily

1 detained by the municipality in a municipal juvenile facility, as
2 defined by this section, but only pursuant to the following
3 conditions:

4 a. the municipality shall immediately take all reasonable
5 steps to attempt to locate the parent of the child,
6 legal guardian, legal custodian, attorney or another
7 responsible adult and determine if the parent, legal
8 guardian, legal custodian, attorney or other
9 responsible adult is willing to appear at the
10 municipal juvenile facility and assume personal
11 custody of the child upon the release of the child
12 from such facility,

13 b. the child shall be released to the personal custody of
14 the parent of the child, legal guardian, legal
15 custodian, attorney or other responsible adult as soon
16 as practicable and upon the written promise of such
17 person to return the child to municipal court to
18 answer the municipal charges on the date and at the
19 time set by the municipal court and to assume
20 responsibility for costs for damages by the child if
21 the child causes damages while committing any acts in
22 violation of municipal ordinances. Municipalities may
23 enact ordinances providing penalties for failure to

- 1 comply with the written promise and for refusal to
2 assume custody of a child in a timely manner,
3 c. the child shall be detained in the municipal juvenile
4 facility for no longer than twenty-four (24) hours;
5 provided, if the parent of the child, legal guardian,
6 legal custodian, attorney or other responsible adult
7 fails to appear at the municipal juvenile facility and
8 assume personal custody of the child within said
9 twenty-four-hour period, then custody or release of
10 the child shall be determined pursuant to the
11 provisions of Section 40 of this act,
12 d. the child shall be provided with adequate fresh
13 drinking water,
14 e. the child shall be provided with adequate food not
15 less than three times in a twenty-four-hour period,
16 f. the child shall be provided with adequate bathroom
17 facilities and bedding, and
18 g. the child shall be provided with any necessary medical
19 care and treatment.

20 C. For the purposes of this section, a "municipal juvenile
21 facility" shall mean a secure facility which is entirely separate
22 from any jail, adult lockup, or other adult facility, or is
23 spatially separate if contained inside any jail, adult lockup, or

1 other adult facility which is certified by the Office of Juvenile
2 Affairs for the temporary detention of juveniles as authorized by
3 the provisions of this section.

4 1. A municipal juvenile facility shall be certified by the
5 Office of Juvenile Affairs pursuant to the applicable certification
6 standards. The Office of Juvenile Affairs is directed to and shall
7 establish standards for certification of municipal juvenile
8 facilities to include but not be limited to the conditions set forth
9 in subparagraphs a through g of paragraph 4 of subsection B of this
10 section.

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

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

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

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

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

7 2. When assessing punishment, the court also may require
8 appropriate community service work, not to exceed ninety (90) hours,
9 in lieu of or in addition to a fine if the product of multiplying
10 the number of hours of community service work by the prevailing
11 minimum wage plus any fine imposed does not result in a number which
12 exceeds the maximum fine authorized by law, or restitution, or both
13 community service work and restitution. The court may also impose
14 costs as authorized by law.

15 3. If the child fails to complete the community service, a
16 parent or guardian of the child who knew or should have known that
17 the child failed to complete the community service may be fined an
18 amount equal to the number of community service hours that are not
19 completed by the child multiplied by the hourly minimum wage amount.

20 4. In addition, during any calendar year that any child:

21 a. fails to appear for a court date on more than one
22 occasion,

1 b. is convicted of two or more of the municipal offenses,
2 which offenses occurred on different days, or
3 c. fails to pay any fine or cost properly assessed by a
4 municipal court,
5 and after the expiration of ninety (90) days, the court clerk shall
6 mail notice of such occurrence to the Department of Public Safety,
7 which Department shall thereafter suspend or deny driving privileges
8 for such child for six (6) months. The suspension may be modified
9 as provided in Section 6-107.2 of Title 47 of the Oklahoma Statutes.
10 In addition, the court may require the child to receive counseling
11 or other community-based services, as necessary.

12 E. If a child is prosecuted for an offense in a municipal
13 court, the child shall not be prosecuted for the offense in the
14 district court.

15 F. Any fines and costs properly assessed against any child and
16 which remain unpaid after three (3) months may be assessed by the
17 municipal judge against the parent of the child, parents, legal
18 guardian or legal custodian and collected and paid as provided for
19 in Articles XXVII and XXVIII of Title 11 of the Oklahoma Statutes.
20 Provided however, prior to such latter assessment, the court clerk
21 shall give the parent of the child, parents, legal guardian or legal
22 custodian notice by certified mail to their place of residence or
23 personal service of such action proposed to be taken.

