

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 2029

By: Steele

4
5
6 AS INTRODUCED

7 An Act relating to the Oklahoma Juvenile Code;
8 amending 10 O.S. 2001, Sections 7301-1.1, 7301-1.2
9 and 7301-1.3, as amended by Section 1, Chapter 320,
10 O.S.L. 2006 (10 O.S. Supp. 2008, Section 7301-1.3),
11 which relate to general provisions and definitions of
12 the Oklahoma Juvenile Code; specifying duties of
13 district attorney; updating statutory references;
14 adding and modifying scope of certain definitions;
15 amending 10 O.S. 2001, Section 7302-1.1, as last
16 amended by Section 2, Chapter 320, O.S.L. 2006 (10
17 O.S. Supp. 2008, Section 7302-1.1), which relates to
18 the Board of Juvenile Affairs; updating language;
19 amending 10 O.S. 2001, Sections 7302-3.1, as last
20 amended by Section 5, Chapter 1, O.S.L. 2007, 7302-
21 3.2, 7302-3.5, as amended by Section 8, Chapter 320,
22 O.S.L. 2006, Section 4, Chapter 4, O.S.L. 2002, as
23 amended by Section 9, Chapter 320, O.S.L. 2006, 7302-
24 3.8, as amended by Section 11, Chapter 320, O.S.L.
2006, and 7302-3.11, as amended by Section 14,
Chapter 320, O.S.L. 2006 (10 O.S. Supp. 2008,
Sections 7302-3.1, 7302-3.5, 7302-3.6a, 7302-3.8 and
7302-3.11), which relate to powers and duties of the
Office of Juvenile Affairs; updating language and
agency designation; deleting certain specified
program requirements; amending 10 O.S. 2001, Section
7302-4.1, which relates to the Juvenile Detention
Improvement Revolving Fund; updating agency
designation; amending 10 O.S. 2001, Sections 7302-
5.1, as amended by Section 15, Chapter 320, O.S.L.
2006, 7302-5.2, as amended by Section 21, Chapter
327, O.S.L. 2002, 7302-5.3, as amended by Section 22,
Chapter 327, O.S.L. 2002 and 7302-5.4, as amended by
Section 3, Chapter 124, O.S.L. 2006 (10 O.S. Supp.
2008, Sections 7302-5.1, 7302-5.2, 7302-5.3 and 7302-
5.4), which relate to supervision and placement of

1 juveniles; clarifying scope of certain juvenile
2 services; updating language and agency designation;
3 modifying certain age limitation; amending 10 O.S.
4 2001, Sections 7302-6.1, as amended by Section 23,
5 Chapter 327, O.S.L. 2002, 7302-6.2, as amended by
6 Section 3, Chapter 213, O.S.L. 2003, 7302-6.3, as
7 last amended by Section 7, Chapter 1, O.S.L. 2007,
8 7302-6.4, 7302-6.5, 7302-6.6, as amended by Section
9 5, Chapter 124, O.S.L. 2006, 7302-6.7, 7302-6.8,
10 7302-6.9, as amended by Section 6, Chapter 124,
11 O.S.L. 2006 and 7302-6.10 (10 O.S. Supp. 2008,
12 Sections 7302-6.1, 7302-6.2, 7302-6.3, 7302-6.6 and
13 7302-6.9), which relate to facilities and training
14 programs of the Office of Juvenile Affairs; updating
15 language and agency designation; deleting obsolete
16 language; modifying name of certain facility;
17 amending 10 O.S. 2001, Sections 7302-7.1, as amended
18 by Section 8, Chapter 421, O.S.L. 2004, 7302-7.2, as
19 amended by Section 9, Chapter 421, O.S.L. 2004, 7302-
20 7.3, as last amended by Section 10, Chapter 421,
21 O.S.L. 2004, 7302-7.4, as last amended by Section 3,
22 Chapter 266, O.S.L. 2007 and 7302-7.5, as amended by
23 Section 12, Chapter 421, O.S.L. 2004 (10 O.S. Supp.
24 2008, Sections 7302-7.1, 7302-7.2, 7302-7.3, 7302-7.4
and 7302-7.5), which relate to the Delinquency and
Youth Gang Intervention and Prevention Act; updating
language and agency designation; clarifying certain
duties of the Office of Juvenile Affairs; modifying
eligibility requirement for certain contracts;
amending 10 O.S. 2001, Section 7302-8.1, which
relates to the Juvenile Offender Victim Restitution
Work Program; updating agency designation; amending
10 O.S. 2001, Sections 7302-9.1, 7302-9.2, 7302-9.3,
7302-9.4 and 7302-9.6, which relate to the Serious
and Habitual Juvenile Offender Act; modifying name of
act; updating agency designation; deleting certain
definitions; modifying scope of tracking program
components; modifying statutory references; amending
10 O.S. 2001, Sections 7303-1.1, as amended by
Section 24, Chapter 327, O.S.L. 2002, 7303-1.2, as
amended by Section 7, Chapter 124, O.S.L. 2006, 7303-
1.3, as last amended by Section 1, Chapter 176,
O.S.L. 2007, 7303-1.4, as amended by Section 3,
Chapter 473, O.S.L. 2002, 7303-1.5, 7303-1.6 and
7303-1.7, as amended by Section 26, Chapter 327,
O.S.L. 2002 (10 O.S. Supp. 2008, Sections 7303-1.1,
7303-1.2, 7303-1.3, 7303-1.4 and 7303-1.7), which

1 relate to custody proceedings; clarifying certain
2 custody provisions; providing and modifying statutory
3 references; modifying personal jurisdiction
4 requirements; deleting certain jurisdiction and case
5 transfer provisions; providing age limitation for
6 filing of juvenile proceeding; requiring juveniles be
7 tried in juvenile proceedings; providing for the
8 transfer of certain cases to the juvenile division of
9 the district court; deleting jurisdiction
10 requirements and proceedings for municipalities;
11 deleting municipal juvenile facility requirements;
12 deleting municipal penalty guidelines; deleting
13 municipal court records requirements; modifying
14 preliminary inquiry procedures; deleting juvenile
15 proceeding petition requirements; authorizing use of
16 informal adjustment agreements; stating requirements
17 and guidelines for use of informal adjustment
18 agreements; allowing modification of informal
19 adjustment agreements under certain circumstance;
20 authorizing assessment of fees; requiring remittance
21 of fee to certain revolving fund; stating purpose of
22 fee; deleting certain time limitation; deleting
23 certain definition; providing time limitations and
24 procedures for filing certain petition; providing
procedures for service of summons; clarifying medical
examination and evaluation provisions; deleting
certain investigation requirement; amending 10 O.S.
2001, Section 7303-3.1, which relates to custodial
interrogations; updating agency designation;
requiring custodial interrogation of youthful
offenders to conform with certain requirements;
clarifying provisions related to court appointments
of counsel; deleting certain prohibited act; amending
10 O.S. 2001, Sections 7303-4.2, 7303-4.3, as amended
by Section 1, Chapter 75, O.S.L. 2004 and 7303-4.6,
as last amended by Section 8, Chapter 124, O.S.L.
2006 (10 O.S. Supp. 2008, Sections 7303-4.3 and 4.6),
which relate to adjudicatory and certification
hearings; allowing adjudicative hearings be conducted
in public under certain circumstances; deleting
guidelines for conducting second or subsequent
delinquency adjudication hearings; authorizing
reimbursement of certain expenses; requiring court to
sustain or dismiss petition upon certain finding;
deleting certain juvenile proceeding guidelines and
certification procedures; increasing time limitation
for certain adjudication proceedings; authorizing

1 court to require participation in certain programs
2 during deferral period; deleting certain delinquency
3 proceeding guidelines and definitions; amending 10
4 O.S. 2001, Sections 7303-5.1, 7303-5.2, as amended by
5 Section 27, Chapter 327, O.S.L. 2002, 7303-5.3, as
6 last amended by Section 9, Chapter 124, O.S.L. 2006,
7 7303-5.4, as amended by Section 6, Chapter 473,
8 O.S.L. 2002, 7303-5.5, as amended by Section 2,
9 Chapter 226, O.S.L. 2005, Section 3, Chapter 226,
10 O.S.L. 2005, Section 5, Chapter 226, O.S.L. 2005,
11 Section 6, Chapter 226, O.S.L. 2005 and Section 7,
12 Chapter 226, O.S.L. 2005 (10 O.S. Supp. 2008,
13 Sections 7303-5.2, 7303-5.3, 7303-5.4, 7303-5.5,
14 7303-5.6, 7303-5.8, 7303-5.9 and 7303-5.10), which
15 relate to dispositional hearings and juvenile drug
16 court programs; modifying statutory references;
17 removing certain reporting requirement from
18 individual treatment and service plan; modifying
19 guidelines for disposition orders; updating agency
20 designation; clarifying restitution and community
21 service provisions; authorizing court to order
22 participation in Juvenile Drug Court Program;
23 prohibiting the use of arrest, detention or
24 adjudication information for any public or private
purposes; authorizing use of teleconference
communications for review hearing; defining phrase;
limiting scope of juvenile drug courts to the
treatment of adjudicated juveniles; providing
guidelines for determining eligibility for drug court
program; requiring drug court investigation; deleting
certain eligibility guidelines; modifying juvenile
drug court investigation requirements; specifying
written treatment plan provisions; prohibiting
admissibility of statements obtained during drug
court proceedings; providing an exception; modifying
and deleting certain final eligibility
considerations; providing certain sanctions for
failing to accept personal jurisdiction; deleting
certain time limitations; deleting progress hearing
and notice requirements; deleting plea agreement
restrictions; authorizing court to order payment of
certain juvenile drug court program fees; amending 10
O.S. 2001, Section 7303-6.2, which relates to appeals
to the appellate courts; modifying procedures in
which appeals may be taken; amending 10 O.S. 2001,
Sections 7303-7.4, 7303-7.5 and 7303-7.6, which
relate to contempt of court proceedings, referees and

1 reimbursement for certain costs; providing time
2 limitation for punishment in a juvenile detention
3 center; decreasing county population limit for
4 referee appointments; requiring judge to determine
5 reasonable compensation for referees; modifying
6 duties and powers of referees; providing for service
7 of findings and orders made by referees; stating
8 procedures for review of orders; providing for the
9 adoption or modification of certain report; stating
10 when orders and findings become effective; providing
11 exceptions; modifying procedures for reimbursement of
12 costs and expenses; updating agency designation;
13 deleting certain payment, reimbursement and
14 disbursement procedures; deleting certain powers of
15 the court; amending 10 O.S. 2001, Sections 7303-8.1,
16 as amended by Section 28, Chapter 327, O.S.L. 2002,
17 7303-8.2, 7303-8.3, 7303-8.4, as amended by Section
18 29, Chapter 327, O.S.L. 2002 and 7303-8.6, as amended
19 by Section 10, Chapter 124, O.S.L. 2006 (10 O.S.
20 Supp. 2008, Sections 7303-8.1, 7303-8.4 and 7303-
21 8.6), which relate to placements for adjudicated
22 children; modifying requirements for inpatient
23 treatment and evaluations; updating agency
24 designations; deleting placement procedures for
outpatient and inpatient care; amending 10 O.S. 2001,
Sections 7304-1.1, as last amended by Section 9,
Chapter 3, O.S.L. 2003 and 7304-1.3 (10 O.S. Supp.
2008, Section 7304-1.1), which relates to the
detention or confinement of children; increasing time
limitation for orders requiring secure detention;
modifying categories that require secure detention of
a child; updating agency designations; modifying
statutory references; directing certain juvenile
offenders be given priority status for detention
beds; increasing reimbursement rate for certain
meals; deleting obsolete language; amending 10 O.S.
2001, Sections 7305-1.1, as last amended by Section
1, Chapter 385, O.S.L. 2008, 7305-1.3, 7305-1.7, as
last amended by Section 2, Chapter 385, O.S.L. 2008
and 7305-1.10 (10 O.S. Supp. 2008, Sections 7305-1.1
and 7305-1.7), which relate to juvenile bureaus and
citizens' advisory committees; deleting certain duty
required of the Department of Juvenile Justice;
deleting requirement that prohibits the disclosure of
certain information; modifying salary limitations for
certain supervisors and employees; deleting approval
requirement for mileage reimbursement; deleting

1 reporting requirements for certain expenses incurred
2 by directors and counselors; modifying statutory
3 references; amending 10 O.S. 2001, Sections 7306-1.1,
4 7306-2.1, 7306-2.2, as last amended by Section 1,
5 Chapter 277, O.S.L. 2008, 7306-2.3, 7306-2.4, as last
6 amended by Section 2, Chapter 277, O.S.L. 2008, 7306-
7 2.5, as last amended by Section 11, Chapter 1, O.S.L.
8 2007, 7306-2.6, as amended by Section 5, Chapter 286,
9 O.S.L. 2006, Section 2, Chapter 239, O.S.L. 2006,
10 7306-2.8, as amended by Section 6, Chapter 286,
11 O.S.L. 2006, 7306-2.9, as last amended by Section 3,
12 Chapter 277, O.S.L. 2008, 7306-2.10, as last amended
13 by Section 4, Chapter 277, O.S.L. 2008, Section 1,
14 Chapter 144, O.S.L. 2006, as amended by Section 5,
15 Chapter 277, O.S.L. 2008, 7306-2.11, as last amended
16 by Section 6, Chapter 277, O.S.L. 2008 and 7306-2.12,
17 as amended by Section 10, Chapter 286, O.S.L. 2006
18 (10 O.S. Supp. 2008, Sections 7306-2.2, 7306-2.4,
19 7306-2.5, 7306-2.6, 7306-2.7a, 7306-2.8, 7306-2.9,
20 7306-2.10, 7306-2.10a, 7306-2.11 and 7306-2.12),
21 which relate to reverse certification and the
22 Youthful Offender Act; updating language; modifying
23 statutory references; providing for appointment of
24 attorney regardless of attempted waiver and upon
determination of indigency; deleting and adding
certain crimes from list of youthful offender acts;
updating agency designation; authorizing use of
teleconference communication for certain hearings;
defining phrase; permitting Office of Juvenile
Affairs to seek appellate review of court orders;
amending 10 O.S. 2001, Sections 7307-1.1, 7307-1.2,
as last amended by Section 2, Chapter 324, O.S.L.
2008, 7307-1.3, 7307-1.4, as last amended by Section
2, Chapter 156, O.S.L. 2007, 7307-1.5, as amended by
Section 2, Chapter 191, O.S.L. 2007, 7307-1.7, 7307-
1.8, as amended by Section 13, Chapter 434, O.S.L.
2003 and 7307-1.9 (10 O.S. Supp. 2008, Sections 7307-
1.2, 7307-1.4, 7307-1.5 and 7307-1.8), which relate
to juvenile records; modifying statutory references;
prohibiting the disclosure of certain privileged
information; clarifying scope of certain definition;
modifying and deleting exceptions to certain
confidentiality requirements; updating agency
designation; clarifying what juvenile court records
may be expunged; amending 10 O.S. 2001, Sections
7308-1.1, 7308-1.3, as amended by Section 2, Chapter
164, O.S.L. 2002, 7308-1.4, as amended by Section 3,

1 Chapter 164, O.S.L. 2002 and 7308-1.5, as amended by
2 Section 4, Chapter 164, O.S.L. 2002 (10 O.S. Supp.
3 2008, Sections 7308-1.3, 7308-1.4 and 7308-1.5),
4 which relate to the Juvenile Sex Offender
5 Registration Act; updating language; modifying
6 statutory references; amending Section 1, Chapter
7 147, O.S.L. 2004 (10 O.S. Supp. 2008, Section 7309-
8 1.1), which relates to the Interstate Compact for
9 Juveniles Act; updating language; authorizing certain
10 municipalities to assume jurisdiction in certain
11 juvenile cases; authorizing municipalities to enter
12 into interlocal agreements; providing for the
13 detainment of juveniles under certain circumstances
14 and pursuant to certain restrictions; prohibiting
15 placement of juveniles in adult detention facilities;
16 providing for temporary detainment pursuant to
17 certain conditions; defining phrase; requiring
18 certification of municipal juvenile facilities;
19 directing establishment of certification standards
20 for municipal juvenile facilities; providing for the
21 assessment of fines and community service for
22 juveniles; providing penalties for failure to
23 complete community service; providing for suspension
24 of driver licenses and driving privileges; providing
for confidentiality of certain records; directing
certain funds be earmarked for certain purposes;
prohibiting the filing of social records; providing
procedures for filing social records; authorizing
disclosure of records when permitted by law;
repealing 10 O.S. 2001, Section 7302-2.5, which
relates to reports made to the State Department of
Education; repealing 10 O.S. 2001, Sections 7303-2.1,
7303-2.2, 7303-4.5, Section 4, Chapter 226, O.S.L.
2005, 7303-6.1, 7303-6.3, 7303-7.1, 7303-7.2, 7303-
7.3 and 7303-8.5, as amended by Section 30, Chapter
327, O.S.L. 2002 (10 O.S. Supp. 2008, Sections 7303-
5.7 and 7303-8.5), which relate to custody and court
proceedings; providing for codification; providing
for noncodification; providing for recodification;
and providing an effective date.

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

1 ARTICLE 2

2 OKLAHOMA JUVENILE CODE

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

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

7 CHAPTER 1 - GENERAL PROVISIONS

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

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

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

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

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

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

24

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

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

8 1. Recognize the unique characteristics and needs of juveniles;

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

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

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

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

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

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

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

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

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

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

15 2. "Alternatives to secure detention" means those services and
16 facilities which are included in the State Plan for the
17 Establishment of Juvenile Detention Services adopted by the Board of
18 Juvenile Affairs and which are used for the temporary detention of
19 juveniles in lieu of secure detention in a juvenile detention
20 facility;

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

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

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

5 ~~4. 6. "Child" or "juvenile" means any person under eighteen~~
6 ~~(18) years of age, except for any person sixteen (16) or seventeen~~
7 ~~(17) years of age who is charged with any crime specified in~~
8 ~~subsection A of Section 7306 1.1 of this title, or any person~~
9 ~~thirteen (13), fourteen (14) or fifteen (15) years of age who is~~
10 ~~charged with murder in the first degree pursuant to subsection B of~~
11 ~~Section 7306 1.1 of this title or Section 7306 2.5 of this title, or~~
12 ~~any individual who has been certified as an adult pursuant to~~
13 ~~Section 7303 4.3 of this title, or any individual against whom the~~
14 ~~imposition of judgment and sentence has been deferred for any crime~~
15 ~~specified in subsection A or B of Section 7306 1.1 of this title,~~
16 ~~any individual against whom the imposition of judgment and sentence~~
17 ~~has been deferred after certification as an adult pursuant to~~
18 ~~Section 7303 4.3 of this title, or any person fifteen (15) years of~~
19 ~~age or older and charged or certified as a youthful offender~~
20 ~~pursuant to the Youthful Offender Act; provided that any person~~
21 ~~under eighteen (18) years of age who is not convicted after being~~
22 ~~charged with a crime pursuant to Section 7306 1.1 of this title, or~~
23 ~~any individual who is not convicted after certification as an adult~~
24 ~~pursuant to Section 7303 4.3 of this title, or any individual who is~~

1 ~~not convicted as a youthful offender pursuant to the Youthful~~
2 ~~Offender Act, shall continue to be subject to the jurisdiction of~~
3 ~~the juvenile court~~ charged and convicted for any offense specified
4 in the Youthful Offender Act or against whom judgment and sentence
5 has been deferred for such offense, or any person who is certified
6 as an adult pursuant to any certification procedure authorized in
7 the Oklahoma Juvenile Code for any offense which results in a
8 conviction or against whom judgment and sentence has been deferred
9 for such offense;

10 ~~5.~~ 7. "Child or juvenile in need of mental health and substance
11 abuse treatment" means a juvenile in need of mental health and
12 substance abuse treatment as defined by the Inpatient Mental Health
13 and Substance Abuse Treatment of Children Minors Act;

14 ~~6.~~ 8. "Child or juvenile in need of supervision" means a
15 juvenile who:

- 16 a. has repeatedly disobeyed reasonable and lawful
17 commands or directives of the parent, legal guardian,
18 or other custodian,
- 19 b. is willfully and voluntarily absent from his home
20 without the consent of the parent, legal guardian, or
21 other custodian for a substantial length of time or
22 without intent to return,
- 23 c. is willfully and voluntarily absent from school, as
24 specified in Section 10-106 of Title 70 of the

1 Oklahoma Statutes, if the juvenile is subject to
2 compulsory school attendance, or

3 d. has been served with an ex parte or final protective
4 order pursuant to the Protection from Domestic Abuse
5 Act;

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

16 ~~8.~~ 10. "Community intervention center" means a facility which
17 serves as a short-term reception facility to receive and hold
18 juveniles for an alleged violation of a municipal ordinance or state
19 law, as provided for in subsection D of Section ~~7302-3.5~~ 2-7-305 of
20 this title;

21 ~~9.~~ 11. "Core community-based" means the following community-
22 based facilities, programs or services provided through contract
23 with the Office of Juvenile Affairs as provided in Section ~~7302-3.6a~~
24 2-7-306 of this title:

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

- 1 f. family counseling which includes a face-to-face
2 interaction between a counselor and the family of the
3 juvenile to facilitate emotional, psychological or
4 behavior changes and promote successful communication
5 and understanding,
- 6 g. crisis intervention counseling which includes
7 unanticipated, unscheduled face-to-face emergency
8 intervention provided by a licensed level or qualified
9 staff with immediate access to a licensed provider to
10 resolve immediate, overwhelming problems that severely
11 impair the ability of the juvenile to function or
12 maintain in the community,
- 13 h. crisis intervention telephone support which includes
14 supportive telephone assistance provided by a licensed
15 level provider or qualified staff with immediate
16 access to a licensed provider to resolve immediate,
17 overwhelming problems that severely impair the ability
18 of the juvenile to function or maintain in the
19 community,
- 20 i. case management which includes planned linkage,
21 advocacy and referral assistance provided in
22 partnership with a client to support that client in
23 self-sufficiency and community tenure,
24

1 j. case management and home-based services which includes
2 that part of case management services dedicated to
3 travel for the purpose of linkage, advocacy and
4 referral assistance and travel to provide counseling
5 and support services to families of children as needed
6 to support specific youth and families in self-
7 sufficiency and community tenure,

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

17 l. group rehabilitative treatment which includes face-to-
18 face group services provided by qualified staff to
19 maintain or develop skills necessary to perform
20 activities of daily living and successful integration
21 into community life, including educational and
22 supportive services regarding independent living,
23 self-care, social skills regarding development,
24

1 lifestyle changes and recovery principles and
2 practices,

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

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

1 with Medicaid applications, assisting with school and
2 General Educational Development (GED) enrollment,
3 assisting youth with independent living arrangements,
4 providing assistance with educational problems and
5 deficiencies, acting as a role model for youth while
6 engaging them in community activities, assisting youth
7 in seeking and obtaining employment, providing
8 transportation for required appointments and
9 activities, participating in recreational activities
10 and accessing other required community support
11 services necessary for full community integration and
12 successful treatment,

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

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

22 q. emergency shelter beds and shelter host homes which
23 include emergency shelter care for juveniles referred
24

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~~
24 ~~approved by the court that provides educational,~~

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

6 ~~10.~~ 12. "Day treatment" means a program which provides
7 intensive services to juveniles who reside in their own home, the
8 home of a relative, or a foster home. Day treatment programs
9 include educational services and may be operated as a part of a
10 residential facility;

11 ~~11.~~ 13. "Delinquent child or juvenile" means a juvenile who:

12 a. has violated any federal or state law or municipal
13 ordinance except a traffic statute or traffic
14 ordinance or any provision of the Oklahoma Wildlife
15 Conservation Code, the Oklahoma Vessel and Motor
16 Regulation Act or the Oklahoma Boating Safety
17 Regulation Act, or has violated any lawful order of
18 the court made pursuant to the provisions of the
19 Oklahoma Juvenile Code, or

20 b. has habitually violated traffic laws, traffic
21 ordinances or boating safety laws or rules;

22 ~~12.~~ 14. "Dispositional hearing" means a hearing to determine
23 the order of disposition which should be made with respect to a
24 juvenile adjudged to be a ward of the court;

1 ~~13.~~ 15. "Executive Director" means the Executive Director of
2 the Office of Juvenile Affairs;

3 ~~14.~~ 16. "Facility" means a place, an institution, a building or
4 part thereof, a set of buildings, or an area whether or not
5 enclosing a building or set of buildings which is used for the
6 lawful custody and treatment of juveniles. A facility shall not be
7 considered a correctional facility subject to the provisions of
8 Title 57 of the Oklahoma Statutes;

9 ~~15.~~ 17. "Graduated sanctions" means a calibrated system of
10 sanctions designed to ensure that juvenile offenders face uniform,
11 immediate, and consistent consequences that correspond to the
12 seriousness of each offender's current offense, prior delinquent
13 history, and compliance with prior interventions;

14 ~~16.~~ 18. "Group home" means a residential facility with a
15 program which emphasizes family-style living in a homelike
16 environment. Said group home may also offer a program within the
17 community to meet the specialized treatment needs of its residents.
18 A group home shall not be considered a correctional facility subject
19 to the provisions of Title 57 of the Oklahoma Statutes;

20 ~~17.~~ 19. "Independent living program" means a program designed
21 to assist a juvenile to enhance skills and abilities necessary for
22 successful adult living and may include but shall not be limited to
23 minimal direct staff supervision and supportive services in making
24 the arrangements necessary for an appropriate place of residence,

1 completing an education, vocational training, obtaining employment
2 or other similar services;

3 ~~18.~~ 20. "Institution" means a residential facility offering
4 care and treatment for more than twenty residents. An institution
5 shall not be considered a correctional facility subject to the
6 provisions of Title 57 of the Oklahoma Statutes. Said institution
7 may:

- 8 a. have a program which includes community participation
9 and community-based services, or
- 10 b. be a secure facility with a program exclusively
11 designed for a particular category of resident;

12 ~~19.~~ 21. "Juvenile detention facility" means a secure facility
13 which meets the certification standards of the ~~Department~~ Office and
14 which is entirely separate from any prison, jail, adult lockup, or
15 other adult facility, for the temporary care of children. A
16 juvenile detention facility shall not be considered a correctional
17 facility subject to the provisions of Title 57 of the Oklahoma
18 Statutes;

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

21 ~~21.~~ 22. "Municipal juvenile facility" means a facility other
22 than a community intervention center that accepts a child under
23 eighteen (18) years of age charged with violating a municipal
24

1 ordinance and meets the requirements of Section ~~7303-1.2~~ 2-2-102 of
2 this title;

3 ~~22.~~ 23. "Office" means the Office of Juvenile Affairs;

4 ~~23.~~ 24. "Peer Review" means an initial or annual review and
5 report to the Office of Juvenile Affairs of the organization,
6 programs, records and financial condition of a Youth Services Agency
7 by the Oklahoma Association of Youth Services, or another Oklahoma
8 nonprofit corporation whose membership consists solely of Youth
9 Services Agencies and of whom at least a majority of Youth Services
10 Agencies are members. An annual review may consist of a review of
11 one or more major areas of the operation of the Youth Services
12 Agency being reviewed;

13 ~~24.~~ 25. "Person responsible for a juvenile's health or welfare"
14 includes a parent, a legal guardian, custodian, a foster parent, a
15 person eighteen (18) years of age or older with whom the juvenile's
16 parent cohabitates or any other adult residing in the home of the
17 child, an agent or employee of a public or private residential home,
18 institution or facility, or an owner, operator, or employee of a
19 child care facility as defined by Section 402 of ~~this title~~ Title 10
20 of the Oklahoma Statutes;

21 ~~25.~~ 26. "Preliminary inquiry" or "intake" means a mandatory,
22 preadjudicatory interview of the juvenile and, if available, the
23 parents, legal guardian, or other custodian of the juvenile, which
24 is performed by a duly authorized individual to determine whether a

1 juvenile comes within the purview of the Oklahoma Juvenile Code,
2 whether nonadjudicatory alternatives are available and appropriate,
3 and if the filing of a petition is necessary;

4 ~~26.~~ 27. "Probation" means a legal status created by court order
5 whereby a delinquent juvenile is permitted to remain outside a
6 ~~Department~~ an Office of Juvenile ~~Justice~~ Affairs facility directly
7 or by contract under prescribed conditions and under supervision by
8 the ~~Department~~ Office, subject to return to the court for violation
9 of any of the conditions prescribed;

10 ~~27.~~ 28. "Rehabilitative facility" means a facility maintained
11 by the state exclusively for the care, education, training,
12 treatment, and rehabilitation of juveniles in need of supervision;

13 ~~28.~~ 29. "Responsible adult" means a stepparent, foster parent,
14 person related to the juvenile in any manner who is eighteen (18)
15 years of age or older, or any person having an obligation and
16 authority to care for or safeguard the juvenile in the absence of
17 another person who is eighteen (18) years of age or older;

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

- 20 a. while under the continuing jurisdiction of the court
21 pending court disposition, or
22 b. pending placement by the ~~Department~~ Office of Juvenile
23 Justice Affairs after adjudication;

24

1 ~~29.~~ 31. "Training school" or "secure facility" means a
2 facility, maintained by the state exclusively for the care,
3 education, training, treatment, and rehabilitation of delinquent
4 juveniles or youthful offenders which relies on locked rooms and
5 buildings, and fences for physical restraint in order to control
6 behavior of its residents. A training school or secure facility
7 shall not be considered a correctional facility subject to the
8 provisions of Title 57 of the Oklahoma Statutes;

9 ~~30.~~ 32. "Transitional living program" means a residential
10 program that may be attached to an existing facility or operated
11 solely for the purpose of assisting juveniles to develop the skills
12 and abilities necessary for successful adult living. Said program
13 may include but shall not be limited to reduced staff supervision,
14 vocational training, educational services, employment and employment
15 training, and other appropriate independent living skills training
16 as a part of the transitional living program; and

17 ~~31.~~ 33. "Youth Services Agency" means a nonprofit corporation
18 with a local board of directors, officers and staff that has been
19 designated by the Board as a Youth Services Agency, that is peer
20 reviewed annually, and that provides community-based facilities,
21 programs or services to juveniles and their families in the youth
22 services service area in which it is located.

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

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

3 CHAPTER 7 - JUVENILE JUSTICE

4 SECTION 6. AMENDATORY 10 O.S. 2001, Section 7302-1.1, as
5 last amended by Section 2, Chapter 320, O.S.L. 2006 (10 O.S. Supp.
6 2008, Section 7302-1.1), is amended to read as follows:

7 Section 7302-1.1. A. There is hereby created, effective
8 February 1, 1995, the Board of Juvenile Affairs which shall consist
9 of seven (7) members who shall be appointed by the Governor with the
10 advice and consent of the Senate.

11 B. One member shall be appointed from each congressional
12 district and any remaining members shall be appointed from the state
13 at large. However, when congressional districts are redrawn each
14 member appointed prior to July 1 of the year in which such
15 modification becomes effective shall complete the current term of
16 office and appointments made after July 1 of the year in which such
17 modification becomes effective shall be based on the redrawn
18 districts. Appointments made after July 1 of the year in which ~~such~~
19 the modification becomes effective shall be from any redrawn
20 districts which are not represented by a board member until such
21 time as each of the modified congressional districts are represented
22 by a board member. No appointments may be made after July 1 of the
23 year in which ~~such~~ the modification becomes effective if such
24 appointment would result in more than two members serving from the

1 same modified district. The terms of office of the members serving
2 on the Board on the effective date of this act shall expire at the
3 end of the current term of the member.

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

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

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

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

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

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

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

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

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

23 2. Thereafter an appointment shall be made by the Governor
24 within ninety (90) days after a vacancy has occurred due to

1 resignation, death, or any cause resulting in an unexpired term. In
2 the event of a vacancy on the Board due to resignation, death, or
3 for any cause resulting in an unexpired term, if not filled within
4 ninety (90) days following ~~such~~ the vacancy, the Board may appoint a
5 provisional member to serve in the interim until the Governor makes
6 an appointment.

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

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

10 1. Be a citizen of the United States;

11 2. Be a resident of this state;

12 3. Be a qualified elector of this state; and

13 4. Not have been convicted of a felony pursuant to the laws of
14 this state, the laws of any other state, or the laws of the United
15 States.

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

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

1 G. 1. The Board shall hold meetings as necessary at a place
2 and time to be fixed by the Board. The Board shall elect, at its
3 first meeting, one of its members to serve as chair and another of
4 its members to serve as vice-chair. At the first meeting in each
5 calendar year thereafter, the chair and vice-chair for the ensuing
6 year shall be elected. Special meetings may be called by the chair
7 or by five members of the Board by delivery of written notice to
8 each member of the Board. A majority of members serving on the
9 Board shall constitute a quorum of the Board.

10 2. Members of the Board shall receive necessary travel expenses
11 according to the provisions of the State Travel Reimbursement Act,
12 but shall receive no other compensation. Travel expenses shall be
13 paid from funds available to the Office of Juvenile Affairs.

14 H. The Board shall:

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

17 2. Appoint and fix the compensation of the Executive Director
18 of the Office of Juvenile Affairs;

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

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

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

1 6. Provide a public forum for receiving comments and
2 disseminating information to the public and the regulated community
3 regarding goals, objectives, priorities, and policies of the Office
4 of Juvenile Affairs at least quarterly. The Board shall have the
5 authority to adopt nonbinding resolutions requesting action by the
6 Office of Juvenile Affairs in response to comments received or upon
7 the Board's own initiative; and

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

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

16 2. Effective July 1, 1995, any administrative policies adopted
17 by the Commission for Human Services related to personnel and other
18 administrative issues and any rules promulgated relating to the
19 custody, care and supervision of children adjudicated to be
20 delinquent or in need of supervision shall be and remain in effect
21 until amended or new rules are promulgated by the Board of Juvenile
22 Affairs.

23 3. Any rules adopted by the Commission for Human Services
24 related to personnel and other administrative issues and the

1 custody, care and supervision of children adjudicated to be
2 delinquent or in need of supervision and subject to review by the
3 Legislature during the 1st Session of the 45th Oklahoma Legislature
4 may be finally adopted and promulgated by the Board of Juvenile
5 Affairs pursuant to the Administrative Procedures Act.

6 4. Starting April 1, 1995, the Board of Juvenile Affairs shall
7 conduct an internal review of current permanent and emergency rules
8 relating to the custody, care and supervision of children
9 adjudicated to be delinquent or in need of supervision to determine
10 whether such rules need to be amended, or repealed, reinstated, or
11 recodified. By January 1, 1997, the Board shall have adopted
12 permanent rules to implement the programs and functions within its
13 jurisdiction and shall submit such rules for legislative review
14 pursuant to Article I of the Administrative Procedures Act.

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

18 SECTION 7. AMENDATORY 10 O.S. 2001, Section 7302-3.1, as
19 last amended by Section 5, Chapter 1, O.S.L. 2007 (10 O.S. Supp.
20 2008, Section 7302-3.1), is amended to read as follows:

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

24

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

6 2. Provide court intake, probation and parole for delinquent
7 children; and

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

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

12 1. The Office of Advocate Defender;

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

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

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

19 a. programs for community intervention and diversion
20 projects to prevent juvenile delinquency,

21 b. state programs for children who are potentially
22 delinquent and/or who are adjudicated delinquent,

23 c. programs for community disciplinary projects,

24 d. programs of juvenile crime restitution,

- e. the ~~Serious and Habitual~~ Juvenile Offender Tracking Program,
- f. regimented juvenile training programs,
- g. the Delinquency and Youth Gang Intervention and ~~Deterrence~~ Prevention Act, and
- h. such other programs prescribed by the Executive Director of the Office of Juvenile Affairs or by law.

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

- ~~a. alternative diversion programs for first-time offenders as defined by Section 7303 4.6 of this title,~~
- ~~b. teen court programs, subject to the requirements and procedures provided in Section 7303 4.6 of this title, and~~
- ~~c. teen substance abuse schools. A teen substance abuse school shall include any program approved by the court that provides educational, motivational and behavior modification instruction for juveniles who have~~

1 ~~chemical dependency problems~~ meet the requirements of
2 Section 2-2-404 of this title.

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

7 1. Establish guidelines for juvenile delinquency prevention and
8 diversion programs for use in community-based programs, including
9 but not limited to:

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

22 2. Provide that personnel shall be available in each county of
23 the state to assist local communities in developing and implementing
24 community programs to prevent delinquency and to divert juveniles

1 who have committed delinquent acts from committing further
2 delinquent or criminal acts. The Office of Juvenile Affairs shall
3 provide this service in each county either directly or by contract.

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

- 9 a. the Residential Services Unit of the Office of
10 Juvenile Justice and all staff for the Unit,
- 11 b. the Quality Assurance Monitoring Unit of the Office of
12 Juvenile Justice and all staff for the Unit,
- 13 c. the Contract Management/Youth Services Unit of the
14 Office of Juvenile Justice and all staff for the Unit,
- 15 d. the Psychological Unit of the Office of Juvenile
16 Justice and all staff for the Unit,
- 17 e. the Juvenile Services Unit and all field and
18 supervisory staff for the Unit,
- 19 f. all institutional staff for institutions transferred
20 from the Department of Human Services to the Office of
21 Juvenile Affairs,
- 22 g. all staff assigned to the community residential
23 programs of the Office of Juvenile Justice,
- 24

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

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

1 3. The classified and unclassified employees who are
2 transferred pursuant to paragraph 1 or 2 of this subsection from the
3 Department of Human Services to the Office of Juvenile Affairs on
4 July 1, 1995, shall be subject to the following provisions:

- 5 a. classified employees shall remain subject to the
6 provisions of the Merit System of Personnel
7 Administration as provided in the Oklahoma Personnel
8 Act except that such employees shall be exempt from
9 the provisions of the Merit System pertaining to
10 classification until October 1, 1995. Effective
11 October 1, 1995, such employees shall be given status
12 in the class to which the position occupied by the
13 employee on October 1, 1995, is allocated by the
14 Office of Personnel Management. The salary of such an
15 employee shall not be reduced as a result of such
16 position allocation, and if the employee's salary is
17 below the minimum rate of pay for the class to which
18 the position occupied by the employee on October 1,
19 1995, is allocated, the employee's salary shall be
20 adjusted up to the minimum rate of pay; provided, if
21 such allocation is a promotion, the minimum rate shall
22 be determined as provided in 530:10-7-14 of the
23 Oklahoma Administrative Code,
24

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

14 c. all employees who are transferred to the Office of
15 Juvenile Affairs shall retain leave, sick and annual
16 time earned and any retirement and longevity benefits
17 which have accrued during their tenure with the agency
18 from which transferred. The salaries of employees who
19 are transferred shall not be reduced as a direct and
20 immediate result of the transfer. The transfer of
21 personnel among the state agencies shall be
22 coordinated with the Office of Personnel Management,
23 and
24

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

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

23 G. Effective July 1, 1995, all powers, duties, records,
24 property, assets, monies and funds of the Office of Juvenile Justice

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

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

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

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

19 Section 7302-3.2 A. ~~Effective July 1, 1995, there~~ There is
20 hereby established within the ~~Department~~ Office of Juvenile Justice
21 Affairs the Division of Advocate Defender which will be separate and
22 apart from the Office of General Counsel. The administrative
23 officer of the Division of Advocate Defender shall be the Advocate
24 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
23 Affairs, the Office of Juvenile System Oversight and other
24 appropriate persons as necessary;

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

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

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

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

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

24

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

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

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

21 D. 1. The Office of Juvenile Affairs shall implement programs
22 for establishment and continued operation of community intervention
23 centers. The centers shall be established pursuant to interlocal
24 agreements between one or more municipalities and the Office of

1 Juvenile Affairs pursuant to rules promulgated by the Office. The
2 municipality may enter into subcontracts with one or more service
3 providers, subject to the approval by the Office of Juvenile
4 Affairs. The service provider, whether a municipality or other
5 entity, must have access to the management information system
6 provided for in Section ~~7302-3.8~~ 2-7-308 of this title and must
7 employ qualified staff, as determined by the Office of Juvenile
8 Affairs.

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

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

21 4. The community intervention center shall perform the
22 following functions:
23
24

- 1 a. enter demographic information into the management
2 information system provided for in Section ~~7302-3.8~~ 2-
3 7-308 of this title,
4 b. immediately notify the parents or parent, guardian, or
5 other person legally responsible for the juvenile's
6 care, or if such legally responsible person is
7 unavailable the adult with whom the juvenile resides,
8 that the juvenile has been taken into custody and to
9 pick up the juvenile, and
10 c. hold juveniles until they can be released to a parent,
11 guardian, or other responsible adult or until a
12 temporary placement can be secured, but in no event
13 for longer than twenty-four (24) hours.

14 5. The community intervention center may perform the following
15 functions:

- 16 a. gather information to determine if the juvenile is in
17 need of immediate medical attention,
18 b. conduct an initial assessment pursuant to rules
19 promulgated by the Office of Juvenile Affairs. Such
20 initial assessment may be given without parental
21 consent if the juvenile agrees to participate in the
22 assessment, and
23 c. conduct an assessment pursuant to a Problem Behavior
24 Inventory or a Mental Status Checklist or an

1 equivalent assessment instrument authorized by rules
2 promulgated by the Office of Juvenile Affairs, if
3 written permission to do so is obtained from the
4 parent, guardian or other person legally responsible
5 for the ~~juvenile's~~ care of the juvenile. Such person
6 and the juvenile may review the assessment instrument
7 prior to the assessment process, must be informed that
8 participation in the assessment is voluntary and that
9 refusal to participate shall not result in any
10 penalty, and must sign a written acknowledgment that
11 they were given an opportunity to review the
12 assessment instrument. The assessment shall be used
13 to develop recommendations to correct the behavior of
14 the juvenile, to divert the progression of the
15 juvenile into the juvenile justice system, to
16 determine if the juvenile is in need of nonemergency
17 medical treatment, and to determine if the juvenile is
18 the victim of violence. Information derived from the
19 assessment shall not be used in any phase of
20 prosecution but may be used by the court following
21 adjudication for the dispositional order and may be
22 used for referrals to social services.

23 6. A juvenile alleged to have committed an offense which would
24 be a felony if committed by an adult may be fingerprinted at a

1 community intervention center. No other juveniles shall be
2 fingerprinted at community intervention centers.

3 7. Community intervention centers shall be certified pursuant
4 to standards established and rules promulgated by the Office of
5 Juvenile Affairs.

6 SECTION 10. AMENDATORY Section 4, Chapter 4, O.S.L.
7 2002, as amended by Section 9, Chapter 320, O.S.L. 2006 (10 O.S.
8 Supp. 2008, Section 7302-3.6a), is amended to read as follows:

9 Section 7302-3.6a A. Funds specifically appropriated to the
10 Office of Juvenile Affairs for designated Youth Services Agency
11 programs for both the Office of Juvenile Affairs and the Department
12 of Human Services shall be made available through contracts
13 negotiated by the Office of Juvenile Affairs, to organizations
14 designated by the Board of Juvenile Affairs as "Youth Services
15 Agencies". All core community-based programs and services to be
16 performed by a Youth Services Agency during a contract period shall
17 be included in one contract or contract extension for that period.
18 Designations of Youth Services Agencies by the Board shall be
19 granted based on community needs, as indicated in the State Plan for
20 Youth Services Agencies which shall be adopted by rule by the Board.
21 The State Plan for Youth Services Agencies shall be adopted in
22 accordance with criteria approved by the Board of Juvenile Affairs
23 after full consideration of any recommendations of the Department of
24 Human Services and the Oklahoma Association of Youth Services. The

1 criteria and plan adopted by the Board shall designate community-
2 based Youth Services Agency Service Areas that will serve as the
3 primary catchment area for each Youth Services Agency. Until the
4 criteria is established by the Board, the criteria established by
5 the Commission for Human Services shall remain in effect. The
6 criteria for designation of Youth Services Agencies shall include
7 but shall not be limited to:

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

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

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

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

21 5. Financial viability;

22 6. A documented need for the local services to be offered as
23 determined by a local needs assessment for the Youth Services Agency
24 Service Area that shall be reviewed and approved or modified by the

1 Board and included in the State Plan for Youth Services Agencies;
2 and

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

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

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

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

21 2. Such other criteria as the Board of Juvenile Affairs
22 determines appropriate.

23 C. Each Youth Services Agency receiving, by grant or contract
24 from the Department of Human Services on June 30, 1995, state funds

1 specifically appropriated for community-based youth services
2 programs, is hereby automatically designated a "Youth Services
3 Agency".

4 D. The Board of Juvenile Affairs, on recommendation of the
5 Office of Juvenile Affairs, may terminate the designation of a Youth
6 Services Agency that:

- 7 1. Is seriously deficient in the administration of its program;
- 8 2. Loses financial viability; or
- 9 3. Fails to successfully complete the annual peer review

10 process by the Oklahoma Association of Youth Services or another
11 Oklahoma nonprofit corporation whose membership consists solely of
12 Youth Services Agencies and of whom at least a majority of Youth
13 Services Agencies are members.

14 Before the Board of Juvenile Affairs terminates the designation
15 of a Youth Services Agency, the Office of Juvenile Affairs shall
16 complete a report documenting its reasons for the termination. The
17 report shall be submitted to the Board for review. The report shall
18 contain an analysis of the program administration, financial
19 viability and most recent peer review report of the Youth Services
20 Agency. The Office of Juvenile Affairs shall also develop a plan to
21 ensure that services provided by the Youth Services Agency whose
22 designation is being terminated shall continue to be provided by
23 another Youth Services Agency or agencies. In developing the plan,
24 the Office of Juvenile Affairs shall give full consideration to any

1 recommendations of the Oklahoma Association of Youth Services. The
2 plan shall be submitted to the Board as part of the report
3 documenting the reasons for termination of the Youth Services Agency
4 by the Office of Juvenile Affairs.

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

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

17 F. The Office of Juvenile Affairs shall be the sole
18 administrator of Youth Services Agency contracts. Any contracting
19 procedure shall include a procedure for converting all contracts to
20 a system of payment which will be structured in a manner that will
21 allow for the receipt of all available federal funds. Provided, the
22 Office of Juvenile Affairs shall make no requirement that would
23 require a juvenile to be inappropriately diagnosed for the purpose
24 of receiving federal reimbursement for services.

1 G. The Office of Juvenile Affairs and the Department of Human
2 Services shall enter into a cooperative agreement that establishes
3 procedures to ensure the continuation of services provided for in
4 paragraph 2 of subsection A of this section by Youth Services
5 Agencies. The Office of Juvenile Affairs shall consult with the
6 Department of Human Services when assessing the capability of a
7 Youth Services Agency to deliver services pursuant to paragraph 2 of
8 subsection A of this section.

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

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

24

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

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

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

19 3. Contracts shall require performance of a specific service or
20 services to be performed. Where the services cannot be broken down
21 into units, specifically measurable and reviewable services shall be
22 stated. Contracts may contain requirements of performance based
23 upon measurable quality outcome indicators. Documentation required
24 for monitoring and evaluation of the contract shall be consistent

1 with the terms of the contract, shall be in accordance with
2 generally accepted governmental accounting practices, and so far as
3 possible, sufficient for the Office of Juvenile Affairs to monitor
4 the performance of the contract without being overly burdensome to
5 the Youth Services Agency. The documentation to be required is the
6 proper subject of negotiation as part of the contracts, and the
7 parties may rely on the Department of Central Services for
8 assistance if they are unable to reach agreement;

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

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

22 K. Contracts with Youth Services Agencies for community-based
23 services shall be for a period of twelve (12) months, beginning at
24 the first of each fiscal year, and renewable on an annual basis.

1 Contracts shall be considered during the third and fourth quarter of
2 the fiscal year for contracting the following year. Consideration
3 for renewal shall include a review of the performance of the current
4 contract including the annual peer review. If the Office of
5 Juvenile Affairs determines the contractual relationship shall be
6 renewed, it shall be in a new contract for the upcoming fiscal year
7 and may or may not contain the same terms, conditions, form and
8 format as the previous contract. Any change from the contract of
9 the previous year that is proposed by the Youth Services Agency or
10 the Office of Juvenile Affairs shall be the subject of negotiation
11 at the request of either party.

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

19 M. The Office of Juvenile Affairs is authorized to contract
20 with the Oklahoma Association of Youth Services or another Oklahoma
21 nonprofit corporation whose membership consists solely of Youth
22 Services Agencies and of whom at least a majority of Youth Services
23 Agencies are members for evaluation, training and program materials
24 and for statewide office support, including rental of office space

1 and general technical assistance for Youth Services Agencies with
2 which the Office of Juvenile Affairs has contracts.

3 SECTION 11. AMENDATORY 10 O.S. 2001, Section 7302-3.8,
4 as amended by Section 11, Chapter 320, O.S.L. 2006 (10 O.S. Supp.
5 2008, Section 7302-3.8), is amended to read as follows:

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

10 B. The management information system shall:

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

14 2. Provide for the security of and limited access to the
15 information;

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

19 4. Be capable of providing management reports and information
20 regarding the various children and youth programs of the Office of
21 Juvenile Affairs, and of providing aggregate information necessary
22 for planning, monitoring and evaluation of said programs and
23 services; and
24

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

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

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

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

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

23
24

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

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

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

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

14 5. Such other information as will enable a user of the report
15 to ascertain the effectiveness of the programs, services and
16 facilities.

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

24

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

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

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

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

6 1. ~~Beginning July 1, 1995, the~~ The rate of reimbursement of
7 approved operating cost shall be eighty-five percent (85%) for the
8 ~~Department~~ Office of Juvenile ~~Justice~~ Affairs and fifteen percent
9 (15%) for the county.

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

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

22 4. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs shall
23 approve only those applications or contracts for funds to operate
24 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
24

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~~ 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.

24

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:

- a. misdemeanor and non-serious first-time offender programs,
- b. tracking and mentor services,
- c. weekend detention,
- d. five-day out-of-home sanction placements,
- e. short-term thirty-day intensive, highly structured placements,
- f. transitional programs,
- g. substance abuse treatment and diagnostic and evaluation programs, and
- h. day treatment programs.

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

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

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

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,

- 24 (2) the parent or guardian of the child, or

1 (3) the child's attorney.

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

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

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

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

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

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

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

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

20 SECTION 16. AMENDATORY 10 O.S. 2001, Section 7302-5.3,
21 as amended by Section 22, Chapter 327, O.S.L. 2002 (10 O.S. Supp.
22 2008, Section 7302-5.3), is amended to read as follows:
23
24

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

- 4 1. The prevention of delinquency;
- 5 2. The care and rehabilitation of delinquent children; and
- 6 3. The protection of the public.

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

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

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

- 23 a. exhibited seriously violent, aggressive or assaultive
24 behavior,

1 b. committed a serious felony constituting violent,
2 aggressive and assaultive behavior,
3 c. habitually committed delinquent acts if such acts
4 would constitute felonies if committed by an adult,
5 d. committed multiple serious delinquent acts, or
6 e. violated any condition of probation or parole,
7 to the extent that it is necessary for the protection of the public.
8 For purposes of placement, all deferred prosecutions for serious,
9 habitual, violent, aggressive or assaultive crimes shall count
10 toward placement decisions;

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

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

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

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

21 6. Place the child in any licensed private facility deemed by
22 the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs to be in the best
23 interest of the child; or
24

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

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

7 D. Placement of a juvenile pursuant to this section or any
8 other provision of law shall be the responsibility of the ~~Department~~
9 Office of Juvenile Justice Affairs and shall occur as soon as
10 reasonably possible after adjudication and after the selected
11 placement option becomes available.

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

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

18 Section 7302-5.4 A. Except as otherwise provided by law, all
19 children adjudicated delinquent and committed to the ~~Department~~
20 Office of Juvenile Justice Affairs shall be discharged at such time
21 as the ~~Department~~ Office determines there is a reasonable
22 probability that it is no longer necessary, either for the
23 rehabilitation and treatment of the child, or for the protection of
24 the public, that the ~~Department~~ Office retain legal custody.

1 Following a hearing, the court may also order that a child adjudged
2 delinquent and committed to the ~~Department~~ Office shall be
3 discharged by the ~~Department~~ Office provided the child is on parole
4 status and the court deems the discharge in the best interest of the
5 child and public. The ~~Department~~ Office shall give a fifteen-day
6 notice to the court and the district attorney before discharging
7 from legal custody any child committed and confined in a secure
8 facility.

9 B. Except as otherwise provided by law, all children adjudged
10 delinquent and committed to the ~~Department~~ Office of Justice
11 Juvenile Affairs and not discharged under subsection A of this
12 section shall be discharged when the child becomes eighteen (18)
13 years of age, unless the ~~Department~~ Office is authorized by the
14 court to retain custody of the child until nineteen (19) years of
15 age. Upon the court's own motion or motion of the ~~Department~~ Office
16 or the district attorney, which must be filed prior to the date the
17 child becomes eighteen (18) years of age, the court, after notice to
18 the delinquent child and to the parents and attorney of said child,
19 may authorize the ~~Department~~ Office to retain custody of the child
20 until ~~he~~ the child reaches nineteen (19) years of age in order for
21 the child to complete the previously adopted plan of rehabilitation
22 or achieve reasonable treatment objectives. If the court sustains a
23 motion to retain custody, the delinquent child during the extended
24 period shall be considered as a child for purposes of receiving

1 services from the ~~Department~~ Office. If a criminal offense is
2 committed by the individual during the extended period, said offense
3 shall be considered as having been committed by an adult. Except to
4 the extent necessary to effectuate the purposes of this section, an
5 individual after age eighteen (18) years is considered an adult for
6 purposes of other applicable law.

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

10 D. The court may retain jurisdiction over a child adjudged
11 delinquent beyond the age of ~~seventeen (17)~~ eighteen (18) years to
12 the extent necessary for the child to complete payment of
13 ~~restitution or~~ court costs. The court may institute contempt
14 proceedings pursuant to Sections 565 through 567 of Title 21 of the
15 Oklahoma Statutes against any person adjudged delinquent and ordered
16 to pay ~~restitution or~~ court costs who neglects or refuses to pay
17 such ~~restitution or~~ court costs. Any child referred to in this
18 subsection over whom the court retains jurisdiction solely for
19 payment of ~~restitution or~~ court costs shall not be considered to be
20 in the custody of or under the supervision of the ~~Department~~ Office
21 of Juvenile ~~Justice~~ Affairs.

22 E. Following a hearing, the court may order that any child
23 shall be discharged by the ~~Department of Juvenile Justice of the~~
24 Office of Juvenile Affairs provided the child is on parole status

1 and the court deems the discharge in the best interest of the child
2 and public. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs shall
3 give a fifteen-day notice to the district attorney before
4 discharging from legal custody any child committed and confined in a
5 secure facility.

6 SECTION 18. AMENDATORY 10 O.S. 2001, Section 7302-6.1,
7 as amended by Section 23, Chapter 327, O.S.L. 2002 (10 O.S. Supp.
8 2008, Section 7302-6.1), is amended to read as follows:

9 Section 7302-6.1 A. In addition to the other powers and duties
10 prescribed by law, the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs
11 shall have the following duties and powers with regard to juveniles
12 placed in ~~Department-operated~~ Office-operated institutions and
13 facilities:

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

- 21 a. the level of word decoding skills of the juvenile,
- 22 b. the level of vocabulary and spelling ability of the
23 juvenile, and
- 24 c. the comprehension level of the juvenile.