1 G. All municipal arrest records, prosecution records, court
2 records, and court proceedings for cases involving children less
3 than eighteen (18) years of age charged with violating municipal
4 ordinances shall be kept confidential and shall not be open to
5 public inspection except by order of the municipal court or as
6 otherwise provided by Chapter 6 of this Code and Section 620.6 of
7 Title 10 of the Oklahoma Statutes. Municipal conviction records
8 involving children less than eighteen (18) years of age convicted of
9 violating municipal ordinances shall be open to public inspection.

10 H. Funds generated from fines paid pursuant to an interlocal
11 agreement between a municipality and the district court shall be
12 earmarked and used by the municipality only for the following
13 purposes:

14 1. To fund local programs which address problems of juvenile
15 crime;

16 2. To fund the costs of prosecutions authorized pursuant to the
17 provisions of this section;

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

20 4. To fund administrative costs related to local programs that
21 address problems of juvenile crime or related to the prosecution,
22 detention, or punishment authorized pursuant to the provisions of
23 this section; and

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

3 Such earmarked funds shall not be used by the municipality for
4 any purpose other than the purposes set forth in paragraphs 1
5 through 5 of this subsection.

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

9 A. 1. Social records, as defined by Section 93 of this act,
10 shall not be filed in the court record unless so ordered by the
11 court. If filed in the court record, the records shall be placed in
12 confidential envelopes in the court file and may only be accessed by
13 the person who is the subject of the record, or the attorney for
14 such person.

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

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

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

1 SECTION 111. REPEALER 10 O.S. 2001, Sections 7303-2.1,
2 7303-2.2, 7303-4.5, Section 4, Chapter 226, O.S.L. 2005, 7303-6.1,
3 7303-6.3, 7303-7.1, 7303-7.2, 7303-7.3 and 7303-8.5, as amended by
4 Section 30, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2008, Sections
5 7303-5.7 and 7303-8.5), are hereby repealed.

6 SECTION 112. RECODIFICATION 10 O.S. 2001, Sections 7301-
7 1.1 and 7301-1.2, as amended by Sections 2 and 3 of this act, and
8 7301-1.3, as last amended by Section 4 of this act, shall be
9 recodified as Sections 2-1-101, 2-1-102 and 2-1-103 of Title 10A of
10 the Oklahoma Statutes, unless there is created a duplication in
11 numbering.

12 SECTION 113. RECODIFICATION 10 O.S. 2001, Section 7302-
13 1.1, as last amended by Section 6 of this act, shall be recodified
14 as Section 2-7-101 of Title 10A of the Oklahoma Statutes, unless
15 there is created a duplication in numbering.

16 SECTION 114. RECODIFICATION 10 O.S. 2001, Sections 7302-
17 2.1, as last amended by Section 1, Chapter 341, O.S.L. 2008, 7302-
18 2.2, as last amended by Section 1, Chapter 61, O.S.L. 2007, 7302-2.3
19 and 7302-2.4 (10 O.S. Supp. 2008, Sections 7302-2.1 and 7302-2.2),
20 shall be recodified as Sections 2-7-201, 2-7-202, 2-7-203 and 2-7-
21 204 of Title 10A of the Oklahoma Statutes, unless there is created a
22 duplication in numbering.

1 SECTION 115. RECODIFICATION 10 O.S. 2001, Sections 7302-
2 3.1, as last amended by Section 7 of this act, 7302-3.2, as amended
3 by Section 8 of this act, 7302-3.3, as amended by Section 6, Chapter
4 320, O.S.L. 2006, 7302-3.4, as amended by Section 7, Chapter 320,
5 O.S.L. 2006, and 7302-3.5, as last amended by Section 9 of this act
6 (10 O.S. Supp. 2008, Sections 7302-3.3 and 7302-3.4), shall be
7 recodified as Sections 2-7-301, 2-7-302, 2-7-303, 2-7-304 and 2-7-
8 305 of Title 10A of the Oklahoma Statutes, unless there is created a
9 duplication in numbering. Section 4, Chapter 4, O.S.L. 2002 (10
10 O.S. Supp. 2008, Section 7302-3.6a), as last amended by Section 10
11 of this act, shall be recodified as Section 2-7-306 of Title 10A of
12 the Oklahoma Statutes, unless there is created a duplication in
13 numbering. Sections 7302-3.7, as amended by Section 10, Chapter
14 320, O.S.L. 2006, 7302-3.8, as last amended by Section 11 of this
15 act, 7302-3.9, as amended by Section 12, Chapter 320, O.S.L. 2006,
16 7302-3.10, as amended by Section 13, Chapter 320, O.S.L. 2006 and
17 7302-3.11, as last amended by Section 12 of this act (10 O.S. Supp.
18 2008, Sections 7302-3.7, 7302-3.9 and 7302-3.10), shall be
19 recodified as Sections 2-7-307, 2-7-308, 2-7-309, 2-7-310 and 2-7-
20 311 of Title 10A of the Oklahoma Statutes, unless there is created a
21 duplication in numbering.