1 The ~~Department~~ Office may give assistance to local school districts
2 in providing an education to such juveniles, may supplement such
3 education, and may provide facilities for such purposes. It shall
4 be the duty of the ~~Department~~ Office to assure that juveniles in the
5 aforesaid institutions and facilities receive educational services
6 which provide each juvenile with a balanced and comprehensive
7 reading program, which includes as its primary and foundational
8 components:

- 9 (1) an organized, systematic, explicit skills program
10 that may include phonics, word recognition
11 strategies and other word decoding skills to
12 address the needs of the individual juvenile as
13 determined by the entry level needs assessment,
- 14 (2) a strong language arts and comprehension program
15 that includes a balance of oral and written
16 language, an ongoing individualized evaluation
17 and diagnosis that informs the teacher and an
18 assessment that assures accountability, and
- 19 (3) writing, mathematics, science and vocational-
20 technical education;

21 2. Transfer from a juvenile institution to another facility
22 under the jurisdiction of the ~~Department~~ Office, a juvenile who has
23 been adjudicated delinquent, if the ~~Department~~ Office believes it
24 advisable to do so; transfer from a facility for juveniles in need

1 of supervision to another such facility, a juvenile who has been
2 adjudicated in need of supervision, provided that such transfer is
3 consistent with the treatment needs of the juvenile; transfer from a
4 juvenile institution or facility to a state school for the mentally
5 retarded, any juvenile eligible for admission thereto, if the
6 juvenile appears to be in need of the care and treatment provided at
7 such school; transfer from a facility for delinquent or in need of
8 supervision juveniles to an appropriate facility or to the
9 Department of Mental Health and Substance Abuse Services any
10 juvenile found by the court to be a minor in need of treatment
11 pursuant to the Inpatient Mental Health and Substance Abuse
12 Treatment of Minors Act and committed to inpatient mental health or
13 substance abuse treatment as provided by the Inpatient Mental Health
14 and Substance Abuse Treatment of Minors Act. If a transfer is made
15 pursuant to this paragraph, the ~~Department~~ Office shall comply with
16 the notification requirements of Section ~~7303-5.4~~ 2-2-504 of this
17 title;

18 3. Release on parole a juvenile previously adjudicated to be
19 delinquent, subject to terms and conditions specified by the
20 ~~Department~~ Office, whenever the ~~Department~~ Office determines that
21 such release will not be detrimental to society and that the
22 juvenile is ready to be returned to the community and revoke said
23 parole for violation of the specified terms or conditions of parole
24

1 pursuant to the provisions of this section and the rules and
2 procedures established by the ~~Department~~ Office for such revocation;

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

8 5. Provide parole services for juveniles released on parole
9 from juvenile institutions, and aftercare services for juveniles
10 discharged from juvenile institutions or facilities. Persons
11 designated as Juvenile Parole Officers by the ~~Department~~ Office
12 shall have the power to serve process and to apprehend and detain
13 juveniles and make arrests in accordance with the laws of the state.

14 B. The transfer of a juvenile from a nonsecure placement to a
15 secure placement shall be subject to an administrative transfer
16 hearing and any revocation of parole shall be subject to a parole
17 revocation hearing.

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

20 a. the juvenile shall have the right to notice of the
21 proposed transfer or parole revocation hearing and the
22 alleged violation of administrative or parole rules on
23 which the proposed transfer or parole revocation is
24 based,

- 1 b. the juvenile shall have the right to representation by
2 an attorney,
3 c. the juvenile shall have the right to present evidence
4 on behalf of the juvenile, and
5 d. the juvenile shall have a right to bail, except that
6 said right to bail shall not be construed to require
7 that a juvenile who is in residence in a ~~Department-~~
8 ~~operated~~ an Office-operated institution or other
9 facility at the time of an alleged violation leading
10 to an administrative transfer proceeding be released
11 from such institution or facility.

12 2. The situs of said hearings shall be the county in which the
13 alleged violation of administrative or parole rules occurs. The
14 judge having juvenile docket jurisdiction in said county shall aid
15 the administrative transfer or parole revocation process of the
16 ~~Department~~ Office by:

- 17 a. determining eligibility for and amount of bail;
18 b. deciding any intermediate custody or placement issue;
19 and
20 c. if legal counsel for the juvenile has not otherwise
21 been obtained, appointing legal counsel for the
22 juvenile and fixing the amount of compensation for the
23 legal counsel. Said judge shall also determine if the
24 juvenile is eligible for free legal services. If the

1 juvenile is not eligible for free legal services, the
2 court shall order the parents or legal guardian of the
3 juvenile to pay for such services.

4 3. If legal counsel for the juvenile has not otherwise been
5 obtained, the appointment of legal counsel for the juvenile, the
6 setting of the amount of compensation for such counsel, and the
7 determination of whether or not the juvenile is eligible for free
8 legal services shall be provided for pursuant to the Indigent
9 Defense Act; provided, however, in those counties subject to the
10 provisions of Section 138.1 of Title 19 of the Oklahoma Statutes,
11 the legal services shall be provided by the county indigent defender
12 as provided by law. If the juvenile is not eligible for free legal
13 services, the court shall order the parents or legal guardian of the
14 juvenile to pay for such services.

15 C. The ~~Department~~ Office may participate in federal programs
16 relating to delinquent juveniles, or juveniles in need of
17 supervision, or institutions and services for such juveniles and
18 apply for, receive, use and administer federal funds for such
19 purposes.

20 D. The ~~Department~~ Office shall receive interest earnings on the
21 investment by the State Treasurer of monies, to be credited to an
22 agency special account, for the benefit of and held in trust for
23 persons placed in the custody of the ~~Department~~ Office or in
24

1 residence at institutions or facilities maintained by the ~~Department~~
2 Office.

3 SECTION 19. AMENDATORY 10 O.S. 2001, Section 7302-6.2,
4 as amended by Section 3, Chapter 213, O.S.L. 2003 (10 O.S. Supp.
5 2008, Section 7302-6.2), is amended to read as follows:

6 Section 7302-6.2 A. The Office of Juvenile Affairs shall
7 establish and maintain such methods of administration, including
8 those necessary to establish and maintain a merit system of
9 personnel administration, and shall promulgate such rules as it
10 deems necessary for the efficient and effective operation of the
11 juvenile institutions and facilities operated by the ~~Department~~
12 Office.

13 B. The Executive Director of the Office of Juvenile Affairs
14 shall employ and fix the duties and compensation of a
15 superintendent, and such other personnel as the Executive Director
16 deems necessary, for each of the juvenile institutions and
17 facilities operated by the ~~Department~~ Office of Juvenile Justice
18 Affairs. The Office shall promulgate, and in its hiring and
19 employment practices, the Office shall adhere to, written minimum
20 qualifications by position for personnel working with or around
21 juveniles in said institutions and facilities. Such minimum
22 qualifications shall be designed to assure that such personnel
23 possess sufficient education, training, experience and background to
24 provide adequate and safe professional care and services to said

1 juveniles; and that the juveniles will not be exposed to abuse,
2 deprivation, criminal conduct, or other unwholesome conditions
3 attributable to employee incompetence or misconduct.

4 C. 1. The Office of Juvenile Affairs may directly request
5 national criminal history records searches as defined by Section
6 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State
7 Bureau of Investigation for the purpose of investigating the
8 criminal history of an employee or applicant. The Oklahoma State
9 Bureau of Investigation may charge a search fee as provided in
10 Section 150.9 of Title 74 of the Oklahoma Statutes. The fee shall
11 be deposited in the OSBI Revolving Fund.

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

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

23
24

1 SECTION 20. AMENDATORY 10 O.S. 2001, Section 7302-6.3,
2 as last amended by Section 7, Chapter 1, O.S.L. 2007 (10 O.S. Supp.
3 2008, Section 7302-6.3), is amended to read as follows:

4 Section 7302-6.3 A. The Board of Juvenile Affairs shall
5 promulgate written rules, outline policies and procedures governing
6 the operation of those facilities operated by or through contract
7 with the Office of Juvenile Affairs wherein juveniles may be housed.
8 Said policies and procedures shall include, but not be limited to,
9 standards of cleanliness, temperature and lighting, availability of
10 medical and dental care, provision of food, furnishings, clothing
11 and toilet articles, supervision, appropriate and permissible use of
12 restriction and confinement, procedures for enforcing rules of
13 conduct consistent with due process of law and visitation
14 privileges.

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

16 1. A child shall not be punished by physical force, deprivation
17 of nutritious meals, deprivation of family visits or solitary
18 confinement;

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

21 3. A child shall be allowed daily access to showers and the
22 child's own clothing or individualized clothing which is clean.

23 When a child is participating in an outdoor adventure program that
24

1 takes the child away from the permanent facility, the child shall be
2 provided with the opportunity to wash with soap and water daily;

3 4. A child shall have constant access to writing materials and
4 may send mail without limitation, censorship or prior reading, and
5 may receive mail without prior reading, except that mail may be
6 opened in the presence of the child, without being read, to inspect
7 for contraband, as defined by Section 21 of Title 57 of the Oklahoma
8 Statutes or as otherwise defined by rules promulgated by the Board
9 of Juvenile Affairs, or to inspect for material harmful to minors,
10 as defined by Section 1040.75 of Title 21 of the Oklahoma Statutes.
11 Provided that, when based on legitimate facility interests of order
12 and security as determined by the facility superintendent, mail
13 addressed to a child or sent by a child may be read, censored, or
14 rejected, except that mail addressed to a child from the attorney of
15 the child or sent by the child to the attorney of said child shall
16 not be opened, censored, or withheld in any way. The child shall be
17 notified when incoming or outgoing mail is withheld in part or in
18 full;

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

22 6. A child shall have immediate access to medical care as
23 needed and shall receive necessary ~~psychological and psychiatric~~
24 behavioral health services;

1 7. A child in the custody or care of the Office of Juvenile
2 Affairs shall be provided access to education including teaching,
3 educational materials and books, provided, that such policies shall
4 provide emphasis upon basic literacy skills, including but not
5 limited to curricula requirements stressing reading, writing,
6 mathematics, science, vocational-technical education, and other
7 courses of instruction designed to assure that such children will be
8 capable of being assimilated into society as productive adults
9 capable of self-support and full participation;

10 8. A child shall have reasonable access to an attorney upon
11 request;

12 9. A child shall be afforded a grievance procedure, including
13 an appeal procedure;

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

21 11. Upon leaving the custody of the Office of Juvenile Affairs,
22 a child shall be afforded a copy of the literacy progress section of
23 the individualized service plan developed for the child for
24 continued use at the next school placement of the child.

1 C. Any contract or agreement between the Office of Juvenile
2 Affairs and the Department of Mental Health and Substance Abuse
3 Services for the care and treatment of children in the custody of
4 the Office of Juvenile Affairs shall provide that the Department of
5 Mental Health and Substance Abuse Services shall comply with the
6 provisions of subsections A and B of this section and the provisions
7 of Section ~~7302-6.4~~ 2-7-604 of this title.

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

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

- 14 1. For self-protection;
- 15 2. To separate juveniles who are fighting; or
- 16 3. To restrain juveniles in danger of inflicting harm to
17 themselves or others; or
- 18 4. To restrain juveniles who have escaped or who are in the
19 process of escaping.

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

22 C. Staff members of residential and nonresidential programs who
23 are assigned to work with juveniles shall receive written guidelines
24 on the use of physical force, and that, in accordance with staff

1 disciplinary procedures, loss of employment may result if
2 unauthorized use of physical force is proven.

3 D. Use of mechanical restraints in institutions and other
4 facilities operated by or through contract with the ~~Department~~
5 Office of Juvenile Justice Affairs or the Department of Mental
6 Health and Substance Abuse Services wherein children are housed
7 shall be minimal and shall be prohibited except as specifically
8 provided for in the rules of ~~each of the Departments~~ Office of
9 Juvenile Affairs and Department of Mental Health and Substance Abuse
10 Services.

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

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

24

1 SECTION 23. AMENDATORY 10 O.S. 2001, Section 7302-6.6,
2 as amended by Section 5, Chapter 124, O.S.L. 2006 (10 O.S. Supp.
3 2008, Section 7302-6.6), is amended to read as follows:

4 Section 7302-6.6 A. The Office of Juvenile Affairs ~~through its~~
5 ~~Department of Juvenile Justice~~ shall have the supervision,
6 management, operation and control of the ~~children's~~ institution for
7 children located at Tecumseh, formerly known and designated as
8 Girls' Town and now known as Central Oklahoma Juvenile Center, and
9 all property, equipment and supplies related thereto. ~~All~~
10 ~~contracts, leases, or other agreements entered into by the~~
11 ~~Department of Human Services on behalf of the Center prior to July~~
12 ~~1, 1995, shall be administered by the Department of Juvenile~~
13 ~~Justice.~~

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

18 C. It shall be the duty of the State Fire Marshal and the
19 Commissioner of Public Health, to cause regular, periodic, not less
20 than quarterly, unannounced inspections of said institution,
21 utilizing adequately trained and qualified inspection personnel, to
22 determine and evaluate conditions and programs being maintained and
23 carried on at said institution in their respective areas of agency
24 jurisdiction. Such inspections shall include, but not be limited

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

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

1 Accreditation of Hospitals or the Child Welfare League of America,
2 as appropriate for the service or facility. The ~~Department~~ Office
3 may directly contract for accreditation fees, training or training
4 conferences with the organization accrediting the service or
5 facility as required by this subsection.

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

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

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

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

21 Section 7302-6.8 A. Beginning July 1, 1995, the Office of
22 Juvenile ~~Justice~~ Affairs shall oversee the expansion of the number
23 of preadjudicatory secure detention beds available in this state.
24 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~~
23 Office of Juvenile Justice Affairs locate an existing facility that
24 can be remodeled and used for this purpose.

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

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

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

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

19 Section 7302-6.10 The official name and designation of the
20 facility located at Norman, Oklahoma, formerly known and designated
21 as the Phil Smalley Children's Unit of the Oklahoma Youth Center,
22 shall be the Phil Smalley ~~Employee Development~~ Center. The
23 supervision, management, operation and control of the Center and all
24 property, equipment and supplies related thereto shall be the

1 responsibility of the Office of Juvenile Affairs, except as provided
2 for in interagency agreements between the Department of Mental
3 Health and Substance Abuse Services and the Office of Juvenile
4 Affairs.

5 SECTION 28. AMENDATORY 10 O.S. 2001, Section 7302-7.1,
6 as amended by Section 8, Chapter 421, O.S.L. 2004 (10 O.S. Supp.
7 2008, Section 7302-7.1), is amended to read as follows:

8 Section 7302-7.1 A. Sections ~~7302-7.1~~ 2-7-701 through ~~7302-7.5~~
9 2-7-705 of this title shall be known and may be cited as the
10 "Delinquency and Youth Gang Intervention and Prevention Act".

11 B. The Legislature recognizes that the economic cost of crime
12 to the state and communities continues to drain existing resources,
13 and the cost to victims, both economic and psychological, is
14 traumatic and tragic. The Legislature further recognizes that many
15 adults in the criminal justice system were once delinquents in the
16 juvenile justice system. The Legislature also recognizes that the
17 most effective juvenile delinquency programs are programs that
18 prevent children from entering the juvenile justice system, meet
19 local community needs, and have substantial community involvement
20 and support. Therefore, it is the belief of the Legislature that
21 one of the best investments of scarce resources available to combat
22 crime is to counteract the negative social and economic factors that
23 contribute to criminal and delinquent behavior by engaging youth who
24 are determined to have the highest risk of involvement with gangs or

1 delinquent behaviors or live in at-risk neighborhoods and
2 communities in positive programs and opportunities at the local,
3 neighborhood and community level.

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

13 SECTION 29. AMENDATORY 10 O.S. 2001, Section 7302-7.2,
14 as amended by Section 9, Chapter 421, O.S.L. 2004 (10 O.S. Supp.
15 2008, Section 7302-7.2), is amended to read as follows:

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

18 1. "At-risk neighborhoods and communities" means residential
19 and business areas within a specific political subdivision with a
20 history of assault or battery offenses, shootings or firearm-related
21 offenses, substance abuse-related offenses, property and theft-
22 related offenses, and known gang activity that are documented by
23 local law enforcement agencies, and an incidence of reported
24 juvenile crime or referrals for juvenile court intakes, or some

1 combination of both such incidence and referrals as approved by the
2 ~~Department~~ Office of Juvenile ~~Justice~~ Affairs and substantiated by
3 local law enforcement agencies, that is significantly higher than
4 the statewide statistical mean for such offenses, incidence,
5 referrals or combination;

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

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

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

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

15 d. children adjudicated delinquent and their family
16 members, or

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

21 3. "Delinquency and gang intervention and prevention programs
22 and activities" includes but is not limited to the following for
23 participating youth: Intensive school and school-related programs,
24 such as tutoring and other educational services, vocational training

1 and counseling, employment services, recreational opportunities, and
2 counseling services, such as family counseling, mental health
3 counseling, substance abuse outpatient treatment, education
4 programs, and programs and services involving the family members of
5 participating youth; and

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

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

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

15 1. Issue requests for proposals or enter into agreements
16 pursuant to the Interlocal Cooperation Act and contract ~~with~~
17 ~~eligible entities~~ for delinquency and gang intervention and
18 prevention programs for children and their family members who live
19 in at-risk neighborhoods and communities, as defined by Section
20 ~~7302-7.2~~ 2-7-702 of this title;

21 2. Provide information and technical assistance to individuals
22 and entities receiving ~~grants or~~ contracts pursuant to the
23 Delinquency and Youth Gang Intervention and Prevention Act, schools,
24 neighborhood and community organizations, and agencies within the

1 children and youth service system, as that term is defined ~~by~~ in the
2 ~~Serious and Habitual Juvenile Offender Act~~ Tracking Program, for the
3 purpose of assisting such agencies in making application for
4 federal, state and private grants for delinquency and gang
5 intervention and prevention programs; and

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

15 B. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, with the
16 assistance of and information provided by the Oklahoma Commission on
17 Children and Youth and the Oklahoma State Bureau of Investigation,
18 shall establish criteria and procedures for:

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

24

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

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

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

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

18 B. In order to be eligible for a ~~grant or~~ contract in an at-
19 risk neighborhood or community, as defined by Section ~~7302-7.2~~ 2-7-
20 702 of this title, pursuant to the Delinquency and Youth Gang
21 Intervention and Prevention Act the ~~proposal~~ contract shall, at
22 minimum:

23 1. Be a ~~joint proposal~~ made by an individual or organization, a
24 neighborhood or community organization, a municipality or county or

1 a municipal or county agency from the at-risk neighborhood or
2 community, ~~and one or more agencies or organizations within the~~
3 ~~children and youth service system.~~ If a school or local law
4 enforcement agency is not a ~~joint~~ participant in the ~~proposal~~
5 contract, the ~~proposal~~ contract shall document and describe the
6 active participation in and support of either the local school or
7 local law enforcement agency in the program and activities for which
8 the ~~proposal~~ contract is submitted;

9 2. Be a program or activity for children at highest risk of
10 involvement in gangs or delinquent behaviors, as defined by Section
11 ~~7302-7.2~~ 2-7-702 of this title, and their family members;

12 3. Describe the respective roles and responsibilities for the
13 administration and operation of the program and activities,
14 including but not limited to the designation of the entity
15 responsible for the receipt and expenditure of any funds awarded
16 pursuant to the Delinquency and Youth Gang Intervention and
17 Prevention Act;

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

23 5. Describe how the program will coordinate and cooperate with
24 programs and services administered by the ~~Department~~ Office of

1 Juvenile ~~Justice~~ Affairs, the Department of Human Services, the
2 State Department of Education, and other state or local agencies,
3 such as law enforcement, courts and other agencies within the
4 juvenile, children and youth service system; and

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

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

12 1. Describe the respective roles and responsibilities for the
13 administration and operation of the training or activity, including
14 but not limited to, the designation of the entity responsible for
15 the receipt and expenditure of any funds awarded pursuant to the
16 Delinquency and Youth Gang Intervention and Prevention Act; and

17 2. Describe how the training or activity will coordinate and
18 cooperate with existing programs and services administered by the
19 ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, the Department of
20 Human Services, the State Department of Education, and other state
21 or local agencies, such as law enforcement, courts and other
22 agencies within the juvenile, children and youth service system.

23 D. Each entity receiving a ~~grant~~ or contract pursuant to the
24 Delinquency and Youth Gang Intervention and Prevention Act shall

1 work with local community leaders, neighborhood associations, direct
2 service providers, local school officials, law enforcement and other
3 stakeholders to create a local youth and gang violence coordinating
4 council to help facilitate the implementation of the program. The
5 entity shall also submit an annual evaluation report to the
6 ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, by a date subsequent
7 to the end of the contract period as established by the ~~Department~~
8 Office, documenting the extent to which the program objectives were
9 met and any other information required by the ~~Department~~ Office.

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

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

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

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

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

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

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

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

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

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

24

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

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

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

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

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

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

18 B. The Board of Juvenile Affairs shall promulgate rules
19 necessary for the implementation of the provisions of this section.
20 Until the rules are promulgated by the Board, the rules promulgated
21 by the Commission for Human Services shall remain in effect.

22 C. The programs developed under the provisions of this section
23 shall provide restitution to a victim by requiring the juvenile to
24 work or provide a service for the victim, or to make monetary

1 restitution to the victim from money earned from such a program.
2 Restitution shall be made through the employment of the juvenile in
3 work programs. The supervised work or service program shall not
4 deprive the juvenile of schooling which is appropriate to the age,
5 need, and specific rehabilitative goals of the juvenile. The
6 program shall not prohibit the juvenile from fulfilling restitution
7 obligations through jobs the juvenile has found, by performing
8 volunteer services for the community, or by doing work for the
9 victim.

10 D. Agreements for participation in the programs under this
11 section may include restitution not in excess of actual damages
12 caused by the juvenile which shall be paid from the net earnings of
13 the juvenile received through participation in a constructive
14 program of service or education acceptable to the juvenile, the
15 victim, the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, the
16 district attorney and/or the district court. During the course of
17 such service, the juvenile shall be paid no less than the federal
18 minimum wage. In considering a restitution agreement, the
19 ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, the district attorney
20 and/or the district court shall take into account the age, physical
21 and mental capacity of the juvenile. The service shall be designed
22 to relate to the juvenile a sense of responsibility for the injuries
23 caused to the person or property of another. If a petition has not
24 been filed, the district attorney shall approve the nature of the

1 work, the number of hours to be spent performing the assigned tasks
2 and shall further specify that as part of a plan of treatment and
3 rehabilitation, that seventy-five percent (75%) or more of the net
4 earnings of the juvenile shall be used for restitution in order to
5 provide positive reinforcement for the work performed. If a
6 petition has been filed, the district court may approve the nature
7 of the work, the number of hours to be spent performing the assigned
8 tasks and may further specify that as part of a plan of treatment
9 and rehabilitation, that seventy-five percent (75%) or more of the
10 net earnings of the juvenile shall be used for restitution.

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

24

1 F. Any person, entity or political subdivision who is an
2 employer of juveniles or recipient of services from a juvenile,
3 pursuant to an agreement with the Juvenile Offender Victim
4 Restitution Work Program shall not be liable for ordinary negligence
5 for:

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

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

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

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

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

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

22 3. ~~Enhancing community control of crime through information~~
23 ~~sharing regarding serious and habitual juvenile offenders that can~~

24

1 be used by patrol officers and criminal investigators for the early
2 identification of offenders and assist in the reduction of crime.

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

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

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

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

11 a. the courts, the District Attorney's Council and
12 offices of the district attorneys, state and local law
13 enforcement agencies, juvenile bureaus, the Department
14 of Human Services, the ~~Department of Juvenile Justice~~
15 ~~of the~~ Office of Juvenile Affairs, the Oklahoma
16 Commission on Children and Youth, the Department of
17 Corrections, the Criminal Justice Resource Center, any
18 other state agency responsible for the care, custody
19 or supervision of youth alleged or adjudicated to be
20 delinquent, and

21 b. to the extent that they are responsible for the
22 provision of services to youth alleged or adjudicated
23 to be delinquent, including but not limited to
24 educational, treatment or residential services, local

1 school districts and technology center schools and
2 other public and private agencies not otherwise
3 specifically included in subparagraph a of this
4 paragraph, comprising the "children and youth service
5 system" as defined by Section 600 of ~~this title~~ Title
6 10 of the Oklahoma Statutes;

7 ~~2. "Felony act" or "felony offense" means any criminal offense~~
8 ~~that would constitute a felony crime if committed by an adult;~~

9 ~~3. "Habitual criminal acts" means three separate delinquency~~
10 ~~adjudications for the commission of felony acts. The felony acts~~
11 ~~relied upon shall not have arisen out of the same transaction or~~
12 ~~occurrence or series of events related in time and location;~~

13 ~~4. "Juvenile court personnel" means those persons responsible~~
14 ~~for juvenile court intake, probation and parole supervision and~~
15 ~~services to youth alleged or adjudicated to be delinquent;~~

16 ~~5. 3. "Juvenile Justice Information System" means the automated~~
17 ~~information system established by Section 7302-9.6~~ 2-7-905 of this
18 title;

19 ~~6. 4. "Juvenile offender" means a delinquent child or juvenile~~
20 ~~as defined by Section 7301-1.3~~ 2-1-103 of this title; and

21 ~~7. "Sanction" means a consequence imposed upon a juvenile~~
22 ~~offender;~~

23 ~~a. as a result of a criminal act, and~~

1 ~~b. as a result of a violation of a condition of probation~~
2 ~~or parole;~~

3 ~~8. "Serious act" means any crime specified by subsection A of~~
4 ~~Section 7306 1.1 of this title;~~

5 ~~9. "Serious and Habitual~~

6 ~~5. "Juvenile Offender Tracking Program" means the program of~~
7 ~~information, information sharing, and case tracking, case~~
8 ~~management, supervision and sanctions established by Section 7302-~~
9 ~~9.3 2-7-903 of this title; and~~

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

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

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

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

22 2. Specific procedures for identifying juvenile offenders ~~who~~
23 ~~have committed a serious act or habitual criminal acts for the~~
24 ~~purposes~~ purpose of ~~intensive supervision and~~ communication between

1 law enforcement and juvenile court personnel and others regarding
2 said offenders;

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

5 ~~4. Structured decision-making instruments utilizing risk-
6 assessment, offense, needs assessment, and other appropriate
7 criteria for determining the imposition of appropriate specific
8 sanctions for:~~

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

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

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

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

13 ~~b. services for and supervision of all youth on pre-
14 adjudicatory or postadjudicatory probation or on~~

15 ~~parole and for juvenile offenders in the custody of
16 the Department of Juvenile Justice, and~~

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

18 ~~and habitual juvenile offenders and communication~~

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

20 ~~and others regarding said offenders;~~

21 ~~6. Detention criteria, the uniform statewide application of~~

22 ~~said detention criteria, and guidelines for the use of secure~~

23 ~~detention. Said guidelines shall provide for priority to be given~~

24 ~~to the use of juvenile detention facilities for the detention of~~

1 ~~serious juvenile offenders and habitual juvenile offenders through~~
2 ~~provisions requiring the removal from detention of a juvenile with a~~
3 ~~lower priority status if an empty detention bed is not available at~~
4 ~~the time of referral of a juvenile with a higher priority status and~~
5 ~~if the juvenile with a higher priority status would be more of a~~
6 ~~danger to the public than the juvenile with the lower priority~~
7 ~~status;~~

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

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

14 ~~9. Guidelines for the disposition of individual cases by~~
15 ~~district attorneys.~~

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

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

1 Youth, the Oklahoma State Bureau of Investigation, local law
2 enforcement agencies, and other agencies comprising the juvenile
3 justice system shall:

4 a. ~~develop~~

5 1. Develop and implement the ~~Serious and Habitual~~ Juvenile
6 Offender Tracking Program~~;~~

7 b. ~~develop;~~

8 2. Develop and implement the Juvenile Justice Information
9 System~~;~~

10 e. ~~adopt;~~

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

15 d. ~~enter~~

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

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

22 Section 7302-9.6 A. For the purpose of information sharing and
23 management of the ~~Serious and Habitual~~ Juvenile Offender Tracking
24 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,
24 the Office of the Court Administrator, and other agencies and

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

5 1. Identify information to be shared by agencies on a regular
6 basis;

7 2. Develop procedures for processing case-profiles as cases
8 move through agencies that come in contact with juvenile offenders;

9 3. Establish training programs in the use of the system;

10 4. Conduct a pilot project to test the system; and

11 5. At least annually, evaluate the plan for full statewide
12 implementation of the Juvenile Justice Information System and submit
13 any necessary modifications of the existing plan to the ~~Serious and~~
14 ~~Habitual~~ Juvenile Offender Tracking Program Implementation Task
15 Force and to the Governor, the President Pro Tempore of the Senate,
16 the Speaker of the House of Representatives, and each agency
17 affected by said plan.

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

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

22 CHAPTER 2 - CUSTODY AND COURT PROCEEDINGS

23

24

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
24 presented by the district attorney shall be supported by a sworn

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

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

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

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

18 B. Whenever a child is taken into custody as a delinquent child
19 or a child in need of supervision pursuant to subsection A of this
20 section, the child shall be detained, held temporarily in the
21 custodial care of a peace officer or other person employed by a
22 police department, or be released to the custody of the ~~child's~~
23 parent of the child, legal guardian, legal custodian, attorney or
24 other responsible adult, upon the written promise of such person to

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

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

16 C. When any child is taken into custody pursuant to this title
17 and it reasonably appears to the peace officer, employee of the
18 court or person acting pursuant to court order that the child is in
19 need of medical treatment to preserve the health of the child, any
20 peace officer, any employee of the court or person acting pursuant
21 to court order shall have the authority to authorize medical
22 examination and medical treatment for any child found to be in need
23 of medical treatment as diagnosed by a competent medical authority
24 in the absence of the ~~child's~~ parent of the child, legal guardian,

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

15 D. A child who has been taken into custody as otherwise
16 provided by this Code who appears to be a minor in need of
17 treatment, as defined by the Inpatient Mental Health and Substance
18 Abuse Treatment of Minors Act, may be admitted to a ~~mental health or~~
19 ~~substance abuse~~ behavioral health treatment facility ~~on an emergency~~
20 ~~basis or for an inpatient evaluation or for treatment only~~ in
21 accordance with the provisions of the Inpatient Mental Health and
22 Substance Abuse Treatment of Minors Act. The ~~child's~~ parent of the
23 child, legal guardian, legal custodian, or other person having
24 custody and control shall be responsible for such ~~mental~~ behavioral

1 health expenses as ordered by the court. No peace officer, any
2 employee of the court or person acting pursuant to court order
3 authorizing such treatment in accordance with the provisions of this
4 section for any child found in need of such ~~mental~~ behavioral health
5 evaluation or treatment shall have any liability, civil or criminal,
6 for giving such authorization.

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

14 2. If the child is in need of immediate medical treatment or
15 other action to protect the ~~child's~~ health or welfare of the child,
16 the court may issue an emergency ex parte order upon application of
17 the district attorney of the county in which the child is located.
18 The application for an ex parte order may be verbal or in writing
19 and shall be supported by facts sufficient to demonstrate to the
20 court that there is reasonable cause to believe that the child is in
21 need of immediate medical treatment or other action to protect the
22 ~~child's~~ health or welfare of the child. The emergency ex parte
23 order shall be in effect until a full hearing is conducted. A copy
24 of the application, notice for full hearing and a copy of any ex

1 parte order issued by the court shall be served upon such parent,
2 legal guardian, legal custodian, or other responsible adult having
3 custody or control of the child. Within twenty-four (24) hours of
4 the filing of the application the court shall schedule a full
5 hearing on the application, regardless of whether an emergency ex
6 parte order had been issued or denied.

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

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

24

1 5. a. The parent, legal guardian, legal custodian, or other
2 person having custody or control of the child shall be
3 responsible for such medical expenses as ordered by
4 the court.

5 b. No peace officer, any employee of the court or person
6 acting pursuant to court order authorizing such
7 treatment in accordance with the provisions of this
8 subsection for any child found in need of such medical
9 treatment shall have any liability, civil or criminal.

10 SECTION 41. AMENDATORY 10 O.S. 2001, Section 7303-1.2,
11 as amended by Section 7, Chapter 124, O.S.L. 2006 (10 O.S. Supp.
12 2008, Section 7303-1.2), is amended to read as follows:

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

- 18 a. resides,
19 b. is found, or
20 c. is alleged to be or is found to be in need of
21 supervision,

22 ~~shall have jurisdiction of any child who is or is alleged to be in~~
23 ~~need of supervision and.~~

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

14 ~~2.~~ 3. When jurisdiction ~~shall have~~ has been obtained over a
15 child who is or is alleged to be in need of supervision, such may be
16 retained until the child becomes eighteen (18) years of age ~~and~~
17 when.

18 B. 1. Upon the filing of a petition alleging the child to be
19 delinquent or upon the assumption of custody pursuant to Section 2-
20 2-101 of this title, the district court of the county where the
21 delinquent act occurred shall have jurisdiction of the child and of
22 the parent, legal custodian, legal guardian, stepparent of the child
23 or any adult person living in the home of the child regardless of
24

1 where the parent, legal custodian, legal guardian, stepparent, or
2 adult person living in the home of the child is found.

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

9 ~~3. For the convenience of the parties and in the interest of~~
10 ~~justice, a proceeding under the Oklahoma Juvenile Code, Section~~
11 ~~7301-1.1 et seq. of this title, may be transferred to the district~~
12 ~~court in any other county.~~

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

23 C. The district court in which a petition is filed or the
24 district court in which custody has been assumed pursuant to the

1 provisions of Section ~~7303-1.1~~ 2-2-101 of this title may retain
2 jurisdiction of a delinquent child in such proceeding
3 notwithstanding the fact that the child is subject to the
4 jurisdiction of another district court within the state. Any
5 adjudication and disposition made by the court in which said
6 petition is filed shall control over prior orders in regard to the
7 child.

8 ~~C. The district court in which a petition is filed which~~
9 ~~alleges that a child is in need of supervision can issue any~~
10 ~~temporary order or grant any interlocutory relief authorized by this~~
11 ~~Code notwithstanding the fact that another district court within the~~
12 ~~state has jurisdiction of the child.~~

13 ~~D. If the district court in which a petition is filed pursuant~~
14 ~~to either subsection B or subsection C of this section sustains the~~
15 ~~petition, the district court shall have the jurisdiction to make a~~
16 ~~final determination on the juvenile petition or to transfer the~~
17 ~~proceedings to a court having prior jurisdiction over the child.~~
18 ~~Where the other proceeding is pending in the same judicial district~~
19 ~~in which the juvenile petition is filed, the chief judge of the~~
20 ~~judicial district shall determine if the proceedings shall be~~
21 ~~consolidated and, if consolidated, which judge shall try the issues~~
22 ~~when the judges to whom the cases have been assigned are unable to~~
23 ~~agree on the procedure that should be followed Except as otherwise~~
24 ~~provided in the Oklahoma Juvenile Code, a child who is charged with~~

1 having violated any state statute or municipal ordinance, other than
2 those enumerated in Section 2-5-101, 2-5-205 or 2-5-206 of this
3 title, shall not be tried in a criminal action but in a juvenile
4 proceeding.

5 E. 1. ~~A municipality with a population of at least twenty-five~~
6 ~~thousand (25,000) may, by written resolution filed with the district~~
7 ~~court as defined in this subsection, assume jurisdiction of cases~~
8 ~~involving children under eighteen (18) years of age charged with~~
9 ~~violating any municipal ordinance identified in the resolution. Any~~
10 ~~other municipality may enter into an interlocal cooperation~~
11 ~~agreement with the district court pursuant to the Interlocal~~
12 ~~Cooperation Act, Sections 1001 through 1008 of Title 74 of the~~
13 ~~Oklahoma Statutes, to assume jurisdiction of cases involving~~
14 ~~children under eighteen (18) years of age charged with violating any~~
15 ~~municipal ordinance as agreed by the district court, the district~~
16 ~~attorney and the municipality. For the purposes of this subsection,~~
17 ~~"district court" shall mean the district court judicial district or~~
18 ~~districts in which the contracting municipality is situated. The~~
19 ~~chief juvenile judge of the district court judicial district is~~
20 ~~hereby authorized to enter into the interlocal cooperation agreement~~
21 ~~as provided for in this section for and on behalf of said judicial~~
22 ~~district if the judge determines that the agreement is~~
23 ~~constitutional and complies with state and federal law. Provided,~~
24 ~~if there is no chief juvenile judge in the judicial district, then~~

1 ~~the presiding judge of the judicial administrative district that~~
2 ~~includes the contracting judicial district may enter into the~~
3 ~~agreement for and on behalf of said judicial district if the judge~~
4 ~~determines that the agreement is constitutional and complies with~~
5 ~~state and federal law.~~

6 ~~2. A child under eighteen (18) years of age who is taken into~~
7 ~~custody for the alleged violation of a municipal ordinance relating~~
8 ~~to truancy may be held pursuant to Section 10-109 of Title 70 of the~~
9 ~~Oklahoma Statutes. In no event shall the child be placed in a jail,~~
10 ~~lockup, or detention facility. In no event shall the child be~~
11 ~~placed in a juvenile detention facility for more than twenty-four~~
12 ~~(24) hours, excluding weekends and legal holidays, prior to an~~
13 ~~initial court appearance and for an additional twenty-four (24)~~
14 ~~hours, excluding weekends and legal holidays, immediately following~~
15 ~~an initial court appearance; provided, however, this provision shall~~
16 ~~not restrict or prohibit placing the child in a community~~
17 ~~intervention center pursuant to Section 7302-3.5 of this title.~~

18 ~~3. A child under eighteen (18) years of age who is taken into~~
19 ~~custody for the alleged violation of a municipal ordinance relating~~
20 ~~to curfews may be held temporarily under the custodial care of a~~
21 ~~peace officer or other person employed by a police department only~~
22 ~~until the child's parent, legal guardian, legal custodian, attorney~~
23 ~~or other responsible adult assumes custody or, if such a person~~
24 ~~cannot be located within a reasonable time of the taking of the~~

1 ~~child into custody or if such a person refuses to assume custody,~~
2 ~~until temporary shelter is found for the child. In no event shall~~
3 ~~the child be placed in a jail, lockup, or adult detention facility.~~
4 ~~In no event shall the child be placed in a juvenile detention~~
5 ~~facility for more than twenty-four (24) hours, excluding weekends~~
6 ~~and legal holidays, prior to an initial court appearance and for an~~
7 ~~additional twenty-four (24) hours, excluding weekends and legal~~
8 ~~holidays, immediately following an initial court appearance,~~
9 ~~provided however, this provision shall not restrict or prohibit~~
10 ~~placing the child in a community intervention center pursuant to~~
11 ~~Section 7302-3.5 of this title. The temporary custody provided for~~
12 ~~by this paragraph shall be utilized as a means of returning the~~
13 ~~child to the child's home or other place of shelter.~~

14 ~~4. Notwithstanding any other provision of this Code, a child~~
15 ~~less than eighteen (18) years of age, who is taken into custody for~~
16 ~~the alleged violation of a municipal ordinance, and who can be~~
17 ~~prosecuted in municipal court for such offense pursuant to~~
18 ~~jurisdiction assumed by the municipal court pursuant to the~~
19 ~~provisions of paragraph 1 of this subsection, may be temporarily~~
20 ~~detained by the municipality in a municipal juvenile facility, as~~
21 ~~defined by this paragraph, but only pursuant to the following~~
22 ~~conditions:~~

23 ~~a. the municipality shall immediately take all reasonable~~
24 ~~steps to attempt to locate the child's parent, legal~~

1 ~~guardian, legal custodian, attorney or another~~
2 ~~responsible adult and determine if said parent, legal~~
3 ~~guardian, legal custodian, attorney or other~~
4 ~~responsible adult is willing to appear at the~~
5 ~~municipal juvenile facility and assume personal~~
6 ~~custody of the child upon the child's release from~~
7 ~~such facility,~~

8 b. ~~the child shall be released to the personal custody of~~
9 ~~the child's parent, legal guardian, legal custodian,~~
10 ~~attorney or other responsible adult as soon as~~
11 ~~practicable and upon the written promise of such~~
12 ~~person to return the child to municipal court to~~
13 ~~answer the municipal charges on the date and at the~~
14 ~~time set by the municipal court and to assume~~
15 ~~responsibility for costs for damages by the child if~~
16 ~~the child causes damages while committing any acts in~~
17 ~~violation of municipal ordinances listed in this~~
18 ~~section after being released. Municipalities may~~
19 ~~enact ordinances providing penalties for failure to~~
20 ~~comply with the written promise and for refusal to~~
21 ~~assume custody of a child in a timely manner,~~

22 c. ~~the child shall be detained in the municipal juvenile~~
23 ~~facility for no longer than twenty four (24) hours,~~
24 ~~provided, if the child's parent, legal guardian, legal~~

1 ~~custodian, attorney or other responsible adult fails~~
2 ~~to appear at the municipal juvenile facility and~~
3 ~~assume personal custody of the child within said~~
4 ~~twenty four hour period, then custody or release of~~
5 ~~the child shall be determined pursuant to the~~
6 ~~provisions of Section 7303 1.1 of this title,~~

7 ~~d. the child shall be provided with adequate fresh~~
8 ~~drinking water,~~

9 ~~e. the child shall be provided with adequate food not~~
10 ~~less than three times in a twenty four hour period,~~

11 ~~f. the child shall be provided with adequate bathroom~~
12 ~~facilities and bedding, and~~

13 ~~g. the child shall be provided with any necessary medical~~
14 ~~care and treatment.~~

15 ~~Prior to the temporary detention of any child pursuant to the~~
16 ~~authority of this subsection, the municipal juvenile facility shall~~
17 ~~be certified by the Office of Juvenile Affairs pursuant to the~~
18 ~~applicable certification standards set by the Board of Juvenile~~
19 ~~Affairs, and each member of the staff of the municipal juvenile~~
20 ~~facility shall have satisfactorily completed a training program~~
21 ~~provided or approved by the Department of Juvenile Justice. In~~
22 ~~furtherance of this subsection, the Office of Juvenile Affairs is~~
23 ~~directed to and shall establish standards for the certification of~~
24 ~~municipal juvenile facilities, with said standards to include, but~~

1 ~~not be limited to, the conditions set forth in subparagraphs a~~
2 ~~through g, inclusive, of this paragraph, and the Department of~~
3 ~~Juvenile Justice is directed to and shall provide or approve an~~
4 ~~appropriate training program for staff members of such facilities.~~
5 ~~In lieu of operating a municipal juvenile facility with trained~~
6 ~~municipal employees, the municipality may contract with an~~
7 ~~independent public or private facility properly certified by the~~
8 ~~Office of Juvenile Affairs for performance of the detention services~~
9 ~~authorized by the provisions of this paragraph. For the purposes of~~
10 ~~this section, a "municipal juvenile facility" shall mean a secure~~
11 ~~facility which is entirely separate from any jail, adult lockup, or~~
12 ~~other adult facility, or is spatially separate if contained inside~~
13 ~~any jail, adult lockup, or other adult facility which is certified~~
14 ~~by the Office of Juvenile Affairs for use for the temporary~~
15 ~~detention of juveniles as authorized by the provisions of this~~
16 ~~paragraph. The provisions of this paragraph shall not restrict or~~
17 ~~limit the use of municipal juvenile facilities for detention of~~
18 ~~juveniles who are detained pursuant to other provisions of law. In~~
19 ~~no event shall a juvenile be held in an adult facility that does not~~
20 ~~meet the definition of a municipal juvenile facility.~~

21 ~~5. Pursuant to an interlocal cooperation agreement between a~~
22 ~~municipality and the district court, as authorized by the provisions~~
23 ~~of paragraph 1 of this subsection, a child less than eighteen (18)~~
24 ~~years of age may be charged, prosecuted and, if convicted, fined for~~

1 ~~violating a municipal ordinance for which provision is made in~~
2 ~~paragraph 1 of this subsection; provided, that the maximum fine~~
3 ~~which may be imposed shall not exceed the maximum fine authorized by~~
4 ~~law. When assessing punishment, the court also may require~~
5 ~~appropriate community service work, not to exceed ninety (90) hours,~~
6 ~~in lieu of or in addition to a fine if the product of multiplying~~
7 ~~the number of hours of community service work by the prevailing~~
8 ~~minimum wage plus any fine imposed does not result in a number which~~
9 ~~exceeds the maximum fine authorized by law, or restitution, or both~~
10 ~~community service work and restitution. If the child fails to~~
11 ~~complete the community service, a parent or guardian of the child~~
12 ~~who knew or should have known that the child failed to complete the~~
13 ~~community service may be fined an amount that is equal to the number~~
14 ~~of community service hours that are uncompleted by the child~~
15 ~~multiplied by the hourly minimum wage amount. In addition, during~~
16 ~~any calendar year that any child:~~

- 17 a. ~~fails to appear for a court date on more than one~~
18 ~~occasion,~~
- 19 b. ~~is convicted of two or more of the municipal offenses~~
20 ~~for which provision is made in paragraph 1 of this~~
21 ~~subsection, which offenses occurred on different days,~~
22 ~~or~~
- 23 c. ~~fails to pay any fine or cost properly assessed by a~~
24 ~~municipal court,~~

1 ~~and after the expiration of ninety (90) days, the court clerk shall~~
2 ~~mail notice of such occurrence to the Department of Public Safety,~~
3 ~~which department shall thereafter suspend or deny driving privileges~~
4 ~~for such child for six (6) months. The suspension may be modified~~
5 ~~as provided in Section 6-107.2 of Title 47 of the Oklahoma Statutes.~~
6 ~~In addition, the court may require the child to receive counseling~~
7 ~~or other community-based services, as necessary.~~

8 ~~If a child is prosecuted for an offense in a municipal court,~~
9 ~~the child shall not be prosecuted for the offense in the district~~
10 ~~court. The municipal court may also impose costs as authorized by~~
11 ~~law.~~

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

21 ~~7. All municipal arrest records, prosecution records, court~~
22 ~~records, and court proceedings for cases involving children less~~
23 ~~than eighteen (18) years of age charged with violating municipal~~
24 ~~ordinances shall be kept confidential and shall not be open to~~

1 ~~public inspection except by order of the municipal court or as~~
2 ~~otherwise provided by Article VII of this Code and Section 620.6 of~~
3 ~~this title. Municipal conviction records involving children less~~
4 ~~than eighteen (18) years of age convicted of violating municipal~~
5 ~~ordinances shall be open to public inspection~~ If, during the
6 pendency of a criminal charge against any person, it shall be
7 ascertained that the person was a child at the time of committing
8 the alleged offense, the district court or municipal court shall
9 transfer the case, together with all the papers, documents and
10 testimony connected therewith, to the juvenile division of the
11 district court. The division making the transfer shall order the
12 child to be taken forthwith to the place of detention designated by
13 the juvenile division, to that division itself, or release the child
14 to the custody of a suitable person to be brought before the
15 juvenile division.

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

21 1. ~~To fund local programs which address problems of juvenile~~
22 ~~crime;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 ~~6. The name and residence of the nearest known relative, if no~~
24 ~~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~~
24 ~~the child successfully completes the program, the district attorney~~

1 ~~shall not file the petition. If the district attorney defers filing~~
2 ~~a petition pursuant to this subsection, the deferral~~ Informal
3 adjustment may be provided to the child by the intake worker only
4 where the facts reasonably appear to establish prima facie
5 jurisdiction and are admitted and where consent is obtained from the
6 district attorney, the parent of the child, legal guardian, legal
7 custodian, or legal counsel, if any, and the child. The informal
8 adjustment is an agreement whereby the child agrees to fulfill
9 certain conditions in exchange for not having a petition filed
10 against the child. The informal adjustment shall be completed
11 within a period of time not to exceed six (6) months and shall:

12 1. Be voluntarily entered into by all parties;

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

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

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

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

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

24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (1) murder of another child of the parent,

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

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

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

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

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

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

1 Section 7303-1.5 A. If a child has been taken into custody
2 pursuant to the provisions of the Oklahoma Juvenile Code before a
3 petition has been filed, a petition shall be filed and 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 parent of the child, legal guardian, legal custodian, or
7 other responsible adult, unless otherwise provided for in the
8 Oklahoma Juvenile Code.

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

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

20 D. A petition in a juvenile proceeding may be filed by the
21 district attorney to determine if further action is necessary. The
22 proceeding shall be entitled "In the matter of _____, an
23 alleged (delinquent) or (a child alleged to be in need of
24

1 supervision)". The petition shall be verified and may be upon
2 information and belief. It shall set forth:

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

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

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

7 4. The name and residence of the legal guardian of the child,
8 if applicable;

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

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

13 7. The relief requested; and

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

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

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

21 Section 7303-1.6 A. After a petition shall have been filed,
22 unless the parties provided for in this section shall voluntarily
23 appear, a summons shall be issued which shall recite briefly the
24 nature of the proceeding with the phrase "as described more fully in

1 the attached petition" and requiring the person or persons who have
2 the custody or control of the child to appear personally and bring
3 the child before the court at a time and place stated. The summons
4 shall state the relief requested, and shall set forth the right of
5 the child, parents and other interested parties to have an attorney
6 present at the hearing on the petition.

7 B. The summons shall be served on the person who has actual
8 custody of the child, and if the child has reached the age of twelve
9 (12) years, a copy shall be served on the child. If the person who
10 has actual custody of the child shall be other than a parent or
11 guardian of the child, a copy of the summons shall be served on the
12 parent or guardian, or both. A copy of the summons shall be served
13 on a custodial parent, guardian or next friend. If no parent or
14 guardian can be found, a summons shall be served on such other
15 person or persons as the court shall designate.

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

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

22 D. Service of summons shall be made as provided for service in
23 civil actions.

24

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

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

8 E. If after a petition has been filed, it appears that the
9 child is in such condition or surroundings that the welfare of the
10 child requires that custody be immediately assumed by the court, the
11 judge may immediately issue a detention order or warrant authorizing
12 the taking of said child into emergency custody. Any such child
13 shall not be considered to be in the custody of the Office of
14 Juvenile Affairs.

15 ~~E.~~ F. In a delinquency proceeding, whenever a warrant for the
16 arrest of a child shall issue, it shall state the offense the child
17 is being charged with having committed; in a child in need of
18 supervision proceeding, whenever a warrant for detention of a child
19 shall issue, it shall state the reason for detention. Warrants for
20 the arrest or detention of a child shall comport with all other
21 requirements of issuance of arrest warrants for adult criminal
22 offenders.

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

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

5 SECTION 46. AMENDATORY 10 O.S. 2001, Section 7303-1.7,
6 as amended by Section 26, Chapter 327, O.S.L. 2002 (10 O.S. Supp.
7 2008, Section 7303-1.7), is amended to read as follows:

8 Section 7303-1.7 A. After a petition under the provisions of
9 this article has been filed, the court may order the child to be
10 examined and evaluated for medical issues, including behavioral
11 health diagnoses, by a physician or other appropriate professional
12 to aid the court in making the proper disposition concerning the
13 child. ~~The court may order a mental health evaluation of a child as~~
14 ~~provided by the Inpatient Mental Health and Substance Abuse~~
15 ~~Treatment of Minors Act.~~

16 B. Whenever a child concerning whom a petition has been filed
17 appears to be in need of nursing, medical or surgical care, the
18 court may order the parent or other person responsible for the care
19 and support of the child to provide such care in a hospital or
20 otherwise. If the parent or other person fails to provide such
21 care, the court may, after due notice, enter an order therefor, and
22 the expense thereof, when approved by the court, shall be a charge
23 upon the county, but the court may adjudge that the person having
24 the duty under the law to support the child pay part or all of the

1 expenses of such care. In an emergency the court may, when health
2 or condition of the child may require it, cause the child to be
3 placed in a public hospital or institution for treatment or special
4 care, or in a private hospital or institution which will receive the
5 child for like purpose, and consent to emergency treatment or
6 surgery.

7 ~~C. After adjudication and at the request of a judge in any~~
8 ~~juvenile proceeding, the Department of Juvenile Justice shall~~
9 ~~investigate the home conditions and environment of the child and the~~
10 ~~financial ability, occupation and earning capacity of the parent,~~
11 ~~legal guardian or custodian of the child. Upon request by the court~~
12 ~~of another state, the Department may conduct a similar~~
13 ~~investigation.~~

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

16 Section 7303-3.1 A. No information gained by a custodial
17 interrogation of a youthful offender under sixteen (16) years of age
18 or a child ~~or a youthful offender under sixteen (16) years of age~~
19 nor any evidence subsequently obtained as a result of such
20 interrogation shall be admissible into evidence against the ~~child or~~
21 youthful offender or child unless the custodial interrogation about
22 any alleged offense by any law enforcement officer or investigative
23 agency, or employee of the court, or employee of the ~~Department~~
24 Office of Juvenile Justice Affairs is done in the presence of the

1 parents, guardian, attorney, adult relative, adult caretaker, or
2 legal custodian of the ~~child or~~ youthful offender or child. No such
3 custodial interrogation shall commence until the youthful offender
4 or child and the parents, guardian, attorney, adult relative, adult
5 caretaker, or legal custodian of the youthful offender or child have
6 been fully advised of the constitutional and legal rights of the
7 ~~child or~~ youthful offender or child, including the right to be
8 represented by counsel at every stage of the proceedings, and the
9 right to have counsel appointed by the court if the parties are
10 without sufficient financial means; provided, however, that no legal
11 aid or other public or charitable legal service shall make claim for
12 compensation as contemplated herein. It is further provided that
13 where private counsel is appointed in such cases, the court shall
14 set reasonable compensation and order the payment out of the court
15 fund. As used in this section, "custodial interrogation" means
16 questioning of a ~~child or~~ youthful offender under sixteen (16) years
17 of age or child while that ~~child or~~ youthful offender or child is in
18 law enforcement custody or while that ~~child or~~ youthful offender or
19 child is being deprived of freedom of action in any significant way
20 by a law enforcement officer, employee of the court, or employee of
21 the ~~Department~~ Office. Custodial interrogation shall conform with
22 all requirements for interrogation of adult criminal offenders. The
23 term "custodial interrogation" shall not be deemed to mean
24 questioning of a ~~child or~~ youthful offender or child by a public

1 school administrator or teacher, so long as such questioning is not
2 being conducted on behalf of a law enforcement officer, an employee
3 of the court or an employee of the ~~Department~~ Office. Any
4 information gained from noncustodial questioning of a child or
5 youthful offender by a public school administrator or teacher
6 concerning a wrongful act committed on public school property shall
7 be admissible into evidence against the ~~child or~~ youthful offender
8 or child.

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

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

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

6 ~~C.~~ D. Whenever a petition is filed alleging that a child is a
7 delinquent child or a child in need of supervision, the court may
8 appoint a guardian ad litem for the child at any time subsequent to
9 the filing of the petition and shall appoint a guardian ad litem
10 upon the request of the child or the attorney of the child. The
11 guardian ad litem shall not be a district attorney, an employee of
12 the office of the district attorney, an employee of the court, an
13 employee of a juvenile bureau, or an employee of any public agency
14 having duties or responsibilities towards the child.

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

20 ~~E. It shall be unlawful and a misdemeanor for the Office of~~
21 ~~Juvenile Affairs, the Department of Juvenile Justice, any person~~
22 ~~employed by the Office or the Department, or any other public~~
23 ~~officer or employee, to furnish or permit to be taken off of the~~

24

1 ~~records any information therein contained for commercial, political~~
2 ~~or any other unauthorized purpose.~~

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

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

9 ~~1. Except as provided by paragraph 2 of this subsection, the~~
10 The hearings shall be conducted in private unless specifically
11 ordered by the judge. Upon its own motion or the motion of any of
12 the parties to the hearing and for good cause shown, the court may
13 order the hearing to be conducted in public, and all persons having
14 a direct interest in the case as provided in this paragraph shall be
15 admitted. Any victim, relative, legal guardian of a victim, or a
16 person designated by the victim who is not subject to the rule of
17 sequestration as a witness of a ~~juvenile criminal~~ delinquent act
18 shall be considered to have a direct interest in the case and shall
19 be notified of all court hearings involving that particular ~~juvenile~~
20 ~~criminal~~ delinquent act as provided by Section 215.33 of Title 19 of
21 the Oklahoma Statutes and shall be admitted to the proceedings.
22 Stenographic notes or other transcript of the hearings shall be kept
23 as in other cases, but they shall not be open to inspection except
24 by order of the court or as otherwise provided by law.

1 ~~2. Hearings related to the second or subsequent delinquency~~
2 ~~adjudication of a child shall be public proceedings. The~~
3 ~~adjudications relied upon to determine whether a hearing is a public~~
4 ~~proceeding pursuant to this paragraph shall not have arisen out of~~
5 ~~the same transaction or occurrence or series of events closely~~
6 ~~related in time and location. Upon its own motion or the motion of~~
7 ~~any of the parties to the hearing and for good cause shown, the~~
8 ~~court may order specific testimony or evidence to be heard in~~
9 ~~private; provided, the court shall not exclude any relative, legal~~
10 ~~guardian of a victim, or a person designated by the victim who is~~
11 ~~not subject to the rule of sequestration as a witness from the~~
12 ~~hearing during testimony of the victim. For the purposes of this~~
13 ~~paragraph, "good cause" shall mean a showing that it would be~~
14 ~~substantially harmful to the mental or physical well being of the~~
15 ~~child if such testimony or evidence were presented at a public~~
16 ~~hearing.~~

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

21 C. A decision determining a child to come within the purview of
22 the Oklahoma Juvenile Code shall be based on sworn testimony and the
23 child shall have the opportunity for cross-examination unless the
24 facts are stipulated. In proceedings pursuant to the Oklahoma

1 Juvenile Code, the court may allow mileage as in civil actions to
2 witnesses and reimbursement for expert witnesses but such shall not
3 be tendered in advance of the hearing. If a child is alleged to be
4 delinquent and the facts are stipulated, the judge shall ascertain
5 from the child if the child agrees with the stipulation and if the
6 child understands the consequences of stipulating the facts.