22 SECTION 116. RECODIFICATION 10 O.S. 2001, Sections 7302-
23 4.1, as amended by Section 13 of this act and 7302-4.2, shall be

1 recodified as Sections 2-7-401 and 2-7-402 of Title 10A of the
2 Oklahoma Statutes, unless there is created a duplication in
3 numbering.

4 SECTION 117. RECODIFICATION 10 O.S. 2001, Sections 7302-
5 5.1, 7302-5.2, 7302-5.3 and 7302-5.4, as last amended by Sections
6 14, 15, 16 and 17 of this act, shall be recodified as Sections 2-7-
7 501, 2-7-502, 2-7-503 and 2-7-504 of Title 10A of the Oklahoma
8 Statutes, unless there is created a duplication in numbering.

9 SECTION 118. RECODIFICATION 10 O.S. 2001, Sections 7302-
10 6.1, 7302-6.2 and 7302-6.3, as last amended by Sections 18, 19 and
11 20 of this act, 7302-6.4 and 7302-6.5, as amended by Sections 21 and
12 22 of this act, 7302-6.6, as last amended by Section 23 of this act,
13 7302-6.7 and 7302-6.8, as amended by Sections 24 and 25 of this act,
14 7302-6.9, as last amended by Section 26 of this act and 7302-6.10,
15 as amended by Section 27 of this act, shall be recodified as
16 Sections 2-7-601, 2-7-602, 2-7-603, 2-7-604, 2-7-605, 2-7-606, 2-7-
17 607, 2-7-608, 2-7-609 and 2-7-610 of Title 10A of the Oklahoma
18 Statutes, unless there is created a duplication in numbering.

19 SECTION 119. RECODIFICATION 10 O.S. 2001, Sections 7302-
20 7.1, 7302-7.2, 7302-7.3, 7302-7.4 and 7302-7.5, as last amended by
21 Sections 28, 29, 30, 31 and 32 of this act, shall be recodified as
22 Sections 2-7-701, 2-7-702, 2-7-703, 2-7-704 and 2-7-705 of Title 10A

1 of the Oklahoma Statutes, unless there is created a duplication in
2 numbering.

3 SECTION 120. RECODIFICATION 10 O.S. 2001, Section 7302-
4 8.1, as amended by Section 33 of this act, shall be recodified as
5 Section 2-7-801 of Title 10A of the Oklahoma Statutes, unless there
6 is created a duplication in numbering.

7 SECTION 121. RECODIFICATION 10 O.S. 2001, Sections 7302-
8 9.1, 7302-9.2, 7302-9.3, 7302-9.4 and 7302-9.6, as amended by
9 Sections 34, 35, 36, 37 and 38 of this act, shall be recodified as
10 Section 2-7-901, 2-7-902, 2-7-903, 2-7-904 and 2-7-905 of Title 10A
11 of the Oklahoma Statutes, unless there is created a duplication in
12 numbering.

13 SECTION 122. RECODIFICATION 10 O.S. 2001, Sections 7303-
14 1.1, 7303-1.2, 7303-1.3 and 7303-1.4, as last amended by Sections
15 40, 41, 42 and 43 of this act, 7303-1.5 and 7303-1.6, as amended by
16 Sections 44 and 45 of this act, and 7303-1.7, as last amended by
17 Section 46 of this act, shall be recodified as Sections 2-2-101, 2-
18 2-102, 2-2-104, 2-2-105, 2-2-106, 2-2-107 and 2-2-108 of Title 10A
19 of the Oklahoma Statutes, unless there is created a duplication in
20 numbering.

21 SECTION 123. RECODIFICATION 10 O.S. 2001, Section 7303-
22 3.1, as amended by Section 47 of this act, shall be recodified as

1 Section 2-2-301 of Title 10A of the Oklahoma Statutes, unless there
2 is created a duplication in numbering.

3 SECTION 124. RECODIFICATION 10 O.S. 2001, Sections 7303-
4 4.1, 7303-4.2, as amended by Section 48 of this act, and 7303-4.3
5 and 7303-4.6, as last amended by Sections 49 and 50 of this act,
6 shall be recodified as Sections 2-2-401, 2-2-402, 2-2-403 and 2-2-
7 404 of Title 10A of the Oklahoma Statutes, unless there is created a
8 duplication in numbering.