7 D. If the court finds that the allegations of a petition
8 alleging a child to be delinquent or in need of supervision are
9 supported by the evidence, the court shall sustain the petition, and
10 shall make an order of adjudication setting forth whether the child
11 is delinquent or in need of supervision and shall adjudge the child
12 as a ward of the court.

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

19 SECTION 49. AMENDATORY 10 O.S. 2001, Section 7303-4.3,
20 as amended by Section 1, Chapter 75, O.S.L. 2004 (10 O.S. Supp.
21 2008, Section 7303-4.3), is amended to read as follows:

22 Section 7303-4.3 A. ~~Except as otherwise provided in the~~
23 ~~Oklahoma Juvenile Code, a child who is charged with having violated~~
24 ~~any state statute or municipal ordinance other than those enumerated~~

1 ~~in Section 7306-1.1, 7306-2.5 or 7306-2.6 of this title, shall not~~
2 ~~be tried in a criminal action but in a juvenile proceeding. The~~
3 ~~juvenile proceeding may be filed before the child becomes eighteen~~
4 ~~(18) years of age or within ninety (90) days after the date of the~~
5 ~~eighteenth birthday of the child. If, during the pendency of a~~
6 ~~criminal or quasi criminal charge against any person, it shall be~~
7 ~~ascertained that the person was a child at the time of committing~~
8 ~~the alleged offense, the district court or municipal court shall~~
9 ~~transfer the case, together with all the papers, documents and~~
10 ~~testimony connected therewith, to the juvenile division of the~~
11 ~~district court. The division making the transfer shall order the~~
12 ~~child to be taken forthwith to the place of detention designated by~~
13 ~~the juvenile division, to that division itself, or release the child~~
14 ~~to the custody of some suitable person to be brought before the~~
15 ~~juvenile division. However, nothing in this act shall be construed~~
16 ~~to prevent the exercise of concurrent jurisdiction by another~~
17 ~~division of the district court or by municipal courts in cases~~
18 ~~involving children wherein the child is charged with the violation~~
19 ~~of a state or municipal traffic law or ordinance.~~

20 B. Except as otherwise provided by law, if a child is charged
21 with delinquency a delinquent act as a result of an offense which
22 would be a felony if committed by an adult, the court on its own
23 motion or at the request of the district attorney shall conduct a
24 preliminary hearing to determine whether or not there is prosecutive

1 merit to the complaint. If the court finds that prosecutive merit
2 exists, it shall continue the hearing for a sufficient period of
3 time to conduct an investigation and further hearing to determine if
4 the child should be held accountable for acts of the child as if the
5 child were an adult if the child should be found to have committed
6 the alleged act or omission.

7 Consideration shall be given to:

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

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

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

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

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

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

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

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

21 If not included in the original summons, notice of a hearing to
22 consider whether a child should be certified for trial as an adult
23 shall be given to all persons who are required to be served with a
24 summons at the commencement of a juvenile proceeding, but

1 publication in a newspaper when the address of a person is unknown
2 is not required. The purpose of the hearing shall be clearly stated
3 in the notice.

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

23 ~~D.~~ C. Any child who has been certified to stand trial as an
24 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.

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

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

7 B. A court may defer delinquency adjudication proceedings or
8 proceedings to determine if a child is in need of supervision for
9 ~~one hundred eighty (180) days~~ up to one (1) year if the child:

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

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

16 3. 2. Has not been previously adjudicated a delinquent; ~~and~~

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

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

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

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

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

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

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

14 4. An alternative diversion program; or

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

17 C. The court shall dismiss the case with prejudice at the
18 conclusion of the deferral period if the child presents satisfactory
19 evidence that the ~~Teen Court program, graduated sanctions program or~~
20 ~~a juvenile drug court has~~ requirements of the court have been
21 successfully completed.

22 ~~F.~~ ~~The court may require a child who requests a Teen Court~~
23 ~~program to pay a fee, as determined by the court, not to exceed~~
24 ~~Twenty Dollars (\$20.00) to cover the costs of administration. The~~

1 ~~fee shall be deposited in the court clerk's official depository~~
2 ~~account. Eighty percent (80%) of the costs so paid shall be~~
3 ~~distributed to the organization sponsoring the Teen Court to be used~~
4 ~~for Teen Court operating expenses. The remaining twenty percent~~
5 ~~(20%) of the cost shall be paid by the court clerk to the court~~
6 ~~fund.~~

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

20 H. ~~A court may defer delinquency proceedings for one hundred~~
21 ~~eighty (180) days for any child that has not been previously~~
22 ~~adjudicated delinquent, if the child agrees to participate in a~~
23 ~~counseling program that has been approved by the court. The court~~
24 ~~shall dismiss the case with prejudice at the conclusion of the~~

1 ~~deferral period if the child presents satisfactory evidence that the~~
2 ~~counseling program has been successfully completed. The records of~~
3 ~~a case dismissed pursuant to this subsection shall be subject to the~~
4 ~~provisions of Article VII of the Oklahoma Juvenile Code.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

20 SECTION 52. AMENDATORY 10 O.S. 2001, Section 7303-5.2,
21 as amended by Section 27, Chapter 327, O.S.L. 2002 (10 O.S. Supp.
22 2008, Section 7303-5.2), is amended to read as follows:

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

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

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

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

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

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

24

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

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

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

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

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

16 ~~3.~~ 2. The services necessary to assist the child to reintegrate
17 with the family of the child or other community-based placement; and

18 ~~4.~~ 3. If the child is age sixteen (16) or older, the services
19 necessary to make the transition from community placement to
20 independent living.

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

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

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

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

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

23 2. If it is consistent with the welfare of the child, the child
24 shall be placed with the parent or legal guardian of the child, but

1 if it appears to the court that the conduct of such parent,
2 guardian, legal guardian, stepparent or other adult person living in
3 the home has contributed to the child becoming delinquent or in need
4 of supervision, the court may issue a written order specifying
5 conduct to be followed by such parent, guardian, legal custodian,
6 stepparent or other adult person living in the home with respect to
7 such child. The conduct specified shall be such as would reasonably
8 prevent the child from continuing to be delinquent or in need of
9 supervision. ~~Such order shall remain in effect for a period of not~~
10 ~~more than one (1) year to be specified by the court, and the order~~
11 ~~may be extended or renewed by the court.~~

12 a. If it is consistent with the welfare of the child, in
13 cases where the child has been adjudicated to be in
14 need of supervision due to repeated absence from
15 school, the court may order counseling and treatment
16 for the child and the parents of the child to be
17 provided by the local school district, the county, the
18 ~~Department~~ Office or a private individual or entity.
19 Prior to final disposition, the court shall require
20 that it be shown by the appropriate school district
21 that a child found to be truant has been evaluated for
22 learning disabilities, hearing and visual impairments
23 and other impediments which could constitute an
24 educational handicap or has been evaluated to

1 determine whether the child has a disability if it is
2 suspected that the child may require special education
3 services in accordance with the Individuals with
4 Disabilities Education Act (IDEA). The results of
5 such tests shall be made available to the court for
6 use by the court in determining the disposition of the
7 case.

8 b. In issuing orders to a parent, guardian, legal
9 guardian, stepparent or other adult person living in
10 the home of a child adjudicated to be a delinquent
11 child or in making other disposition of said
12 delinquent child, the court may consider the testimony
13 of said parent, guardian, legal guardian, stepparent
14 or other adult person concerning the behavior of the
15 juvenile and the ability of such person to exercise
16 parental control over the behavior of the juvenile.

17 c. In any dispositional order involving a child age
18 sixteen (16) or older, the court shall make a
19 determination, where appropriate, of the services
20 needed to assist the child to make the transition to
21 independent living.

22 No child who has been adjudicated in need of supervision only
23 upon the basis of truancy or noncompliance with the mandatory school
24 attendance law shall be placed in a public or private institutional

1 facility or be removed from the custody of the lawful parent,
2 guardian or custodian of the child.

3 3. The court may commit the child to the custody of a private
4 institution or agency, including any institution established and
5 operated by the county, authorized to care for children or to place
6 them in family homes. In committing a child to a private
7 institution or agency, the court shall select one that is licensed
8 by any state department supervising or licensing private
9 institutions and agencies; or, if such institution or agency is in
10 another state, by the analogous department of that state. Whenever
11 the court shall commit a child to any institution or agency, it
12 shall transmit with the order of commitment a summary of its
13 information concerning the child, and such institution or agency
14 shall give to the court such information concerning the child as the
15 court may at any time require.

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

18 5. The court may commit the child to the custody of the Office
19 of Juvenile Affairs ~~under the supervision of the Department of~~
20 ~~Juvenile Justice~~. Any order adjudicating the child to be delinquent
21 and committing the child to the ~~Department~~ Office of Juvenile
22 ~~Justice~~ Affairs shall be for an indeterminate period of time.

23 6. If the child has been placed outside the home, and it
24 appears to the court that the parent, guardian, legal custodian, or

1 stepparent, or other adult person living in the home has contributed
2 to the child becoming delinquent or in need of supervision, the
3 court may order that the parent, guardian, legal custodian,
4 stepparent, or other adult living in the home be made subject to any
5 treatment or placement plan prescribed by the ~~Department~~ Office or
6 other person or agency receiving custody of the child.

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

9 a. for acts involving criminally injurious conduct as
10 defined in Section 142.3 of Title 21 of the Oklahoma
11 Statutes, order the child to pay a victim compensation
12 assessment in an amount not to exceed that amount
13 specified in Section 142.18 of Title 21 of the
14 Oklahoma Statutes. The court shall forward a copy of
15 the adjudication order to the Crime Victims
16 Compensation Board for purposes of Section 142.11 of
17 Title 21 of the Oklahoma Statutes. Except as
18 otherwise provided by law, such adjudication order
19 shall be kept confidential by the Board,

20 b. order the child to engage in a term of community
21 service without compensation. The state or any
22 political subdivision shall not be liable if a loss or
23 claim results from any acts or omission of a child
24

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

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

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

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

8 (2) Restitution may consist of monetary reimbursement
9 for the damage or injury in the form of a lump
10 sum or installment payments after the
11 consideration of the court of the nature of the
12 offense, the age, physical and mental condition
13 of the child, the earning capacity of the child,
14 the parent or parents of the child, or legal
15 guardian, or the ability to pay, as the case may
16 be. The payments shall be made to such official
17 designated by the court for distribution to the
18 victim. The court may also consider any other
19 hardship on the child, the parent or parents of
20 the child, or legal guardian and, if consistent
21 with the welfare of the child, require community
22 service in lieu of restitution or require both
23 community service and full or partial restitution
24 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
24 court shall enter a judgment of restitution in

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

d. order the child to pay the fine which would have been imposed had such child been convicted of such crime as an adult. Any such fine collected pursuant to this paragraph shall be deposited in a special Work Restitution Fund to be established by the court to allow children otherwise unable to pay restitution to work in community service projects in the private or public sector to earn money to compensate their victims,

1 e. order the cancellation or denial of driving privileges
2 as provided by Sections 6-107.1 and 6-107.2 of Title
3 47 of the Oklahoma Statutes,

4 f. ~~in accordance with the guidelines approved and adopted~~
5 ~~by the Oklahoma Supreme Court for the implementation~~
6 ~~of the Serious and Habitual Juvenile Offender Program,~~
7 ~~make the following orders:~~ sanction detention in the
8 residence of the child or facility designated by the
9 Department of Juvenile Justice or the juvenile bureau
10 for such purpose for up to five (5) days, order
11 weekend detention in a place other than a juvenile
12 detention facility or shelter, tracking, or house
13 arrest with electronic monitoring. ~~On and after the~~
14 ~~adoption of guidelines by the Oklahoma Supreme Court~~
15 ~~for the implementation of the Serious and Habitual~~
16 ~~Juvenile Offender Program, the provisions of~~
17 ~~subparagraphs a through e of this paragraph shall be~~
18 ~~subject to said guidelines,~~

19 g. ~~in accordance with the guidelines approved and adopted~~
20 ~~by the Oklahoma Supreme Court for the implementation~~
21 ~~of the Serious and Habitual Juvenile Offender Program,~~
22 impose sanctions for the violation of preadjudicatory
23 or postadjudicatory violations of probation.

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

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

5 ~~9.~~ 10. In any dispositional order removing a child from the
6 home of the child, the court shall, in addition to the findings
7 required by subsection ~~B A~~ of Section ~~7303-1.4~~ 2-2-105 of this
8 title, make a determination that, in accordance with the best
9 interests of the child and the protection of the public, reasonable
10 efforts have been made to provide for the return of the child to the
11 ~~child's own~~ home of the child, or that efforts to reunite the family
12 are not required as provided in subsection ~~B A~~ of Section ~~7303-1.4~~
13 2-2-105 of this title, and reasonable efforts are being made to
14 finalize an alternate permanent placement for the child.

15 B. Prior to adjudication or as directed by a law enforcement
16 subpoena or court order, a school district may disclose educational
17 records to the court or juvenile justice system for purposes of
18 determining the ability of the juvenile justice system to
19 effectively serve a child. Any disclosure of educational records
20 shall be in accordance with the requirements of the Family
21 Educational Rights and Privacy Act of 1974 (FERPA). If the parent,
22 guardian, or custodian of a child adjudicated a delinquent child
23 asserts that the child has approval not to attend school pursuant to
24 Section 10-105 of Title 70 of the Oklahoma Statutes, the court or

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

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

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

14 E. No child charged in a state or municipal court with a
15 violation of state or municipal traffic laws or ordinances, or
16 convicted therefor, may be incarcerated in jail for the violation
17 unless the charge for which the arrest was made would constitute a
18 felony if the child were an adult. Nothing contained in this
19 subsection shall prohibit the detention of a juvenile for traffic-
20 related offenses prior to the filing of a petition in the district
21 court alleging delinquency as a result of the acts and nothing
22 contained in this section shall prohibit detaining a juvenile
23 pursuant to Section ~~7303-1.2~~ 2-2-102 of this title.

24

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

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

16 SECTION 54. AMENDATORY 10 O.S. 2001, Section 7303-5.4,
17 as amended by Section 6, Chapter 473, O.S.L. 2002 (10 O.S. Supp.
18 2008, Section 7303-5.4), is amended to read as follows:

19 Section 7303-5.4 A. 1. Every disposition order regarding a
20 child adjudicated to be delinquent or in need of supervision shall
21 be reviewed by the court at least once every six (6) months until
22 such time as the conditions which caused the child to be adjudicated
23 have been corrected or the parental rights of the parent or parents
24 are terminated pursuant to the Oklahoma Children's Code.

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

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

22 3. The provisions of this section also shall apply to a child
23 who has been removed from the home of the lawful parent or parents
24

1 of the child after the child has been returned to that home until
2 such time as the court orders the case closed.

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

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

17 2. The report shall include, but not be limited to, a summary
18 of the physical, mental, and emotional condition of the child, the
19 conditions existing in the home or institution where the child has
20 been placed, and the ~~child's~~ adjustment of the child thereto, a
21 report on the ~~child's~~ progress of the child in school and, if the
22 child has been placed outside the home of the child, the visitation
23 exercised by the parents of such child or other persons authorized
24 by the court, and services being provided to a child sixteen (16)

1 years of age or older to assist in the transition from out-of-home
2 care or other community placement to independent living.

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

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

19 In any review order, the court shall further make a
20 determination:

21 1. As to whether reasonable efforts have been made to provide
22 for the return of the child to the ~~child's own~~ home of the child.
23 If reasonable efforts have failed or are not feasible, the court
24 shall make a finding that the efforts to reunite the family have

1 failed, or are not feasible, and reasonable efforts are being made
2 to secure an alternate permanent placement for the child; and

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

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

12 E. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs shall
13 notify the court having jurisdiction, the appropriate review board
14 and the appropriate district attorney whenever the placement of a
15 child in the custody of the ~~Department~~ Office is changed and shall
16 inform said court and attorney regarding the location of the child
17 unless placement modification results from an emergency situation,
18 in which case the notification required by this subsection shall be
19 within one (1) business day after the change of placement. As used
20 in this subsection, "emergency situation" means a placement change
21 requested by a person having actual custody of a child, if the
22 request is made at a time when the business offices of the parties
23 to be notified are closed, or a placement for emergency medical
24 treatment.

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

10 SECTION 55. AMENDATORY 10 O.S. 2001, Section 7303-5.5,
11 as amended by Section 2, Chapter 226, O.S.L. 2005 (10 O.S. Supp.
12 2008, Section 7303-5.5), is amended to read as follows:

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

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

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

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

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

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

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

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

24

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

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

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

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

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

17 2. ~~Is otherwise appropriate for the juvenile drug court program~~
18 Committed a crime wherein the underlying crime or cause of the
19 underlying crime involved alcohol or substance abuse.

20 B. 1. The juvenile drug court investigation shall be conducted
21 through a standardized screening test, personal interview, and home
22 study. A more comprehensive assessment may take place at the time
23 the juvenile enters the treatment portion of the program and may
24

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

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

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

- 11 a. the age and physical condition of the juvenile,
- 12 b. employment,
- 13 c. educational background and literacy level,
- 14 d. community and family relations,
- 15 e. prior and current drug and alcohol use,
- 16 f. ~~mental~~ behavioral health and medical treatment
17 history, ~~including substance abuse treatment history,~~
- 18 g. demonstrable motivation of the juvenile and family of
19 the juvenile,
- 20 h. the willingness of the person responsible for the
21 health or welfare of the juvenile, as defined in
22 Section ~~7301-1.3~~ 2-1-103 of ~~Title 10 of the Oklahoma~~
23 ~~Statutes~~ this title, to actively support the
24 participation of the juvenile in the program, and

1 i. other mitigating or aggravating factors.

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

5 a. describing the strong linkage between participating
6 agencies,

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

9 c. vigilant supervision and monitoring procedures,

10 d. random substance abuse testing,

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

13 f. availability of residential treatment facilities and
14 outpatient services,

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

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

18 (1) increased supervision,

19 (2) urinalysis testing,

20 (3) intensive treatment,

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

- 1 (5) reinstating the juvenile into the program after a
2 disciplinary action for a violation of the
3 treatment plan, and
4 (6) revocation from the program.

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

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

14 ~~3.~~ 2. Prior to the next scheduled hearing, the investigation
15 findings and recommendations for program placement shall be reported
16 to the ~~juvenile drug court judge,~~ the district attorney, the
17 juvenile and the person responsible for the health or welfare of the
18 juvenile, as defined in Section ~~7301-1.3~~ 2-1-103 of Title ~~10~~ of the
19 ~~Oklahoma Statutes~~ this title, and the ~~defense attorney of the~~
20 juvenile.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24

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

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

24

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

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

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

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

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

19 ~~4. 2.~~ A statement requiring the juvenile to enter the treatment
20 program as directed by the court and to participate until
21 completion, withdrawal, or removal by the court; and

22 ~~5. 3.~~ A statement signed voluntarily by the person or persons
23 responsible for the health or welfare of the juvenile that such
24 person will comply with the orders of the court and any conditions

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

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

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

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

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

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

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

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

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

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

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

4 C. The judge court may establish a regular schedule for
5 progress hearings for any juvenile in the drug court program. The
6 district attorney, the juvenile, the attorney for the juvenile, the
7 person responsible for the health and welfare of the juvenile, and
8 the treatment provider shall ~~not~~ be required to attend regular
9 progress hearings, ~~but~~ and shall be required to be present upon the
10 motion of any party to a drug court case.

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

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

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

24

1 3. Any ~~revocation~~ removal from the drug court program shall
2 require notice to the juvenile and the person responsible for the
3 health or welfare of the juvenile, as defined in Section ~~7301-1.3 of~~
4 ~~Title 10 of the Oklahoma Statutes~~ 2-1-103 of this title, and other
5 participating parties in the case and a ~~revocation~~ hearing.

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

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

23 ~~G.~~ ~~The judge shall be prohibited from amending the written plea~~
24 ~~agreement after a juvenile has been admitted to the drug court~~

1 ~~program. Nothing in this provision shall be construed to limit the~~
2 ~~authority of the judge to remove a juvenile from the program and~~
3 ~~proceed with adjudication or traditional processing of the juvenile~~
4 ~~as stated in the plea agreement after application, notice, and~~
5 ~~hearing.~~

6 H. F. The juvenile drug court judge shall be authorized to
7 modify the responsibilities of any person responsible for the health
8 and welfare of the juvenile, as defined in Section ~~7301-1.3~~ of Title
9 ~~10 of the Oklahoma Statutes~~ 2-1-103 of this title, for noncompliance
10 with any condition established by the court. The juvenile drug
11 court judge is also authorized to sanction the person responsible
12 for the health and welfare of the juvenile or any adult residing
13 with the juvenile, for noncompliance of such person with any
14 condition established in the court.

15 SECTION 59. AMENDATORY Section 7, Chapter 226, O.S.L.
16 2005 (10 O.S. Supp. 2008, Section 7303-5.10), is amended to read as
17 follows:

18 Section 7303-5.10 A. 1. The juvenile drug court judge shall
19 may order the juvenile or the person responsible for the health or
20 welfare of the juvenile, as defined in Section ~~7301-1.3~~ 2-1-103 of
21 ~~Title 10 of the Oklahoma Statutes~~ this title, to pay court costs,
22 treatment costs, drug-testing costs, ~~a program user fee,~~ and
23 supervision fees unless. The court shall order the juvenile and or
24 the person responsible for the health or welfare of the juvenile ~~are~~

1 ~~indigent~~ to pay a program user fee, not to exceed Twenty Dollars
2 (\$20.00) per month.

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

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

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

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

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

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

24

1 C. 1. The cost for treatment, drug testing, and supervision
2 ~~and program user~~ fees shall be set by the juvenile drug court team
3 and shall reflect actual expenses or rates established by the
4 Department of Mental Health and Substance Abuse Services and made
5 part of the ~~court's~~ order of the court for payment.

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

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

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

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

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

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

22 Section 7303-6.2 A. Any interested party aggrieved by any
23 order or decree may appeal to the ~~Supreme Court in the same manner~~
24 ~~as other appeals are taken to the Supreme Court of this state;~~

1 ~~provided, however, that appeals taken from a trial court's decision~~
2 ~~in a proceeding for an adjudication of juvenile delinquency or in a~~
3 ~~proceeding certifying a juvenile to stand trial as an adult or~~
4 ~~denying such certification shall be taken to the Court of Criminal~~
5 Appeals in the same manner as other appeals are taken to the Court
6 of Criminal Appeals of this state, ~~and provided further that an~~
7 ~~order either certifying a juvenile to stand trial as an adult or~~
8 ~~denying such certification shall be a final order, appealable when~~
9 entered.

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

14 C. The pendency of an appeal thus taken shall not suspend the
15 order of the district court regarding a child, nor shall it
16 discharge the child from the custody of that court or of the person,
17 institution or agency to whose care such child has been committed,
18 unless the ~~Supreme Court or the~~ Court of Criminal Appeals shall so
19 order. The pendency of an appeal from an order of adjudication
20 shall not prevent the district court from holding a dispositional
21 hearing unless the appellate court shall so order. The pendency of
22 an appeal from an order certifying a juvenile to stand trial as an
23 adult shall not prevent the commencement of criminal proceedings
24 against the juvenile unless stayed by the judge who issued the order

1 of certification or by the appellate court. If the ~~Supreme Court or~~
2 ~~the~~ Court of Criminal Appeals does not dismiss the proceedings and
3 discharge the child, it shall affirm or modify the order of the
4 district court and remand the child to the jurisdiction of that
5 court for supervision and care; and thereafter the child shall be
6 and remain under the jurisdiction of the district court in the same
7 manner as if such court had made such order without an appeal having
8 been taken.

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

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

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

24

1 SECTION 62. AMENDATORY 10 O.S. 2001, Section 7303-7.5,

2 is amended to read as follows:

3 Section 7303-7.5 A. Any judge who is assigned to hear juvenile
4 cases in counties having a population in excess of ~~one hundred~~
5 ~~thousand (100,000)~~ eighty thousand (80,000), and where funding is

6 available, may appoint a suitable person or persons to act as

7 referee or referees, to hold office at the pleasure of the judge.

8 Such referees shall be lawyers and shall be specially qualified for

9 their duties. ~~The judge may direct that any case, or all cases of a~~

10 ~~class or within a county to be designated by the judge, shall be~~

11 ~~heard in the first instance by a referee in the manner provided for~~

12 ~~the hearing of cases by the court. Upon the conclusion of the~~

13 ~~hearing in each case, the referee shall transmit to the court all~~

14 ~~papers relating to the case, together with the referee's findings of~~

15 ~~fact and conclusions of law, and recommendations in writing~~

16 Reasonable compensation shall be fixed by the presiding judge of the

17 administrative district.

18 B. ~~Notice of the referee's findings and recommendations shall~~

19 ~~be given to the parent, guardian or custodian of the child or to any~~

20 ~~other person concerned whose case has been heard by the referee. A~~

21 ~~hearing by the court shall be allowed upon the filing with the court~~

22 ~~of a request for such hearing, if the request is filed within three~~

23 ~~(3) days after the service of such notice. In case no hearing by~~

24 ~~the court is requested, the findings and recommendations of the~~

1 ~~referee, when confirmed by an order of the court, shall become the~~
2 ~~decree of the court~~ All referees are subject to the administrative
3 authority and assignment power of the chief judge of the juvenile
4 court of the county. No referee may hear a contested trial,
5 hearing, motion or petition if a party or attorney for a party
6 objects in writing to the assignment of a referee to hear the
7 matter. The duties and powers of referees shall be to hear and
8 report all matters assigned by the chief juvenile judge and to
9 recommend findings of fact, conclusions of law, temporary and
10 interim orders, and final orders of judgment. All recommended
11 orders and findings of a referee shall be subject to confirmation by
12 the judge.

13 C. 1. Upon the conclusion of the hearing in each case, the
14 referee shall transmit to the judge the recommended findings and
15 orders in writing. The recommended findings and orders of a referee
16 become the findings and orders of the court when confirmed by the
17 judge. The order of the court shall be proof of such confirmation
18 and also of the fact that the matter was duly referred to the
19 referee. A copy of the order entered by the referee shall be served
20 upon the parties and counsel without delay or as provided in Section
21 696.2 of Title 12 of the Oklahoma Statutes.

22 2. A rehearing by the judge shall be allowed if any party files
23 a written motion for review or upon motion by the court within three
24 (3) judicial days after notice of the order of the referee. The

1 motion for review shall specify the grounds for review and the
2 specific provisions of the recommended findings or orders disputed
3 and the court, upon receipt of a motion for review, shall set a time
4 and place for a review hearing. The objecting party shall serve the
5 motion for review and notice of hearing upon all parties to the
6 action. Failure to timely file the motion for review shall waive
7 any and all objections to the findings and order of the referee and
8 said order shall become the decree of the court.

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

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

- 18 1. Expressly stays the effect of the order;
19 2. Changes the order during the pendency of the review; or
20 3. Changes or vacates the order upon completion of the review.

21 SECTION 63. AMENDATORY 10 O.S. 2001, Section 7303-7.6,
22 is amended to read as follows:

23 Section 7303-7.6 A. ~~In any hearing concerning the status of a~~
24 ~~child, the court, if~~ If, after notice to the parent or parents of

1 the child or other persons legally obligated to care for and support
2 the child, and after affording said person or persons an opportunity
3 to be heard, the court ~~determines~~ finds that the parent or parents
4 of the child or other person is able to pay, shall have authority to
5 adjudge the parent, who has been served with notice of the hearing,
6 liable and accountable for the care and maintenance of any child or
7 children, and to all or part of the costs and expenses set forth in
8 paragraphs 1 through 4 of this subsection, the court may order the
9 person or persons to pay the same and prescribe the method of
10 payment, as follows:

11 1. Reimburse the court fund, in whole or in part, for any
12 disbursements made from the court fund in conjunction with the case,
13 including, but not limited to, court-appointed attorney fees, expert
14 witness fees, sheriff's fees, witness fees, transcripts and postage;

15 2. Pay for the care and maintenance of the child, including,
16 but not limited to, all or some part of placement services, medical
17 care and ~~mental~~ behavioral health services, and reasonable monthly
18 expenses, as authorized by law;

19 3. ~~Assign the benefits of medical insurance coverage for the~~
20 ~~child to the Department of Juvenile Justice for the period of time~~
21 ~~the child is in the custody of the Department of Juvenile Justice;~~

22 4. Reimburse the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs,
23 in whole or in part, for any costs and expenses incurred by the
24 ~~Department~~ Office in providing any services or authorized actions

1 taken pursuant to the Oklahoma Juvenile Justice Code for the child;
2 and

3 ~~5.~~ 4. Reimburse any law enforcement agency, in whole or in
4 part, for any costs or expenses incurred by the law enforcement
5 agency for custodial services or other authorized actions taken
6 pursuant to the Oklahoma Juvenile Justice Code.

7 The court may also order the assignment of benefits of medical
8 insurance coverage for the child to the Office of Juvenile Affairs
9 for the period of time the child is in the custody of the Office of
10 Juvenile Affairs.

11 B. ~~1.~~ The court shall use the child support guidelines
12 provided for in Section 118 of Title 43 of the Oklahoma Statutes in
13 determining the amount a parent is to pay for care and maintenance
14 of a child. If any parent is financially able but has willfully
15 failed to pay any costs or reimbursements as ordered by the court
16 pursuant to this section, the parent may be held in indirect civil
17 contempt of court and, upon conviction, shall be punished pursuant
18 to Section 566 of Title 21 of the Oklahoma Statutes.

19 ~~2. After a judicial determination that the child, the parent of~~
20 ~~the child, or both such child or parent, are able to pay the costs~~
21 ~~and reimbursements, in whole or in part, specified by this section,~~
22 ~~the court shall order the costs and reimbursements. The court may~~
23 ~~order such payments and reimbursements to be paid in installments~~
24 ~~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~~
23 ~~shall be returned by proper voucher, or the refund may be authorized~~
24 ~~and paid on claim properly verified and approved by the judge.~~

1 ~~E. 1. The Department may effectuate the order for payment of~~
2 ~~any costs and expenses authorized pursuant to the provisions of this~~
3 ~~section against any asset of the parent. Any assignment,~~
4 ~~attachment, garnishment, or lien against such assets shall be served~~
5 ~~upon the person in possession of the assets or shall be recorded in~~
6 ~~the office of the county clerk in the county in which the parent~~
7 ~~resides or in which the asset is located.~~

8 ~~2. Pursuant to Section 7302 2.1 of this title, the Department~~
9 ~~may contract on a contingency fee basis with private attorneys for~~
10 ~~the collection and enforcement of orders against such assets. Any~~
11 ~~such third party payment shall be paid directly to the Department.~~

12 ~~F. When there is an existing order which provides for payment~~
13 ~~of child support, and the Department of Juvenile Justice places~~
14 ~~physical custody of the child with any person or facility without~~
15 ~~obtaining a modification of the child support order, the change in~~
16 ~~placement, by operation of law, shall create a presumption that such~~
17 ~~person or entity with whom the child was placed has legal physical~~
18 ~~custody of the child for the purposes of the payment of child~~
19 ~~support, unless the person or entity is receiving foster care~~
20 ~~payments or payments for care of the child pursuant to contract with~~
21 ~~the Office of Juvenile Affairs.~~

22 SECTION 64. AMENDATORY 10 O.S. 2001, Section 7303-8.1,
23 as amended by Section 28, Chapter 327, O.S.L. 2002 (10 O.S. Supp.
24 2008, Section 7303-8.1), is amended to read as follows:

1 Section 7303-8.1 A. 1. Whenever the court transfers custody
2 of a child as provided in this article, the person, institution,
3 agency, or department receiving custody shall have the right to, and
4 shall be responsible for, the care and control of the child, and
5 shall have the duty and authority to provide food, clothing,
6 shelter, medical care, education, and discipline for the child, and
7 to authorize and consent to medical care for the child provided by a
8 qualified health care professional. ~~Except for an emergency~~
9 ~~psychiatric admission pursuant to the Inpatient Mental Health and~~
10 ~~Substance Abuse Treatment of Minors Act, said~~ The person,
11 institution, agency or department may provide or arrange for the
12 provision of ~~an inpatient evaluation or~~ inpatient treatment of such
13 minor only ~~pursuant to a court order~~ as provided by the Inpatient
14 Mental Health and Substance Abuse Treatment of Minors Act. Nothing
15 in this subsection shall be interpreted to prohibit or preclude the
16 provision of outpatient services, including an outpatient
17 examination, counseling, educational, rehabilitative or other
18 similar services to said minor, as necessary and appropriate, in the
19 absence of a specific court order for such services.

20 2. The medical care, surgery and extraordinary care shall be
21 charged to the appropriate agency where the child qualifies for the
22 care under law, rule or administrative order or decision.

23 3. Nothing in this subsection shall be interpreted to:
24

- 1 a. relieve a parent of the obligation to provide for the
2 support of the child as otherwise provided by law, or
3 b. limit the authority of the court to order a parent to
4 make support payments or to make payments or
5 reimbursements for medical care or treatment,
6 including ~~mental~~ behavioral health care or treatment,
7 to the person, institution, agency or Department
8 having custody of the child, or
9 c. abrogate the right of the child to any benefits
10 provided through public funds for which the child is
11 otherwise eligible.

12 4. No person, agency or institution shall be liable in a civil
13 suit for damages for authorizing or not authorizing surgery or
14 extraordinary care in an emergency, as determined by competent
15 medical authority. No state employee shall be liable for the costs
16 of any medical care or ~~mental~~ behavioral health services provided to
17 any child in the custody of the Office of Juvenile Affairs.

18 B. The person, institution, agency, or department having legal
19 custody of a child pursuant to an order of the court shall receive
20 notice of court proceedings regarding the child as provided in
21 Sections ~~7303-2.1~~ 2-2-107 and ~~7303-5.1~~ 2-2-501 of this title and
22 shall be allowed to intervene upon application as a party to all
23 court proceedings pertaining to the care and custody of the child
24 including, but not limited to: adjudication, disposition, review of

1 disposition, termination of parental rights and proceedings pursuant
2 to the Inpatient Mental Health and Substance Abuse Treatment of
3 Minors Act.

4 SECTION 65. AMENDATORY 10 O.S. 2001, Section 7303-8.2,
5 is amended to read as follows:

6 Section 7303-8.2 A. The finding that a child is delinquent or
7 in need of supervision shall not deprive the parents of the child of
8 their parental rights, but a court may terminate the rights of a
9 parent to a child for any reason authorized in the Oklahoma
10 Children's Code. The provision of the Oklahoma Children's Code
11 shall govern termination of parental rights.

12 B. Whenever parental rights of the parents of a child have been
13 terminated and the child is committed to the ~~Department~~ Office of
14 Juvenile ~~Justice~~ Affairs, the Executive Director of the Office of
15 Juvenile Affairs shall serve as the legal guardian of the estate of
16 the child, until another guardian is legally appointed, for the
17 purpose of preserving the child's property rights, securing for the
18 child any benefits to which he may be entitled under social security
19 programs, insurance, claims against third parties, and otherwise,
20 and receiving and administering such funds or property for the care
21 and education of the child.

22 SECTION 66. AMENDATORY 10 O.S. 2001, Section 7303-8.3,
23 is amended to read as follows:

24

1 Section 7303-8.3 A. The ~~Department~~ Office of Juvenile Justice
2 Affairs shall review and assess each child committed to the
3 ~~Department~~ Office to determine the type of placement consistent with
4 the treatment needs of the child ~~in the nearest geographic proximity~~
5 ~~to the home of the child~~ and, in the case of delinquent children,
6 the protection of the public. Such review and assessment shall
7 include an investigation of the personal and family history of the
8 child, and his environment, and any physical or mental examinations
9 considered necessary.

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

13 SECTION 67. AMENDATORY 10 O.S. 2001, Section 7303-8.4,
14 as amended by Section 29, Chapter 327, O.S.L. 2002 (10 O.S. Supp.
15 2008, Section 7303-8.4), is amended to read as follows:

16 Section 7303-8.4 A. The ~~Department~~ Office of Juvenile Justice
17 Affairs may provide for the care of a child who is in the custody of
18 the Office of Juvenile Affairs and found by a court to be a minor in
19 need of treatment pursuant to the Inpatient Mental Health and
20 Substance Abuse Treatment of Minors Act-

21 ~~1. In the home of the child, the home of a relative of the~~
22 ~~child, a foster home, a group home, a transitional living program,~~
23 ~~an independent living program or in any other community-based child~~
24 ~~care facility determined by the Department to be appropriate for the~~

1 ~~care of the child, or as otherwise provided by the Oklahoma Juvenile~~
2 ~~Code, and shall provide for the outpatient care and treatment of the~~
3 ~~child; or~~

4 2. ~~The Department shall place a child who has been committed by~~
5 ~~a court for inpatient mental health or substance abuse treatment as~~
6 ~~provided by the Inpatient Mental Health and Substance Abuse~~
7 ~~Treatment of Minors Act in a Department-operated treatment center or~~
8 ~~a public or private facility as determined by the Department. The~~
9 ~~Department may place such child with the Department of Mental Health~~
10 ~~and Substance Abuse Services upon the consent of the Commissioner of~~
11 ~~Mental Health and Substance Abuse Services or his designee. The~~
12 ~~Department shall establish a system for the regular review by a~~
13 ~~qualified mental health professional, at intervals of not more than~~
14 ~~thirty (30) days, of the case of each child in need of treatment in~~
15 ~~the custody of the Department and receiving inpatient care and~~
16 ~~treatment to determine whether or not continued inpatient treatment~~
17 ~~is required and appropriate for the child. When such child no~~
18 ~~longer requires inpatient care and treatment in a mental health~~
19 ~~treatment facility, the Department shall place the child as provided~~
20 ~~in paragraph 1 of this subsection.~~

21 B. In providing for the outpatient mental behavioral health
22 care and the treatment of children in its custody, the Department
23 Office of Juvenile Justice Affairs shall utilize to the maximum
24 extent possible and appropriate the services available through:

- 1 1. The guidance centers operated by the State Department of
- 2 Health; and
- 3 2. The Department of Mental Health and Substance Abuse
- 4 Services;
- 5 3. The Department of Human Services; and
- 6 4. Community-based private agencies and organizations.

7 SECTION 68. AMENDATORY 10 O.S. 2001, Section 7303-8.6,
8 as amended by Section 10, Chapter 124, O.S.L. 2006 (10 O.S. Supp.
9 2008, Section 7303-8.6), is amended to read as follows:

10 Section 7303-8.6 When a child is committed to the custody of
11 the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs under the
12 provisions of this article, the court shall order the child to be
13 delivered by the sheriff or by a private contractor pursuant to the
14 provisions of Section ~~7304-1.3~~ 2-3-103 of this title to an
15 institution, or other place, designated by the ~~Department~~ Office,
16 and the cost of transportation shall be paid from the ~~county's~~
17 general fund of the county. The ~~Department~~ Office of Juvenile
18 ~~Justice~~ Affairs shall not be ordered to provide transportation as
19 provided for in this section for a juvenile who has been committed
20 to the custody of the ~~Department~~ Office and is destined for a secure
21 institution.

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

24

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

3 CHAPTER 3 - DETENTION

4 SECTION 70. AMENDATORY 10 O.S. 2001, Section 7304-1.1,
5 as last amended by Section 9, Chapter 3, O.S.L. 2003 (10 O.S. Supp.
6 2008, Section 7304-1.1), is amended to read as follows:

7 Section 7304-1.1 A. When a child is taken into custody
8 pursuant to the provisions of the Oklahoma Juvenile Code, the child
9 shall be detained only if it is necessary to assure the appearance
10 of the child in court or for the protection of the child or the
11 public.

12 1. a. No preadjudicatory or predisposition detention or
13 custody order shall remain in force and effect for
14 more than thirty (30) days. The court, for good and
15 sufficient cause shown, may extend the effective
16 period of such an order for an additional period not
17 to exceed sixty (60) days. If the child is being
18 detained for the commission of a murder, the court
19 may, if it is in the best interests of justice, extend
20 the effective period of such an order an additional
21 sixty (60) days.

22 b. Whenever the court orders a child to be held in a
23 juvenile detention facility, an order for secure
24 detention shall remain in force and effect for not

1 more than ~~ten (10)~~ fifteen (15) days after such order.
2 Upon an application of the district attorney and after
3 a hearing on such application, the court, for good and
4 sufficient cause shown, may extend the effective
5 period of such an order for an additional period not
6 to exceed ~~ten (10)~~ fifteen (15) days after such
7 hearing. The total period of preadjudicatory or
8 predisposition shall not exceed the ninety-day
9 limitation as specified in subparagraph a of this
10 paragraph. The child shall be present at the hearing
11 on the application for extension unless, as authorized
12 and approved by the court, the attorney for the child
13 is present at the hearing and the child is available
14 to participate in the hearing via telephone conference
15 communication. For the purpose of this paragraph,
16 "telephone conference communication" means use of a
17 telephone device that allows all parties, including
18 the child, to hear and be heard by the other parties
19 at the hearing. After the hearing, the court may
20 order continued detention in a juvenile detention
21 center, may order the child detained in an alternative
22 to secure detention or may order the release of the
23 child from detention.
24

1 2. No child alleged or adjudicated to be deprived or in need of
2 supervision or who is or appears to be a minor in need of treatment
3 as defined by the Inpatient Mental Health and Substance Abuse
4 Treatment of Minors Act, shall be confined in any jail, adult
5 lockup, or adult detention facility. No child shall be transported
6 or detained in association with criminal, vicious, or dissolute
7 persons.

8 3. Except as otherwise authorized by this section a child who
9 has been taken into custody as a deprived child, a child in need of
10 supervision, or who appears to be a minor in need of treatment, may
11 not be placed in any detention facility pending court proceedings,
12 but must be placed in shelter care or foster care or, with regard to
13 a child who appears to be a minor in need of treatment, a ~~mental~~
14 behavioral health ~~or substance abuse~~ treatment facility in
15 accordance with the provisions of the Inpatient Mental Health and
16 Substance Abuse Treatment of Minors Act, or released to the custody
17 of the ~~child's~~ parents of the child or some other responsible party.
18 When a child is taken into custody as a child in need of supervision
19 as a result of being a runaway, the court may order the child placed
20 in a juvenile detention facility pending court proceedings if it
21 finds the detention to be essential for the safety of the child.

22 B. No child shall be placed in secure detention unless:

23 1. The child is an escapee from any delinquent placement;

24

1 2. The child is a fugitive from another jurisdiction with a
2 warrant on a delinquency charge or confirmation of delinquency
3 charges by the home jurisdiction;

4 3. The child is seriously assaultive or destructive towards
5 others or self;

6 4. The child is detained for the commission of a crime ~~that~~
7 ~~would constitute a serious act as defined by Section 7302-9.2 of~~
8 ~~this title;~~

9 5. ~~The child is detained for the commission of a crime that~~
10 ~~would constitute a habitual criminal act as defined by Section 7302-~~
11 ~~9.2 of this title;~~

12 6. The child is currently charged with a ~~felony act as defined~~
13 ~~by Section 7302-9.2 of this title~~ any criminal offense that would
14 constitute a felony if committed by an adult or a misdemeanor and:

- 15 a. is on probation or parole on a prior delinquent
16 offense,
17 b. is on preadjudicatory community supervision,
18 c. is currently on release status on a prior delinquent
19 offense, or
20 d. has willfully failed or there is reason to believe
21 that the child will willfully fail to appear for
22 juvenile court proceedings.

23 C. A child who has violated a court order and has had the order
24 revoked or modified pursuant to Section ~~7303-5.3~~ 2-2-503 of this

1 title may be placed into an Office_of_Juvenile_Affairs-designated
2 sanction detention bed or an Office_of_Juvenile_Affairs-approved
3 sanction program.

4 D. ~~A child shall be detained in secure~~ Priority shall be given
5 to the use of juvenile detention only in accordance with the
6 guidelines adopted pursuant to Section 7302 9.3 of this title
7 facilities for the detention of juvenile offenders through
8 provisions requiring the removal from detention of a juvenile with a
9 lower priority status if an empty detention bed is not available at
10 the time of referral of a juvenile with a higher priority status and
11 if the juvenile with a higher priority status would be more of a
12 danger to the public than the juvenile with the lower priority
13 status.

14 E. 1. Except as otherwise provided in this section, no child
15 shall be placed in secure detention in a jail, adult lockup, or
16 other adult detention facility unless:

- 17 a. the child is detained for the commission of a crime
18 that would constitute a felony if committed by an
19 adult, and
- 20 b. the child is awaiting an initial court appearance, and
- 21 c. the ~~child's~~ initial court appearance of the child is
22 scheduled within twenty-four (24) hours after being
23 taken into custody, excluding weekends and holidays,
24 and

- 1 d. the court of jurisdiction is outside of the Standard
2 Metropolitan Statistical Area as defined by the Bureau
3 of Census, and
- 4 e. there is no existing acceptable alternative placement
5 for the child, and
- 6 f. the jail, adult lockup or adult detention facility
7 provides sight and sound separation for juveniles,
8 pursuant to standards required by subsection E of
9 Section ~~7304-1.3~~ 2-3-103 of this title, or
- 10 g. the jail, adult lockup or adult detention facility
11 meets the requirements for licensure of juvenile
12 detention facilities, as adopted by the Office of
13 Juvenile Affairs, is appropriately licensed, and
14 provides sight and sound separation for juveniles,
15 which includes:
- 16 (1) total separation between juveniles and adult
17 facility spatial areas such that there could be
18 no haphazard or accidental contact between
19 juvenile and adult residents in the respective
20 facilities,
- 21 (2) total separation in all juvenile and adult
22 program activities within the facilities,
23 including recreation, education, counseling,
- 24

1 health care, dining, sleeping and general living
2 activities, and

3 (3) separate juvenile and adult staff, specifically
4 direct care staff such as recreation, education
5 and counseling.

6 Specialized services staff, such as cooks,
7 bookkeepers, and medical professionals who are not
8 normally in contact with detainees or whose infrequent
9 contacts occur under conditions of separation of
10 juvenile and adults can serve both.

11 2. Nothing in this section shall preclude a child who is
12 detained for the commission of a crime that would constitute a
13 felony if committed by an adult, or a child who is an escapee from a
14 juvenile training school or from a ~~Department~~ an Office of Juvenile
15 ~~Justice~~ Affairs group home from being held in any jail certified by
16 the State Department of Health, police station or similar law
17 enforcement offices for up to six (6) hours for purposes of
18 identification, processing or arranging for transfer to a secure
19 detention or alternative to secure detention. Such holding shall be
20 limited to the absolute minimum time necessary to complete these
21 actions.

22 a. The time limitations for holding a child in a jail for
23 the purposes of identification, processing or
24 arranging transfer established by this section shall

1 not include the actual travel time required for
2 transporting a child from a jail to a juvenile
3 detention facility or alternative to secure detention.

4 b. Whenever the time limitations established by this
5 subsection are exceeded, this circumstance shall not
6 constitute a defense in a subsequent delinquency or
7 criminal proceeding.

8 3. Nothing in this section shall preclude detaining in a county
9 jail or other adult detention facility an eighteen-year old charged
10 in a juvenile petition for whom certification to stand trial as an
11 adult is prayed.

12 4. Nothing in this section shall preclude detaining in a county
13 jail or other adult detention facility a person provided for in
14 Section ~~7304-1.2~~ 2-3-102 of this title if written or electronically
15 transmitted confirmation is received from the state seeking return
16 of the individual that the person is a person provided for in
17 Section ~~7304-1.2~~ 2-3-102 of this title and if, during the time of
18 detention, the person is detained in a facility meeting the
19 requirements of ~~7304-1.3~~ Section 2-3-103 of this title.

20 5. Nothing in this section shall preclude detaining a person,
21 whose age is not immediately ascertainable and who is being detained
22 for the commission of a felony, in a jail certified by the State
23 Department of Health, a police station or similar law enforcement
24

1 office for up to twenty-four (24) hours for the purpose of
2 determining whether or not the person is a child, if:

3 a. there is a reasonable belief that the person is
4 eighteen (18) years of age or older,

5 b. there is a reasonable belief that a felony has been
6 committed by the person,

7 c. a court order for such detention is obtained from a
8 judge of the district court within six (6) hours of
9 initially detaining the person,

10 d. there is no juvenile detention facility that has space
11 available for the person and that is within thirty
12 (30) miles of the jail, police station, or law
13 enforcement office in which the person is to be
14 detained, and

15 e. during the time of detention the person is detained in
16 a facility meeting the requirements of subparagraph g
17 of paragraph 1 of this subsection.

18 The time limitation provided for in this paragraph shall include the
19 time the person is detained prior to the issuance of the court
20 order.

21 The time limitation provided for in this paragraph shall not include
22 the actual travel time required for transporting the person to the
23 jail, police station, or similar law enforcement office. If the
24 time limitation established by this paragraph is exceeded, this

1 circumstance shall not constitute a defense in any subsequent
2 delinquency or criminal proceeding.

3 F. Nothing contained in this section shall in any way reduce or
4 eliminate ~~a county's~~ the liability of a county as otherwise provided
5 by law for injury or damages resulting from the placement of a child
6 in a jail, adult lockup, or other adult detention facility.

7 G. Any juvenile detention facility shall be available for use
8 by any eligible Indian child as that term is defined by the Oklahoma
9 Indian Child Welfare Act, providing that the use of the juvenile
10 detention facility meets the requirements of the Oklahoma Juvenile
11 Code. The Indian tribe may contract with any juvenile detention
12 facility for the providing of detention services.

13 H. Each member of the staff of a juvenile detention facility
14 shall satisfactorily complete a training program provided or
15 approved by the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs.

16 SECTION 71. AMENDATORY 10 O.S. 2001, Section 7304-1.3,
17 is amended to read as follows:

18 Section 7304-1.3 A. Provision shall be made for the temporary
19 detention of children in a juvenile detention facility or the court
20 may arrange for the care and custody of such children temporarily in
21 private homes, subject to the supervision of the court, or the court
22 may provide shelter or may enter into a contract with any
23 institution or agency to receive, for temporary care and custody,
24 children within the jurisdiction of the court. The ~~Department~~

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

4 B. County sheriffs, their designee, private contractors under
5 contract with the Department Office of Juvenile Justice Affairs for
6 transportation services, or juvenile court officers shall provide
7 for the transportation of juveniles to and from secure detention for
8 purposes of admission, interfacility transfer, discharge, medical or
9 dental attention, court appearance, or placement designated by the
10 Department Office. No private contract for transportation services
11 shall be entered into by the Department Office unless the private
12 contractor demonstrates to the satisfaction of the Department Office
13 that such contractor is able to obtain insurance or provide self-
14 insurance to indemnify the Department Office against possible
15 lawsuits and meets the requirements of subparagraphs a, b and d of
16 paragraph 4 of subsection C of this section. The Department Office
17 of Juvenile Justice Affairs shall not be ordered to provide
18 transportation for a juvenile who is detained in or is destined for
19 secure detention. The Department Office of Juvenile Justice Affairs
20 shall provide reimbursement to the entity transporting juveniles for
21 necessary and actual expenses for transporting juveniles who are
22 detained in or destined for a secure detention center as follows:

23 1. A fee for the cost of personal services at the rate of
24 Twelve Dollars (\$12.00) per hour;

1 2. Mileage reimbursement for each mile actually traveled at the
2 rate established in the State Travel Reimbursement Act;

3 3. Meals for transporting personnel, not to exceed ~~Six Dollars~~
4 ~~(\$6.00)~~ Seven Dollars (\$7.00) per meal; and

5 4. Meals for juveniles being transported, not to exceed ~~Six~~
6 ~~Dollars (\$6.00)~~ Seven Dollars (\$7.00) per meal.

7 The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs shall process
8 and mail reimbursement claims within sixty (60) days of receipt.

9 Payments for services provided by a county sheriff's office shall be
10 paid to the county and deposited in the ~~sheriff~~ service fee account
11 of the sheriff.

12 C. 1. All juvenile detention facilities shall be certified by
13 the Office of Juvenile Affairs. To be certified, a juvenile
14 detention facility shall be required to meet standards for
15 certification promulgated by the Board of Juvenile Affairs. ~~Until~~
16 ~~such standards are promulgated, the standards promulgated by the~~
17 ~~Oklahoma Commission for Human Services shall remain in effect.~~

18 2. The board of county commissioners of every county shall
19 provide for the temporary detention of a child who is or who may be
20 subject to secure detention and may construct a building or rent
21 space for such purpose. The boards of county commissioners shall
22 provide for temporary detention services and facilities in
23 accordance with the provisions of the State Plan for the
24 Establishment of Juvenile Detention Services adopted pursuant to

1 subsection D of this section and in accordance with Section ~~7302-6.8~~
2 2-7-608 of this title. The boards of county commissioners are
3 hereby authorized to create multicounty trust authorities for the
4 purpose of operating juvenile detention facilities.

5 3. In order to operate the juvenile detention facilities
6 designated in the State Plan for the Establishment of Juvenile
7 Detention Services and in Section ~~7302-6.8~~ 2-7-608 of this title,
8 the boards of county commissioners in the designated host counties
9 shall:

- 10 a. operate the juvenile detention facility through a
11 statutorily constituted juvenile bureau subject to the
12 supervision of the district court, or
- 13 b. operate the juvenile detention facility by employing a
14 manager who may employ personnel and incur other
15 expenses as may be necessary for its operation and
16 maintenance, or
- 17 c. contract with a public agency, private agency,
18 federally recognized tribe, or single or multi-county
19 trust authority for the operation of the juvenile
20 detention facility. In the event any board of county
21 commissioners contracts with a public or private
22 agency or a federally recognized tribe, pursuant to
23 the provisions of this section, the ~~Department~~ Office
24 is authorized to directly contract with and pay such

1 public or private agency or federally recognized tribe
2 for provision of detention services. Any contract
3 with a federally recognized tribe shall become
4 effective upon approval by the board of county
5 commissioners.

6 4. Management contracts for privately operated detention
7 facilities shall be negotiated with the firm found most qualified by
8 the board of county commissioners. However, no private management
9 contract shall be entered into by the board unless the private
10 contractor demonstrates to the satisfaction of the board:

- 11 a. that the contractor has the qualifications,
12 experience, and personnel necessary to implement the
13 terms of the contract,
- 14 b. that the financial condition of the contractor is such
15 that the term of the contract can be fulfilled,
- 16 c. that the ability of the contractor to obtain insurance
17 or provide self-insurance to indemnify the county
18 against possible lawsuits and to compensate the county
19 for any property damage or expenses incurred due to
20 the private operation of the juvenile detention
21 facility, and
- 22 d. that the contractor has the ability to comply with
23 applicable court orders and rules of the ~~Department~~
24 Office of Juvenile Justice Affairs.

1 5. All counties to be served by a secure juvenile detention
2 facility may, upon the opening of such facility, contract with the
3 operators for the use of the facility for the temporary detention of
4 children who are subject to secure detention; provided, however, a
5 jail, adult lockup, or other adult detention facility may be used
6 for the secure detention of a child as provided for in Section ~~7304-~~
7 ~~1.1~~ 2-3-101 of this title.

8 6. Expenses incurred in carrying out the provisions of this
9 section shall be paid from the general fund of the county or from
10 other public funds lawfully appropriated for such purposes or from
11 private funds that are available for such purposes. A county may
12 also issue bonds for the construction of detention facilities.

13 7. The operation of a juvenile detention facility by a county
14 shall constitute a quasi-judicial function and is also hereby
15 declared to be a function of the State of Oklahoma for purposes of
16 the Eleventh Amendment to the United States Constitution. In
17 addition, no contract authorized by the provisions of this section
18 for the providing of transportation services or for the operation of
19 a juvenile detention facility shall be awarded until the contractor
20 demonstrates to the satisfaction of the county that the contractor
21 has obtained liability insurance with the limits specified by the
22 Governmental Tort Claims Act against lawsuits arising from the
23 operation of the juvenile detention facility by the contractor, or
24 if the contract is for the providing of transportation services, the

1 contractor has obtained liability insurance with the limits
2 specified by the Governmental Tort Claims Act against lawsuits
3 arising from the transportation of juveniles as authorized by
4 subsection A of this section.