9 SECTION 125. RECODIFICATION 10 O.S. 2001, Sections 7303-
10 5.1, as amended by Section 51 of this act, and 7303-5.2, 7303-5.3,
11 7303-5.4 and 7303-5.5, as last amended by Sections 52, 53, 54 and 55
12 of this act, shall be recodified as Sections 2-2-501, 2-2-502, 2-2-
13 503, 2-2-504 and 2-2-505 of Title 10A of the Oklahoma Statutes,
14 unless there is created a duplication in numbering. Sections 3, 5,
15 6 and 7, Chapter 226, O.S.L. 2005 (10 O.S. Supp. 2008, Sections
16 7303-5.6, 7303-5.8, 7303-5.9 and 7303-5.10), as amended by Sections
17 56, 57, 58 and 59 of this act, shall be recodified as Sections 2-2-
18 506, 2-2-507, 2-2-508 and 2-2-509 of Title 10A of the Oklahoma
19 Statutes, unless there is created a duplication in numbering.

20 SECTION 126. RECODIFICATION 10 O.S. 2001, Section 7303-
21 6.2, as amended by Section 60 of this act, shall be recodified as
22 Section 2-2-601 of Title 10A of the Oklahoma Statutes, unless there
23 is created a duplication in numbering.

1 SECTION 127. RECODIFICATION 10 O.S. 2001, Sections
2 7303-7.4, 7303-7.5 and 7303-7.6, as amended by Sections 61, 62 and
3 63 of this act, shall be recodified as Sections 2-2-701, 2-2-702 and
4 2-2-703 of Title 10A of the Oklahoma Statutes, unless there is
5 created a duplication in numbering.

6 SECTION 128. RECODIFICATION 10 O.S. 2001, Sections
7 7303-8.1, as last amended by Section 64 of this act, 7303-8.2 and
8 7303-8.3, as amended by Sections 65 and 66 of this act, and 7303-8.4
9 and 7303-8.6, as last amended by Sections 67 and 68 of this act,
10 shall be recodified as Sections 2-2-801, 2-2-802, 2-2-803, 2-2-804
11 and 2-2-805 of Title 10A of the Oklahoma Statutes, unless there is
12 created a duplication in numbering.

13 SECTION 129. RECODIFICATION 10 O.S. 2001, Sections 7304-
14 1.1, as last amended by Section 70 of this act, 7304-1.2, 7304-1.3,
15 as amended by Section 71 of this act and 7304-1.4, shall be
16 recodified as Sections 2-3-101, 2-3-102, 2-3-103 and 2-3-104 of
17 Title 10A of the Oklahoma Statutes, unless there is created a
18 duplication in numbering.

19 SECTION 130. RECODIFICATION 10 O.S. 2001, Sections
20 7305-1.1, as last amended by Section 73 of this act, 7305-1.2, as
21 amended by Section 2, Chapter 176, O.S.L. 2007, 7305-1.3, as amended
22 by Section 74 of this act, 7305-1.4, 7305-1.5, 7305-1.6, 7305-1.7,
23 as last amended by Section 75 of this act, 7305-1.8, 7305-1.9 and

1 7305-1.10, as amended by Section 76 of this act (10 O.S. Supp. 2008,
2 Section 7305-1.2), shall be recodified as Sections 2-4-101, 2-4-102,
3 2-4-103, 2-4-104, 2-4-105, 2-4-106, 2-4-107, 2-4-108, 2-4-109 and 2-
4 4-110 of Title 10A of the Oklahoma Statutes, unless there is created
5 a duplication in numbering.

6 SECTION 131. RECODIFICATION 10 O.S. 2001, Section 7306-
7 1.1, as amended by Section 78 of this act, shall be recodified as
8 Section 2-5-101 of Title 10A of the Oklahoma Statutes, unless there
9 is created a duplication in numbering.

10 SECTION 132. RECODIFICATION 10 O.S. 2001, Sections 7306-
11 2.1, as amended by Section 79 of this act, 7306-2.2, as last amended
12 by Section 80 of this act, 7306-2.3, as amended by Section 81 of
13 this act, and 7306-2.4, 7306-2.5 and 7306-2.6, as last amended by
14 Sections 82, 83 and 84 of this act, shall be recodified as Sections
15 2-5-201, 2-5-202, 2-5-203, 2-5-204, 2-5-205 and 2-5-206 of Title 10A
16 of the Oklahoma Statutes, unless there is created a duplication in
17 numbering. Section 2, Chapter 239, O.S.L. 2006 (10 O.S. Supp. 2008,
18 Section 7306-2.7a), as amended by Section 85 of this act, shall be
19 recodified as Section 2-5-207 of Title 10A of the Oklahoma Statutes,
20 unless there is created a duplication in numbering. 10 O.S. 2001,
21 Sections 7306-2.8, 7306-2.9 and 7306-2.10, as last amended by
22 Sections 86, 87 and 88 of this act, shall be recodified as Sections
23 2-5-208, 2-5-209 and 2-5-210 of Title 10A of the Oklahoma Statutes,