5 D. The Board of Juvenile Affairs, from monies appropriated for
6 that purpose, shall develop, adopt, and implement a plan for secure
7 juvenile detention services and alternatives to secure detention, to
8 be known as the State Plan for the Establishment of Juvenile
9 Detention Services, which shall provide for the establishment of
10 juvenile detention facilities and services with due regard for
11 appropriate geographical distribution and existing juvenile
12 detention programs operated by statutorily constituted juvenile
13 bureaus. Said plan may be amended or modified by the Board as
14 necessary and appropriate. Until said plan is adopted by the Board,
15 the plan adopted by the Oklahoma Commission for Human Services shall
16 remain in effect.

17 1. The Board of Juvenile Affairs shall establish procedures for
18 the letting of contracts or grants, including grants to existing
19 juvenile detention programs operated by statutorily constituted
20 juvenile bureaus, and the conditions and requirements for the
21 receipt of said grants or contracts for juvenile detention services
22 and facilities as provided in this section and Section ~~7302-4.1~~ 2-7-
23 401 of this title. A copy of such procedures shall be made
24 available to any member of the general public upon request. All

1 such grants or contracts shall require the participation of local
2 resources in the funding of juvenile detention facilities. A
3 contract for services shall be based upon a formula approved by the
4 Board which shall set the contract amount in accordance with the
5 services offered and the degree of compliance with standards for
6 certification. ~~Until the procedures are established by the Board,~~
7 ~~the procedures established by the Commission for Human Services~~
8 ~~shall remain in effect.~~

9 2. The Board of Juvenile Affairs shall establish standards for
10 the certification of detention services and juvenile detention
11 facilities. Such standards may include, but not be limited to:
12 screening for detention; education and recreation opportunities for
13 juveniles in secure detention; and accreditation by the American
14 Correctional Association. As a condition of continuing eligibility
15 for grants or contracts, secure juvenile detention services and
16 facilities shall be certified by the Board within two (2) years of
17 the date of the initial grant or contract.

18 E. The State Department of Health, with the assistance of the
19 Office of Juvenile Affairs, shall establish standards for the
20 certification of jails, adult lockups, and adult detention
21 facilities used to detain juveniles. Such standards shall include
22 but not be limited to: separation of juveniles from adults;
23 supervision of juveniles; and health and safety measures for
24 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
24 statistical report of said detentions shall be submitted to the

1 Office of Juvenile Affairs at least every six (6) months in a form
2 approved by the Board of Juvenile Affairs.

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

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

7 CHAPTER 4 - JUVENILE BUREAUS

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

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

17 B. In each county having a duly constituted juvenile bureau as
18 of January 1, 2005, as provided for in subsection A of this section,
19 the juvenile bureau shall remain in place and continue in operation.
20 No other counties shall establish juvenile bureaus.

21 ~~C. The Department of Juvenile Justice shall provide intake,~~
22 ~~probation and parole services in all counties not having juvenile~~
23 ~~bureaus as provided for in Section 7302-2.3 of this title.~~

24

1 SECTION 74. AMENDATORY 10 O.S. 2001, Section 7305-1.3,
2 is amended to read as follows:

3 Section 7305-1.3 A. The director, under the general
4 supervision of the judge, shall organize, direct and develop the
5 administrative work of the court, including the social, financial
6 and clerical work, and the director shall perform such other duties
7 as to children as any judge of the court shall direct. The
8 technical and professional employees shall have charge of cases
9 assigned to them for investigation or treatment and shall perform
10 such other duties as may be assigned to them by the director.

11 B. To assure uniformity of procedures and care throughout the
12 state, each juvenile bureau shall perform its statutory duties for
13 children alleged or adjudicated to be in need of supervision or
14 delinquent in accordance with the procedures and guidelines
15 promulgated by the Board of Juvenile Affairs and implemented by the
16 ~~Department of Juvenile Justice of the~~ Office of Juvenile Affairs.

17 ~~C. All information obtained in discharge of official duty by~~
18 ~~any officer or other employee of the court shall be privileged and~~
19 ~~shall not be disclosed to anyone other than the judge and others~~
20 ~~entitled under this act to receive such information, unless and~~
21 ~~until otherwise ordered by the judge.~~

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

1 Section 7305-1.7 A. 1. The salary of the director and other
2 employees of the bureau and any detention home established pursuant
3 to Section ~~7305-1.8~~ 2-4-108 of this title shall be fixed by the
4 judge of the Juvenile Division, subject to the general
5 administrative authority of the county commissioners of the
6 contracting county. The salary of the director shall not exceed
7 ninety percent (90%) of salaries of county Class A officers. ~~The~~
8 ~~salary of a referee shall not be greater than that of the associate~~
9 ~~district judge of the county.~~

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

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

18 B. The judge of the Juvenile Division, subject to the general
19 administrative authority of the county commissioners of the
20 contracting county, may fix a limit on the amount of expenses that
21 may be incurred by the director and assistants to the director, such
22 limit to be in the judgment of the judge adequate to care for the
23 expenses necessary to carrying out the orders of the court in an
24 efficient and expedient manner. The director and assistants to the

1 director and other personnel of the court shall keep and maintain
2 their offices at the place where the office of the judge of the
3 court is kept, unless the judge of the Juvenile Division, subject to
4 the general administrative authority of the county commissioners of
5 the contracting county, shall direct otherwise. The offices of the
6 director and assistants to the director shall contain adequate
7 equipment, desk space and consultation rooms necessary for
8 appropriate office procedure.

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

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

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

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

4 3. It is made the duty of the county excise board to make the
5 necessary appropriation and levy for the payment of salaries of the
6 director and all other employees, together with the expenses of
7 administering the bureau, consistent with the duty to do likewise
8 with the budget estimates of other county officers under the board's
9 jurisdiction, as required by the Constitution and laws of this
10 state.

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

22 ~~E. All expenses incurred by the director and counselor in~~
23 ~~carrying out the orders of the judge of the court shall be reported~~
24 ~~to the judge of the Juvenile Division under oath, and such expenses~~

1 ~~shall not be paid by the board of county commissioners until such~~
2 ~~judge shall, by order entered of record, approve such accounts, and~~
3 ~~such judge may hear testimony as to the correctness thereof. A~~
4 ~~certified copy of the order of approval shall be filed in the office~~
5 ~~of the county clerk and shall be authority to the board of county~~
6 ~~commissioners to disburse the necessary funds in payment thereof,~~
7 ~~provided payment of the same comes within the budgetary provisions~~
8 ~~of the bureau as established in subsection D of this section.~~

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

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

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

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

5 CHAPTER 5 - TREATMENT OF SERIOUS ACTS

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

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

24

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

4 C. Upon the arrest and detention, such accused person shall
5 have all the statutory and constitutional rights and protections of
6 an adult accused of a crime, but shall be detained in a jail cell or
7 ward entirely separate from prisoners who are eighteen (18) years of
8 age or over.

9 D. 1. Upon the filing of an information against such accused
10 person, a warrant shall be issued which shall set forth the rights
11 of the accused person, and the rights of the parents, guardian or
12 next friend of the accused person to be present at the preliminary
13 hearing, to have an attorney present and to make application for
14 certification of such accused person as a child to the juvenile
15 division of the district court. The warrant shall be personally
16 served together with a certified copy of the information on the
17 accused person and on a custodial parent, guardian or next friend of
18 the accused person.

19 2. When personal service of a custodial parent, guardian or
20 next friend of the accused person cannot be effected, service may be
21 made by certified mail to ~~such person's~~ the last-known address of
22 the person, requesting a return receipt from the addressee only. If
23 delivery is refused, notice may be given by mailing the warrant and
24 a copy of the information on the accused person by regular first

1 class mail to the address where the person to be notified refused
2 delivery of the notice sent by certified mail. Where the address of
3 a custodial parent, guardian or next friend is not known, or if the
4 mailed warrant and copy of the information on the accused person is
5 returned for any reason other than refusal of the addressee to
6 accept delivery, after a distinct and meaningful search of all
7 reasonably available sources to ascertain the whereabouts of a
8 custodial parent, guardian or next friend has been conducted, the
9 court may order that notice of the hearing be given by publication
10 one time in a newspaper of general circulation in the county. In
11 addition, the court may order other means of service of notice that
12 the court deems advisable or in the interests of justice.

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

18 E. The accused person shall file a motion for certification as
19 a child before the start of the criminal preliminary hearing. Upon
20 the filing of such motion, the complete juvenile record of the
21 accused shall be made available to the district attorney and the
22 accused person.

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1 At the conclusion of the state's case at the criminal
2 preliminary hearing, the accused person may offer evidence to
3 support the motion for certification as a child.

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

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

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

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

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

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

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

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

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

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

13 Section 7306-2.1 Sections ~~7306-2.1~~ 2-5-201 through ~~7306-2.13~~ 2-
14 5-213 of this title shall be known and may be cited as the "Youthful
15 Offender Act". The Youthful Offender Act shall be implemented
16 beginning January 1, 1998.

17 SECTION 80. AMENDATORY 10 O.S. 2001, Section 7306-2.2,
18 as last amended by Section 1, Chapter 277, O.S.L. 2008 (10 O.S.
19 Supp. 2008, Section 7306-2.2), is amended to read as follows:

20 Section 7306-2.2 A. For the purposes of the Youthful Offender
21 Act:

22 1. "Youthful offender" means a person:

23 a. thirteen (13) or fourteen (14) years of age who is
24 charged with murder in the first degree and certified

1 as a youthful offender as provided by Section ~~7306-2.5~~
2 2-5-205 of this title,

3 b. fifteen (15), sixteen (16), or seventeen (17) years of
4 age and charged with a crime listed in subsection A of
5 Section ~~7306-2.6~~ 2-5-206 of this title, and

6 c. sixteen (16) or seventeen (17) years of age and
7 charged with a crime listed in subsection B of Section
8 ~~7306-2.6~~ 2-5-206 of this title,

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

10 2. "Sentenced as a youthful offender" means the imposition of a
11 court order making disposition of a youthful offender as provided by
12 Section ~~7306-2.9~~ 2-5-209 of this title which shall constitute an
13 adult criminal sentence if the youthful offender is transferred to
14 the custody or supervision of the Department of Corrections; and

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

19 B. It is the purpose of the Youthful Offender Act to better
20 ensure the public safety by holding youths accountable for the
21 commission of serious crimes, while affording courts methods of
22 rehabilitation for those youths the courts determine, at their
23 discretion, may be amenable to such methods. It is the further
24 purpose of the Youthful Offender Act to allow those youthful

1 offenders whom the courts find to be amenable to rehabilitation by
2 the methods prescribed in the Youthful Offender Act to be placed in
3 the custody or under the supervision of the Office of Juvenile
4 Affairs for the purpose of accessing the rehabilitative programs
5 provided by that Office.

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

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

14 2. However, when multiple offenses occur within the same course
15 of conduct within the same county and the person is prosecuted for
16 at least one offense as a youthful offender pursuant to Section
17 ~~7306-2.5~~ 2-5-205 or ~~7306-2.6~~ 2-5-206 of this title, then all the
18 charges may be prosecuted under the same action pursuant to the
19 provisions of the Youthful Offender Act, if so ordered by the court.
20 The decision to join the cases shall not be appealable as a final
21 order. If the offense listed in Section ~~7306-2.5~~ 2-5-205 or Section
22 ~~7306-2.6~~ 2-5-206 of this title is subsequently dismissed for any
23 reason, then any remaining pending charges shall be transferred to
24 the juvenile court.

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

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

16 SECTION 82. AMENDATORY 10 O.S. 2001, Section 7306-2.4,
17 as last amended by Section 2, Chapter 277, O.S.L. 2008 (10 O.S.
18 Supp. 2008, Section 7306-2.4), is amended to read as follows:

19 Section 7306-2.4 A. A child who is arrested for an offense
20 pursuant to subsection A or B of Section ~~7306-2.6~~ 2-5-206 of this
21 title, or who is certified as a youthful offender pursuant to
22 Section ~~7306-2.5~~ 2-5-205 of this title, shall be charged by
23 information in the same manner as provided for adults.

24

1 B. If the child is not otherwise represented by counsel and
2 requests an attorney prior to or during interrogation, or whenever
3 charged by information, as provided in subsection A of this section,
4 the court shall appoint an attorney, who shall not be a district
5 attorney, for the child regardless of any attempted waiver by the
6 parent, legal guardian, or other legal custodian of the child of the
7 right of the child to be represented by counsel. Counsel shall be
8 appointed by the court only upon determination by the court that the
9 parent, legal guardian or legal custodian is found to be indigent.

10 C. When a person is certified to stand trial as an adult or a
11 youthful offender as provided by the Youthful Offender Act, the
12 accused person shall have all the statutory and constitutional
13 rights and protections of an adult accused of a crime. All
14 proceedings shall be as for a criminal action and the provisions of
15 Title 22 of the Oklahoma Statutes shall apply, except as provided
16 for in the Youthful Offender Act. All youthful offender court
17 records for such a person shall be considered adult records and
18 shall not be subject to the provisions of ~~Article VII~~ Chapter 6 of
19 the Oklahoma Juvenile Code.

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

22 ~~D.~~ E. Upon arrest and detention of a person subject to the
23 provisions of Section ~~7306-2.5~~ 2-5-205 or ~~7306-2.6~~ 2-5-206 of this
24 title, the person has the same right to be released on bail as would

1 an adult in the same circumstances and, if detained, may be detained
2 in a county jail if separated by sight and sound from the adult
3 population as otherwise authorized by law. If no such county jail
4 is available, then such person may be detained at a juvenile
5 detention facility. The sheriff, chief of police, or juvenile or
6 adult detention facility operator shall forthwith notify the Office
7 of Juvenile Affairs of any such arrest and detention.

8 ~~E.~~ F. Upon certification for the imposition of an adult
9 sentence, a verdict of guilty or entry of a plea of guilty or nolo
10 contendere by a youthful offender who has been certified for the
11 imposition of an adult sentence as provided by Section ~~7306-2.8~~ 2-5-
12 208 of this title, the person may be detained as an adult and, if
13 incarcerated, may be incarcerated with the adult population.

14 ~~F.~~ G. A child or youthful offender shall be tried as an adult
15 in all subsequent criminal prosecutions, and shall not be subject to
16 the jurisdiction of the juvenile court as a juvenile delinquent or
17 youthful offender processes in any further proceedings if:

18 1. The child or youthful offender has been certified to stand
19 trial as an adult pursuant to any certification procedure provided
20 by law and is subsequently convicted of the alleged offense or
21 against whom the imposition of judgment and sentence has been
22 deferred; or

23 2. The youthful offender has been certified for the imposition
24 of an adult sentence as provided by Section ~~7306-2.8~~ 2-5-208 of this

1 title and is subsequently convicted of the alleged offense or
2 against whom the imposition of judgment and sentencing has been
3 deferred.

4 ~~G.~~ H. Except as otherwise provided in the Youthful Offender
5 Act, a person who has been certified as a youthful offender shall be
6 prosecuted as a youthful offender in all subsequent criminal
7 proceedings until the youthful offender has attained eighteen (18)
8 years of age.

9 All proceedings for the commission of a crime committed after a
10 youthful offender has reached eighteen (18) years of age shall be
11 adult proceedings.

12 SECTION 83. AMENDATORY 10 O.S. 2001, Section 7306-2.5,
13 as last amended by Section 11, Chapter 1, O.S.L. 2007 (10 O.S. Supp.
14 2008, Section 7306-2.5), is amended to read as follows:

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

22 B. Any person fifteen (15), sixteen (16) or seventeen (17)
23 years of age who is charged with murder in the first degree at that
24 time shall be held accountable for his or her act as if the person

1 was an adult and shall not be subject to the provisions of the
2 Youthful Offender Act or the provisions of the Juvenile Code for
3 certification as a juvenile. The person shall have all the
4 statutory rights and protections of an adult accused of a crime.
5 All proceedings shall be as for a criminal action and the provisions
6 of Title 22 of the Oklahoma Statutes shall apply. A person having
7 been convicted as an adult pursuant to this paragraph shall be tried
8 as an adult for every subsequent offense.

9 C. 1. Upon the filing of an adult criminal information against
10 such accused person, a warrant shall be issued which shall set forth
11 the rights of the accused person, and the rights of the parents,
12 guardian or next friend of the accused person to be present at the
13 preliminary hearing, to have an attorney present and to make
14 application for certification of such accused person as a youthful
15 offender to the district court for the purpose of prosecution as a
16 youthful offender.

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

23 3. When personal service of a custodial parent, guardian or
24 next friend of the accused person cannot be effected, service may be

1 made by certified mail to such person's last-known address,
2 requesting a return receipt from the addressee only. If delivery is
3 refused, notice may be given by mailing the warrant and a copy of
4 the information on the accused person by regular first-class mail to
5 the address where the person to be notified refused delivery of the
6 notice sent by certified mail. Where the address of a custodial
7 parent, guardian or next friend is not known, or if the mailed
8 warrant and copy of the information on the accused person is
9 returned for any reason other than refusal of the addressee to
10 accept delivery, after a thorough search of all reasonably available
11 sources to ascertain the whereabouts of a custodial parent, guardian
12 or next friend has been conducted, the court may order that notice
13 of the hearing be given by publication one time in a newspaper of
14 general circulation in the county. In addition, the court may order
15 other means of service of notice that the court deems advisable or
16 in the interests of justice.

17 4. Before service by publication is ordered, the court shall
18 conduct an inquiry to determine whether a thorough search has been
19 made of all reasonably available sources to ascertain the
20 whereabouts of any party for whom notice by publication is sought.

21 D. 1. The accused person shall file any motions for
22 certification as a youthful offender or a juvenile before the start
23 of the criminal preliminary hearing. If both a motion for
24 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
24 providing information in locating the parents of the accused,

1 guardian, or next friend for purpose of notice waives the right to
2 have the preliminary hearing commence within ninety (90) days of the
3 filing of the information.

4 3. At the conclusion of the state's case at the criminal
5 preliminary hearing, the state and the accused person may offer
6 evidence to support or oppose the motions for certification as a
7 youthful offender or an alleged juvenile delinquent.

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

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

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

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

22 4. The sophistication and maturity of the accused person and
23 the capability of distinguishing right from wrong as determined by
24

1 consideration of the person's psychological evaluation, home,
2 environmental situation, emotional attitude and pattern of living;

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

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

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

13 The court, in its decision on a motion for certification as a
14 youthful offender or juvenile, shall detail findings of fact and
15 conclusions of law to each of the above considerations, and shall
16 state that the court has considered each of the guidelines in
17 reaching its decision.

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

23

24

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

4 H. If the accused person is prosecuted as an adult and is
5 subsequently convicted of the alleged offense or against whom the
6 imposition of judgment and sentencing has been deferred, the person
7 may be incarcerated with the adult population and shall be
8 prosecuted as an adult in all subsequent criminal proceedings.

9 SECTION 84. AMENDATORY 10 O.S. 2001, Section 7306-2.6,
10 as amended by Section 5, Chapter 286, O.S.L. 2006 (10 O.S. Supp.
11 2008, Section 7306-2.6), is amended to read as follows:

12 Section 7306-2.6 A. Any person fifteen (15), sixteen (16) or
13 seventeen (17) years of age who is charged with:

- 14 1. Murder in the second degree;
- 15 2. Kidnapping;
- 16 3. Manslaughter in the first degree;
- 17 4. Robbery with a dangerous weapon or attempt thereof;
- 18 5. Robbery with a firearm or attempt thereof;
- 19 6. Rape in the first degree or attempt thereof;
- 20 7. Rape by instrumentation or attempt thereof;
- 21 8. Forcible sodomy;
- 22 9. Lewd molestation;
- 23 10. Arson in the first degree or attempt thereof; or

24

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

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

4 B. Any person sixteen (16) or seventeen (17) years of age who
5 is charged with:

6 1. Burglary in the first degree or attempted burglary in the
7 first degree;

8 2. Battery or assault and battery on a state employee or
9 contractor while in the custody or supervision of the Office of
10 Juvenile Affairs;

11 3. Aggravated assault and battery of a police officer;

12 4. Intimidating a witness;

13 5. Trafficking in or manufacturing illegal drugs;

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

15 7. Maiming;

16 8. Residential burglary in the second degree after two or more
17 adjudications that are separated in time for delinquency for
18 committing burglary in the first degree or residential burglary in
19 the second degree;

20 9. Rape in the second degree; or

21 10. ~~Use of a firearm while in commission of a felony~~ Child
22 abuse,

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

24

1 C. The district attorney may file a petition alleging the
2 person to be a delinquent or may file an information against the
3 accused person charging the person as a youthful offender. The
4 district attorney shall notify the ~~Department~~ Office of Juvenile
5 ~~Justice~~ Affairs upon the filing of youthful offender charges.

6 D. 1. Upon the filing of the information against such alleged
7 youthful offender, a warrant shall be issued which shall set forth
8 the rights of the accused person, and the rights of the parents,
9 guardian or next friend of the accused person to be present at the
10 preliminary hearing, and to have an attorney present.

11 2. The warrant shall be personally served together with a
12 certified copy of the information on the alleged youthful offender
13 and on a custodial parent, guardian or next friend of the accused
14 person.

15 3. When personal service of a custodial parent, guardian or
16 next friend of the alleged youthful offender cannot be effected,
17 service may be made by certified mail to ~~such person's~~ the last-
18 known address of the person, requesting a return receipt from the
19 addressee only. If delivery is refused, notice may be given by
20 mailing the warrant and a copy of the information on the accused
21 person by regular first-class mail to the address where the person
22 to be notified refused delivery of the notice sent by certified
23 mail. Where the address of a custodial parent, guardian or next
24 friend is not known, or if the mailed warrant and copy of the

1 information on the accused person is returned for any reason other
2 than refusal of the addressee to accept delivery, after a distinct
3 and meaningful search of all reasonably available sources to
4 ascertain the whereabouts of a custodial parent, guardian or next
5 friend has been conducted, the court may order that notice of the
6 hearing be given by publication one time in a newspaper of general
7 circulation in the county. In addition, the court may order other
8 means of service of notice that the court deems advisable or in the
9 interests of justice.

10 4. Before service by publication is ordered, the court shall
11 conduct an inquiry to determine whether a thorough search has been
12 made of all reasonably available sources to ascertain the
13 whereabouts of any party for whom notice by publication is sought.

14 E. The court shall commence a preliminary hearing within ninety
15 (90) days of the filing of the information pursuant to Section 258
16 of Title 22 of the Oklahoma Statutes, to determine whether the crime
17 was committed and whether there is probable cause to believe the
18 accused person committed the crime. If the preliminary hearing is
19 not commenced within ninety (90) days, the state shall be prohibited
20 from seeking an adult sentence unless the ninety-day requirement is
21 waived by the defendant. If the whereabouts of the accused are
22 unknown at the time of the filing of the information or if the
23 accused is a fugitive, the State of Oklahoma shall make reasonable
24 efforts to locate the accused in order to commence the proceedings.

1 An accused who flees the jurisdiction of the court or purposely
2 avoids apprehension for the charges, waives the right to have the
3 preliminary hearing commenced within ninety (90) days of the filing
4 of the information. An accused who fails to cooperate with
5 providing information in locating the accused parent, guardian, or
6 next friend for purpose of notice waives the right to have the
7 preliminary hearing commence within ninety (90) days of the filing
8 of the information.

9 F. 1. The accused person may file a motion for certification
10 to the juvenile justice system before the start of the criminal
11 preliminary hearing:

- 12 a. upon the filing of such motion, the complete juvenile
13 record of the accused shall be made available to the
14 district attorney and the accused person,
- 15 b. at the conclusion of the state's case at the criminal
16 preliminary hearing, the accused person may offer
17 evidence to support the motion for certification as a
18 child.

19 2. If no motion to certify the accused person to the juvenile
20 justice system has been filed, at the conclusion of the criminal
21 preliminary hearing the court may on its own motion hold a hearing
22 on the matter of the certification of the accused youthful offender
23 to the juvenile system.

24

1 3. The court shall rule on the certification motion before
2 ruling on whether to bind the accused over for trial. When ruling
3 on the certification motion, the court shall give consideration to
4 the following guidelines with the greatest weight given to
5 subparagraphs a, b and c:

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

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

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

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

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

1 f. the reasonable likelihood of rehabilitation of the
2 accused person if the accused is found to have
3 committed the alleged offense, by the use of
4 procedures and facilities currently available to the
5 juvenile court, and

6 g. whether the offense occurred while the accused person
7 was escaping or in an escape status from an
8 institution for youthful offenders or juvenile
9 delinquents.

10 4. In its decision on the motion for certification as an
11 alleged juvenile delinquent, the court shall detail findings of fact
12 and conclusions of law to each of the above considerations and shall
13 state that the court has considered each of the guidelines in
14 reaching its decision.

15 5. An order certifying a person or denying such certification
16 to the juvenile justice system shall be a final order, appealable
17 when entered.

18 G. Upon conviction, sentence may be imposed as a sentence for a
19 youthful offender as provided by Section ~~7306-2.9~~ 2-5-209 of this
20 title. If the youthful offender sentence is imposed as an adult
21 sentence as provided by Section ~~7306-2.8~~ 2-5-208 of this title, the
22 convicted person may be incarcerated with the adult population.
23
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1 SECTION 85. AMENDATORY Section 2, Chapter 239, O.S.L.
2 2006 (10 O.S. Supp. 2008, Section 7306-2.7a), is amended to read as
3 follows:

4 Section 7306-2.7a It is the intent of the Legislature to fully
5 utilize the Youthful Offender Act as a means to protect the public
6 while rehabilitating and holding youth accountable for serious
7 crimes. The Legislature finds that eligible seventeen-year-olds
8 should have the opportunity to be processed as youthful offenders as
9 provided by law and held accountable through the various provisions
10 of the Youthful Offender Act for custody, institutional placement,
11 supervision, extended jurisdiction within the ~~Department~~ Office of
12 Juvenile ~~Justice~~ Affairs, and the ability to transfer youthful
13 offenders to the Department of Corrections when incarceration or
14 additional supervision is required beyond the maximum age allowed in
15 the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs. No older youth
16 should be deemed ineligible or denied consideration as a youthful
17 offender who is otherwise lawfully eligible based upon the ~~youth's~~
18 age of the youth being seventeen (17) years. To deny access to an
19 otherwise eligible older youth without cause is to circumvent the
20 original intent of the Legislature in creating the Youthful Offender
21 Act.

22 SECTION 86. AMENDATORY 10 O.S. 2001, Section 7306-2.8,
23 as amended by Section 6, Chapter 286, O.S.L. 2006 (10 O.S. Supp.
24 2008, Section 7306-2.8), is amended to read as follows:

1 Section 7306-2.8 A. Whenever the district attorney believes
2 that there is good cause to believe that a person charged as a
3 youthful offender would not reasonably complete a plan of
4 rehabilitation or the public would not be adequately protected if
5 the person were to be sentenced as a youthful offender, and should
6 receive an adult sentence, the district attorney shall file a motion
7 for consideration of the imposition of the sentence as for an adult
8 if the person is convicted:

9 1. Not more than thirty (30) days following formal arraignment
10 and such motion will be ruled upon by the trial court; or the
11 district attorney may file the motion to impose adult sentence
12 fourteen (14) days prior to the start of the preliminary hearing and
13 the preliminary hearing magistrate will rule on that motion. The
14 district attorney must elect when to file the motion for adult
15 sentence and if the motion is filed and argued to the magistrate, it
16 cannot again be filed and argued to the trial court after
17 arraignment; or

18 2. If, prior to that time, the accused person indicates to the
19 court that the accused person wishes to plead guilty or nolo
20 contendere, the court shall grant the state ten (10) days from that
21 date to file the motion required by this subsection, if requested by
22 the state.

23
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1 B. Upon the filing of such motion and prior to the trial or
2 before the entry of the plea of guilty or nolo contendere the court
3 shall hold a hearing to determine the matter.

4 C. 1. The court shall order an investigation to be conducted
5 unless waived by the accused person with approval of the court. Any
6 such investigation required shall be conducted by the ~~Department~~
7 Office of Juvenile Justice Affairs.