1 unless there is created a duplication in numbering. Section 1,
2 Chapter 144, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7306-2.10a),
3 as last amended by Section 89 of this act, shall be recodified as
4 Section 2-5-211 of Title 10A of the Oklahoma Statutes, unless there
5 is created a duplication in numbering. Sections 7306-2.11 and 7306-
6 2.12, as last amended by Sections 90 and 91 of this act, shall be
7 recodified as Sections 2-5-212 and 2-5-213 of Title 10A of the
8 Oklahoma Statutes, unless there is created a duplication in
9 numbering.

10 SECTION 133. RECODIFICATION Section 11, Chapter 286,
11 O.S.L. 2006 (10 O.S. Supp. 2008, Section 7306-3.1), shall be
12 recodified as Section 2-5-301 of Title 10A of the Oklahoma Statutes,
13 unless there is created a duplication in numbering.

14 SECTION 134. RECODIFICATION 10 O.S. 2001, Sections 7307-
15 1.1, as amended by Section 93 of this act, 7307-1.2, as last amended
16 by Section 94 of this act, 7307-1.3, as amended by Section 95 of
17 this act, 7307-1.4 and 7307-1.5, as last amended by Sections 96 and
18 97 of this act, 7307-1.6, 7307-1.7, as amended by Section 98 of this
19 act, 7307-1.8, as last amended by Section 99 of this act and 7307-
20 1.9, as amended by Section 100 of this act, shall be recodified as
21 Sections 2-6-101, 2-6-102, 2-6-104, 2-6-105, 2-6-106, 2-6-107, 2-6-
22 108, 2-6-109 and 2-6-110 of Title 10A of the Oklahoma Statutes,
23 unless there is created a duplication in numbering.

1 SECTION 135. RECODIFICATION 10 O.S. 2001, Sections 7308-
2 1.1, as amended by Section 102 of this act, 7308-1.2, as amended by
3 Section 1, Chapter 164, O.S.L. 2002, 7308-1.3, 7308-1.4 and 7308-
4 1.5, as last amended by Sections 103, 104 and 105 of this act, 7308-
5 1.7, 7308-1.8, 7308-1.9, as amended by Section 5, Chapter 164,
6 O.S.L. 2002, 7308-1.10, 7308-1.11, 7308-1.12 and 7308-1.13 (10 O.S.
7 Supp. 2008, Sections 7308-1.2 and 7308-1.9), shall be recodified as
8 Sections 2-8-101, 2-8-102, 2-8-103, 2-8-104, 2-8-105, 2-8-106, 2-8-
9 107, 2-8-108, 2-8-109, 2-8-110, 2-8-111 and 2-8-112 of Title 10A of
10 the Oklahoma Statutes, unless there is created a duplication in
11 numbering.

12 SECTION 136. RECODIFICATION Section 1, Chapter 147,
13 O.S.L. 2004 (10 O.S. Supp. 2008, Section 7309-1.1), as amended by
14 Section 107 of this act, shall be recodified as Section 2-9-101 of
15 Title 10A of the Oklahoma Statutes, unless there is created a
16 duplication in numbering. Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,
17 12, 13 and 14, Chapter 147, O.S.L. 2004 (10 O.S. Supp. 2008,
18 Sections 7309-1.2, 7309-1.3, 7309-1.4, 7309-1.5, 7309-1.6, 7309-1.7,
19 7309-1.8, 7309-1.9, 7309-1.10, 7309-1.11, 7309-1.12, 7309-1.13 and
20 7309-1.14), shall be recodified as Sections 2-9-102, 2-9-103, 2-9-
21 104, 2-9-105, 2-9-106, 2-9-107, 2-9-108, 2-9-109, 2-9-110, 2-9-111,
22 2-9-112, 2-9-113 and 2-9-114 of Title 10A of the Oklahoma Statutes,
23 unless there is created a duplication in numbering.

1 SECTION 137. It being immediately necessary for the
2 preservation of the public peace, health and safety, an emergency is
3 hereby declared to exist, by reason whereof this act shall take
4 effect and be in full force from and after its passage and approval.
5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-31-09 - DO
6 PASS, As Amended and Coauthored.