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

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

12 b. whether the offense was against persons and, if
13 personal injury resulted, the degree of 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,
23 environmental situation, emotional attitude and
24 pattern of living of the accused person,

- 1 e. the prospects for adequate protection of the public if
2 the accused person is processed through the youthful
3 offender system or the juvenile system,
4 f. the reasonable likelihood of rehabilitation of the
5 accused person if the accused person is found to have
6 committed the alleged offense, by the use of
7 procedures and facilities currently available to the
8 juvenile court, and
9 g. whether the offense occurred while the accused person
10 was escaping or on escape status from an institution
11 for youthful offenders or delinquent children.

12 D. After the hearing and consideration of the report of the
13 investigation, the court shall certify the person as eligible for
14 the imposition of an adult sentence only if it finds by clear and
15 convincing evidence that there is good cause to believe that the
16 accused person would not reasonably complete a plan of
17 rehabilitation or that the public would not be adequately protected
18 if the person were to be sentenced as a youthful offender.

19 In its decision on the motion of the state for imposition of an
20 adult sentence, the court shall detail findings of fact and
21 conclusions of law to each of the considerations in subsection C of
22 this section and shall state that the court has considered each of
23 its guidelines in reaching its decision.

1 E. An order certifying or denying certification for imposition
2 of an adult sentence shall be a final order, appealable when
3 entered.

4 F. If the person has been certified as eligible to be sentenced
5 as an adult, the court shall, upon a verdict of guilty or the entry
6 of a plea of guilty or nolo contendere, impose sentence as provided
7 by law for an adult for punishment of the offense committed, subject
8 to the power and authority of the court to suspend or delay
9 sentence, defer judgment, or otherwise structure, limit, or modify
10 sentence as provided in Title 22 of the Oklahoma Statutes or the
11 Youthful Offender Act. When sentence is imposed pursuant to this
12 subsection, the person shall be treated as an adult for purposes of
13 supervision, incarceration and in all subsequent criminal
14 proceedings.

15 G. Upon a verdict of guilty or a plea of guilty or nolo
16 contendere, the court may order the person to pay a fee to the
17 ~~Department~~ Office of Juvenile ~~Justice~~ Affairs of not less than
18 Twenty-five Dollars (\$25.00), nor more than Five Hundred Dollars
19 (\$500.00), for the presentence investigation. In hardship cases,
20 the court may waive the fee or set the amount of the fee and
21 establish a payment schedule.

22 SECTION 87. AMENDATORY 10 O.S. 2001, Section 7306-2.9,
23 as last amended by Section 3, Chapter 277, O.S.L. 2008 (10 O.S.
24 Supp. 2008, Section 7306-2.9), is amended to read as follows:

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

4 1. A youthful offender presentence investigation shall be
5 conducted unless waived by the youthful offender with approval of
6 the court or unless an investigation is conducted pursuant to
7 subsection C of Section ~~7306-2.8~~ 2-5-208 of this title. Any
8 presentence investigation required by this section shall be
9 conducted by the Office of Juvenile Affairs; and

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

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

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

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

21 d. the sophistication and maturity of the person and the
22 ~~person's~~ capability of distinguishing right from wrong
23 as determined by consideration of the ~~person's~~
24 psychological evaluation, home, environmental

1 situation, emotional attitude and pattern of living of
2 the person,

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

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

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

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

1 years of age prior to the expiration of the sentence, such
2 individual shall be returned to the sentencing court. At that time,
3 the sentencing court shall make one of the following determinations:

4 a. whether the youthful offender shall be returned to the
5 Office of Juvenile Affairs to complete a treatment
6 program, provided that the treatment program shall not
7 exceed the youthful offender's attainment of eighteen
8 (18) years of age and five (5) months. At the
9 conclusion of the treatment program, the individual
10 shall be returned to the sentencing court for a
11 determination under subparagraph b, c or d of this
12 paragraph,

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

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

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

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

22 3. If a youthful offender has attained eighteen (18) years of
23 age but less than eighteen (18) years of age and five (5) months
24 prior to sentencing, that individual shall be returned to the

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

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

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

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

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

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

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

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

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

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

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

23 2. Identification of the specific services and programs that
24 will be provided to the youthful offender by the Office of Juvenile

1 Affairs to assist the youthful offender in achieving the measurable
2 objectives to be reached, including, but not limited to, diagnostic
3 testing consistent with the current standards of medical practice.

4 B. The court shall schedule an annual review hearing in open
5 court for every youthful offender in the custody of the Office of
6 Juvenile Affairs. Such hearing may be scheduled either upon the
7 court's own motion or upon a motion filed by the Office of Juvenile
8 Affairs. Each annual review hearing shall be scheduled and
9 completed within the thirty-day period immediately preceding the
10 date the sentence was imposed upon the youthful offender. Notice
11 shall be given to the youthful offender, the ~~youthful offender's~~
12 counsel, parent or guardian of the youthful offender, the district
13 attorney, and the Office of Juvenile Affairs at the time the motion
14 for review is made or filed. The court, at its discretion, may
15 schedule other review hearings as the court deems necessary, after
16 notice to the parties. The court shall hold a review hearing for
17 good cause shown, upon any motion filed by the district attorney,
18 the Office of Juvenile Affairs, or the youthful offender for the
19 purpose of making a determination to:

20 1. Order the youthful offender discharged from the custody of
21 the Office of Juvenile Affairs without a court judgment of guilt,
22 and order the verdict or plea of guilty or plea of nolo contendere
23 expunged from the record as provided in paragraphs 1 through 5 of
24 subsection C of Section 991c of Title 22 of the Oklahoma Statutes

1 and dismiss the charge with prejudice to any further action, if the
2 court finds that the youthful offender has reasonably completed the
3 rehabilitation plan and objectives and that such dismissal will not
4 jeopardize public safety. If a youthful offender has been
5 discharged without a court judgment of guilt and the charge has been
6 dismissed with prejudice as provided in this paragraph, upon the
7 motion of the youthful offender and the passage of three (3) years
8 after the date of such discharge and dismissal, the court may, in
9 addition, order any law enforcement agency over which the court has
10 jurisdiction to produce all files and records pertaining to the
11 arrest and conviction of the youthful offender, and shall order the
12 clerk of the court to destroy the entire file and record of the
13 case, including docket sheets, index entries, court records,
14 summonses, warrants or records in the office of the clerk or which
15 have been produced by a law enforcement agency in which the name of
16 the youthful offender is mentioned. The court may order probation
17 officers and counselors of the Office of Juvenile Affairs to destroy
18 all records, reports, and social and clinical studies relating to
19 the youthful offender that are in the possession of the Office of
20 Juvenile Affairs, except when the documents are necessary to
21 maintain state or federal funding;

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

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

3 4. Place the youthful offender if less than eighteen (18) years
4 of age in a sanction program operated or contracted for by the
5 Office of Juvenile Affairs community placement, if the youthful
6 offender fails to comply with a written plan of rehabilitation or
7 fails substantially to achieve reasonable treatment objectives while
8 in community or other nonsecure programs; or

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

- 12 a. after certification as a youthful offender, seriously
13 injured or endangered the life or health of another
14 person by such person's violent behavior,
- 15 b. escaped from the facility from which the youthful
16 offender is being held,
- 17 c. committed a felony crime while in the custody or under
18 the supervision of the Office of Juvenile Affairs as
19 shown by a judgment entered following a verdict of
20 guilty, a plea of guilty or nolo contendere, or as
21 shown by clear and convincing evidence,
- 22 d. committed battery or assault and battery on a state
23 employee or contractor of a juvenile facility while in
24 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
24

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.

24

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:

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

1 2. Place the youthful offender in a group home or community
2 residential facility for delinquents or youthful offenders;

3 3. Place the youthful offender under community supervision
4 prior to or after a period of placement in one or more of the
5 facilities referred to in paragraphs 1 and 2 of this subsection.

6 The Office of Juvenile Affairs may place a youthful offender in his
7 or her own home, or an independent living or other similar living
8 arrangement within the community of the residence of the youthful
9 offender only upon the approval of the court; provided, the court
10 shall not prohibit the reintegration of the youthful offender into
11 the community except upon finding that the youthful offender has not
12 reasonably completed the rehabilitation plan objectives established
13 as preconditions for reintegration into the community or that the
14 public would not be adequately protected if the youthful offender is
15 reintegrated into the community; or

16 4. Place the youthful offender in a sanction program if the
17 youthful offender fails to comply with a written plan of
18 rehabilitation or fails substantially to achieve reasonable
19 treatment objectives while in community or other nonsecure programs.

20 B. Placement of the youthful offender pursuant to this section
21 or any other provision of law shall be the responsibility of the
22 Office of Juvenile Affairs and shall occur as soon as reasonably
23 possible but not more than forty-five (45) days following the filing
24 and adoption of the written rehabilitation plan as provided in

1 Section ~~7306-2.10~~ 2-5-210 of this title. This placement time period
2 may be extended upon the declaration of an emergency by the ~~Office~~
3 Board of Juvenile Affairs ~~Board of Directors~~. For the purposes of
4 this section, "emergency" means any situation that places the
5 health, safety and well-being of the residents or staff in imminent
6 peril. The court shall not have authority to require specific
7 placement of a youthful offender in a time frame which would require
8 the removal of any other juvenile or youthful offender from such
9 placement.

10 ~~B.~~ C. The Office of Juvenile Affairs shall be responsible for
11 the care and control of a youthful offender placed in the custody of
12 the Office of Juvenile Affairs, and shall have the duty and the
13 authority to provide food, clothing, shelter, ordinary medical care,
14 education, discipline and in an emergency to authorize surgery or
15 other extraordinary care. The medical care, surgery and
16 extraordinary care shall be charged to the appropriate agency where
17 the youthful offender qualifies for the care under law, rule,
18 regulation or administrative order or decision. Nothing in this
19 section shall abrogate the right of a youthful offender to any
20 benefits provided through public funds nor the parent's statutory
21 duty or responsibility to provide said necessities; further, no
22 person, agency or institution shall be liable in a civil suit for
23 damages for authorizing or not authorizing surgery or extraordinary
24 care in an emergency, as determined by competent medical authority.

1 A youthful offender placed in the custody of the Office of Juvenile
2 Affairs who has attained eighteen (18) years of age or older may
3 authorize and consent to the medical care sought on behalf of the
4 youthful offender by the Office of Juvenile Affairs and to be
5 provided to the youthful offender by a qualified health care
6 professional. No state employee shall be liable for the costs of
7 any medical care or ~~mental~~ behavioral health services provided to
8 any child in the custody of the Office of Juvenile Affairs.

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

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

14 2. As appropriate to the age and circumstances of the youthful
15 offender, be provided education, employment, and employment skills
16 and vocational and technical or higher education services,
17 apprenticeship programs and similar opportunities.

18 E. The Office of Juvenile Affairs shall be permitted to seek
19 appellate review in the Court of Criminal Appeals of any court order
20 pertaining to the care and custody of any youthful offender who is
21 in the custody or under the supervision of the Office of Juvenile
22 Affairs.

23

24

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.

23 If a conviction is set aside pursuant to this subsection, the
24 youthful offender shall thereafter be released from all penalties

1 and disabilities resulting from the offense for which such person
2 was convicted, including but not limited to, any disqualification
3 for any employment or occupational license, or both, created by any
4 other provision of law. The court may in addition order any law
5 enforcement agency over whom the court has jurisdiction to produce
6 all files and records pertaining to said arrest and conviction of
7 the youthful offender and shall order the clerk of the court to
8 destroy the entire file and record of the case, including docket
9 sheets, index entries, court records, summons, warrants or records
10 in the office of the clerk or which have been produced by a law
11 enforcement agency in which the name of the youthful offender is
12 mentioned. The court may order probation officers and counselors to
13 destroy all records, reports, and social and clinical studies
14 relating to said youthful offender that are in their possession
15 except when said documents are necessary to maintain state or
16 federal funding.

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

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

21 CHAPTER 6 - RECORDS

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

24

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

6 All information obtained in the discharge of any official duty
7 by an officer or other employee of the court shall be privileged and
8 shall not be disclosed to anyone other than the court and others
9 entitled under this act to receive such information, unless and
10 until otherwise ordered by the court.

11 B. As used in the Oklahoma Juvenile Code:

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

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

23 3. "Agency record" means records prepared, obtained or
24 maintained by a public or private agency with regard to a child who

1 is or has been under its care, custody or supervision or with regard
2 to a family member or other person living in the home of such child
3 and shall include but not be limited to:

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

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

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

18 5. "Law enforcement records" means any contact, incident or
19 similar reports, arrest records, disposition records, detention
20 records, fingerprints, or photographs related to a child and shall
21 include but not be limited to reports of investigations or inquiries
22 conducted by a law enforcement agency to determine whether a child
23 is or may be subject to the provisions of this chapter as a
24 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 all other records and reports
13 considered closed or confidential by law including, but not limited
14 to, family social studies and histories, medical reports,
15 psychological and psychiatric evaluations or assessments, clinical
16 or other treatment reports or studies, educational records, home
17 studies, and agency records other than legal records filed with
18 concerning a child or the family of the child, excluding records
19 prepared by the agency for the court; and

20 9. "Participating agency" means any public or private agency
21 that has entered into a contract or an interagency agreement under
22 the Interlocal Cooperation Act in accordance with the rules and
23 guidelines adopted pursuant to Section 620.6 of ~~this title~~ Title 10
24 of the Oklahoma Statutes or the ~~Serious and Habitual~~ Juvenile

1 Offender ~~Act~~ Tracking Program for the purpose of accessing and
2 sharing information necessary for the care, treatment, and
3 supervision of children and youth.

4 SECTION 94. AMENDATORY 10 O.S. 2001, Section 7307-1.2,
5 as last amended by Section 2, Chapter 324, O.S.L. 2008 (10 O.S.
6 Supp. 2008, Section 7307-1.2), is amended to read as follows:

7 Section 7307-1.2 A. Except as provided by this section or as
8 otherwise specifically provided by state or federal laws, the
9 following juvenile records are confidential and shall not be open to
10 the general public, inspected, or their contents disclosed:

- 11 1. Juvenile court records;
- 12 2. Agency records;
- 13 3. District attorney's records;
- 14 4. Law enforcement records;
- 15 5. Nondirectory education records; and
- 16 6. Social records.

17 B. The confidentiality limitation of subsection A of this
18 section shall not apply to statistical information or information of
19 a general nature obtained pursuant to the provisions of the Oklahoma
20 Juvenile Code.

21 C. The confidentiality requirements of subsection A of this
22 section for juvenile court records and law enforcement records shall
23 not apply:

24

- 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
- 23 8. 4. Whenever a juvenile is accepted for placement or
24 treatment in a facility or private treatment facility within this

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

14 D. ~~Following the first adjudication as a delinquent, the court~~
15 ~~having jurisdiction shall note on the juvenile court record of the~~
16 ~~person that any subsequent juvenile court records shall not be~~
17 ~~confidential; provided, the child is at least fourteen (14) years of~~
18 ~~age or older. Any juvenile court record which becomes an open~~
19 ~~juvenile record as provided in this subsection may be expunged as~~
20 ~~provided in Section 7307-1.8 of this title.~~

21 ~~The provisions of this subsection shall only apply to the~~
22 ~~juvenile court records and law enforcement records of juvenile~~
23 ~~offenders certified, charged or adjudicated on and after July 1,~~
24 ~~1995.~~

1 ~~E.~~ When a delinquent child has escaped or run away from a
2 training school or other institutional placement for delinquents,
3 the name and description of the child may be released to the public
4 by the agency having custody of the child as necessary and
5 appropriate for the protection of the public and the apprehension of
6 the delinquent child whether or not the juvenile record is
7 confidential or open.

8 ~~F.~~ E. Except as otherwise required by state or federal law, the
9 confidential records listed in subsection A of this section may only
10 be inspected, released, disclosed, corrected or expunged pursuant to
11 an order of the court. Except as otherwise provided in Section
12 601.6 of ~~this title~~ Title 10 of the Oklahoma Statutes or any
13 provision of this chapter, no subpoena or subpoena duces tecum
14 purporting to compel disclosure of confidential information or any
15 confidential juvenile record shall be valid.

16 ~~G.~~ F. An order of the court authorizing the inspection,
17 release, disclosure, correction or expungement of confidential
18 records shall be entered by the court only after a review of the
19 records by the court and a determination by the court, with due
20 regard for the confidentiality of the records and the privacy of
21 persons identified in the records, that a compelling reason exists
22 and such inspection, release or disclosure is necessary for the
23 protection of a legitimate public or private interest.

24

1 Except for district attorney records, any court order
2 authorizing the disclosure, release or inspection of a confidential
3 juvenile record may be conditioned on such terms and restrictions as
4 the court deems necessary and appropriate.

5 ~~H.~~ G. Upon receiving a written request for inspection, release,
6 disclosure, or correction of a juvenile record, the court shall
7 determine whether the record of a juvenile falls under one of the
8 exceptions listed in subsection C of this section. If the record
9 falls under one of the exceptions in subsection C of this section,
10 the court shall issue an order authorizing inspection, release,
11 disclosure or correction of the juvenile record. If the release of
12 a juvenile record is authorized by the court, the Office of Juvenile
13 Affairs shall provide information to the requestor regarding the
14 location of the juvenile record to be released.

15 ~~F.~~ H. Any agency or person may seek an order from the juvenile
16 court prohibiting the release of confidential information subject to
17 disclosure without an order of the court pursuant to Section 620.6
18 of ~~this title~~ Title 10 of the Oklahoma Statutes or any provision of
19 this chapter. The court may, for good cause shown, prohibit the
20 release of such information or authorize release of the information
21 upon such conditions as the court deems necessary and appropriate.

22 ~~J.~~ I. In accordance with the provisions of the ~~Serious and~~
23 ~~Habitual Juvenile Offender Act~~ Tracking Program and Section 620.6 of
24 ~~this title~~ Title 10 of the Oklahoma Statutes:

1 1. Information included in the records listed in subsection A
2 of this section may be entered in and maintained in the Juvenile
3 Justice Information System and other automated information systems
4 related to services to children and youth whether or not the record
5 is confidential or open; and

6 2. The information systems may be accessed by participating
7 agencies as defined by this chapter or as otherwise provided by law.

8 ~~K.~~ J. The court may authorize a designated person to review
9 juvenile court confidential reports and records and collect
10 statistical information and other abstract information for research
11 purposes. Such authorization shall be in writing and shall state
12 specifically the type of information which may be reviewed and
13 reported.

14 Each person granted permission to inspect confidential reports
15 and records for research purposes shall present a notarized
16 statement to the court stating that the names of juveniles, parents
17 and other persons as may be required by the court to be confidential
18 will remain confidential.

19 ~~L.~~ K. Nothing contained in the provisions of Section 620.6 of
20 ~~this title~~ Title 10 of the Oklahoma Statutes or any provision of
21 this chapter shall be construed as:

22 1. Authorizing the inspection of records or the disclosure of
23 information contained in records relating to the provision of
24 benefits or services funded, in whole or in part, with federal

1 funds, except in accord with federal statutes and regulations
2 governing the receipt or use of such funds;

3 2. Authorizing the disclosure of information required to be
4 kept confidential by Section 7505-1.1, 7506-1.1 or 7510-1.5 of this
5 title, the Oklahoma Adoption Code or disclosure of any other
6 confidential record pursuant to the provisions of this chapter;

7 3. Abrogating any privilege, including the attorney-client
8 privilege, or affecting any limitation on such privilege found in
9 any other statutes;

10 4. Limiting or otherwise affecting access of parties to a
11 juvenile proceeding to any records filed with or submitted to the
12 court;

13 5. Limiting or otherwise affecting access of agencies to
14 information subject to disclosure, review or inspection by contract
15 or as a condition for the receipt of public funds or participation
16 in any program administered by the agency;

17 6. Prohibiting the ~~Department~~ Office of Juvenile Justice
18 Affairs from summarizing the outcome of an investigation to the
19 person who reported a known or suspected instance of child abuse or
20 neglect; or

21 7. Prohibiting the person or agency conducting a preliminary
22 inquiry relating to an alleged delinquent act from providing
23 information, as to the disposition of the matter by the district
24 attorney, to the person or agency which referred the matter,

1 including but not limited to whether a petition was filed or an
2 alternative action taken, and the basis for such action and the
3 terms of any agreement entered into by the child for payment of
4 restitution, and including but not limited to provisions for
5 community services.

6 ~~M.~~ L. The confidential records listed in subsection A of this
7 section may be inspected and their contents disclosed without a
8 court order to a school district in which the child who is the
9 subject of the record is currently enrolled or has been presented
10 for enrollment. The inspection of records and disclosure authorized
11 by this subsection may be limited to summaries or to information
12 directly necessary for the purpose of such inspection or disclosure.
13 Upon request by the school district, the agency in possession of the
14 records shall provide in writing, digitally, or by delivery to a
15 secure facsimile line, the requested information to the school
16 district within five (5) business days upon receipt of the request.
17 Any records disclosed as provided by this subsection shall remain
18 confidential. The use of any information shall be limited to the
19 purposes for which disclosure is authorized.

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

23 SECTION 95. AMENDATORY 10 O.S. 2001, Section 7307-1.3,
24 is amended to read as follows:

1 Section 7307-1.3 A. In accordance with the ~~rules adopted~~
2 ~~pursuant to the Serious and Habitual Juvenile Offender Act~~ Tracking
3 Program and Section 620.6 of ~~this title~~ Title 10 of the Oklahoma
4 Statutes, the confidential records listed in subsection A of Section
5 ~~7307-1.2~~ 2-6-102 of this title may be inspected and their contents
6 disclosed without a court order to:

7 1. Participating agencies;

8 2. The following, provided that the inspection of records and
9 disclosure authorized by this paragraph may be limited to summaries
10 or to information directly necessary for the purpose of such
11 inspection or disclosure:

12 a. pursuant to the provisions of this title, a person,
13 agency, hospital or clinic authorized or directed by
14 the court or by the ~~Department~~ Office of Juvenile
15 Justice Affairs to care for, treat, examine, evaluate
16 or supervise a child or to treat, examine or evaluate
17 the parent, legal guardian or other adult person
18 living in the home of the child,

19 b. a legally recognized school that is not a
20 participating agency in which the child who is the
21 subject of the record is currently enrolled, and

22 c. individuals or agencies engaged in legitimate research
23 for educational, scientific or public purposes or for
24 the purpose of an audit authorized by law. No

1 information identifying the subjects of the records
2 shall be made available or disclosed unless it is
3 essential to the research or audit purpose.

4 B. Records and their contents disclosed without an order of the
5 court as provided by this section shall remain confidential. The
6 use of any information shall be limited to the purposes for which
7 disclosure is authorized. It shall be unlawful for any person to
8 furnish any confidential record or disclose any confidential
9 information contained in any juvenile record for commercial,
10 political or any other unauthorized purpose. Any person violating
11 the provisions of this subsection shall, upon conviction, be guilty
12 of a misdemeanor.

13 SECTION 96. AMENDATORY 10 O.S. 2001, Section 7307-1.4,
14 as last amended by Section 2, Chapter 156, O.S.L. 2007 (10 O.S.
15 Supp. 2008, Section 7307-1.4), is amended to read as follows:

16 Section 7307-1.4 A. Juvenile court records which are
17 confidential may be inspected, and their contents shall be
18 disclosed, without a court order to the following persons upon
19 showing of proper credentials and pursuant to lawful duties:

20 1. The judge having the child currently before the court in any
21 proceeding pursuant to the Oklahoma Juvenile Code, or any judge of
22 the district court or tribal court to which such proceedings may be
23 transferred;

1 2. Employees and officers of the court in the performance of
2 their duties, including but not limited to guardians ad litem
3 appointed by the court;

4 3. Members of review boards established pursuant to Sections
5 1116.2 and 1116.6 of ~~this title~~ Title 10 of the Oklahoma Statutes.

6 In addition to juvenile court records, any member of such review
7 boards may inspect, without a court order, information including but
8 not limited to:

- 9 a. psychological and medical records,
- 10 b. placement history and information, including the names
11 and addresses of foster parents,
- 12 c. family assessments,
- 13 d. treatment or service plans, and
- 14 e. school records;

15 4. A district attorney and the employees of an office of a
16 district attorney in the course of their official duties;

17 5. The attorney representing a child who is the subject of a
18 juvenile proceeding pursuant to the provisions of this chapter. The
19 attorney representing a child or considering representing a child in
20 a juvenile proceeding may also access other records listed in
21 subsection A of Section ~~7307-1.2~~ 2-6-102 of this title for use in
22 the legal representation of the child;

23 6. Employees of juvenile bureaus in the course of their
24 official duties;

1 7. Employees of the ~~Department~~ Office of Juvenile ~~Justice~~
2 Affairs in the course of their official duties;

3 8. Employees of a law enforcement agency in the course of their
4 official duties pertaining to the investigation of a crime committed
5 or alleged to have been committed by a person under eighteen (18)
6 years of age. Records or information disclosed pursuant to this
7 paragraph may consist of summaries or may be limited to the
8 information or records necessary for the purpose of the
9 investigation;

10 9. The Oklahoma Commission on Children and Youth;

11 10. The ~~Department~~ Office of Juvenile ~~Justice~~ Affairs or other
12 public or private agency or any individual having court-ordered
13 custody or custody pursuant to ~~Department~~ Office of Juvenile ~~Justice~~
14 Affairs placement of the child who is the subject of the record;

15 11. The Department of Human Services;

16 12. The child who is the subject of the record and the parents,
17 legal guardian, legal custodian or foster parent of said child;

18 13. Any federally recognized Indian tribe in which the child
19 who is the subject of the record is a member, or is eligible to
20 become a member of the tribe due to the child being the biological
21 child of a member of an Indian tribe pursuant to the Federal Indian
22 Child Welfare Act, P.L. 95-608, and the Oklahoma Indian Child
23 Welfare Act; provided such Indian tribe member, in the course of
24 official duties:

1 a. is investigating a report of known or suspected child
2 abuse or neglect or crimes against children or for the
3 purpose of determining whether to place a child in
4 protective custody, or

5 b. is providing services to or for the benefit of a child
6 including but not limited to protective, emergency,
7 social and medical services;

8 14. Any federally recognized Indian tribe in which the tribe,
9 the tribal court or the tribal child welfare program has asserted
10 jurisdiction or intervened in any case in which the child is the
11 subject of the proceedings or is a party to the proceedings pursuant
12 to the authority provided in the Oklahoma Indian Child Welfare Act.

13 The records that are to be provided to Indian tribes pursuant to
14 the provisions of this subsection shall include all case records,
15 reports and documents as defined in this chapter;

16 15. The Governor or to any person the Governor designates, in
17 writing;

18 16. Any federal official of the United States Department of
19 Health and Human Services;

20 17. Any member of the Legislature, upon the written approval of
21 the Speaker of the House of Representatives or the President Pro
22 Tempore of the Senate;

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

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

3 20. Domestic violence and sexual assault advocates employed by
4 a certified domestic violence or sexual assault program pursuant to
5 Section 18p-6 of Title 74 of the Oklahoma Statutes, working within a
6 law enforcement agency or court in the course of their assigned
7 duties.

8 B. Records and their contents disclosed without an order of the
9 court as provided by the provisions of this section shall remain
10 confidential. The use of any information shall be limited to the
11 purposes for which disclosure is authorized. It shall be unlawful
12 for any person to furnish any confidential record or disclose any
13 confidential information contained in any juvenile record for
14 commercial, political or any other unauthorized purpose. Any person
15 violating the provisions of this section shall, upon conviction, be
16 guilty of a misdemeanor.

17 SECTION 97. AMENDATORY 10 O.S. 2001, Section 7307-1.5,
18 as amended by Section 2, Chapter 191, O.S.L. 2007 (10 O.S. Supp.
19 2008, Section 7307-1.5), is amended to read as follows:

20 Section 7307-1.5 A. The Office of Juvenile Affairs agency
21 records pertaining to a child which are confidential may be
22 inspected and their contents disclosed without a court order to the
23 following persons upon showing of proper credentials:
24

1 1. The judge having the child currently before the court in any
2 proceeding pursuant to this title, any judge of the district court
3 or tribal court to which any proceedings may be transferred;

4 2. Employees and officers of the court in the performance of
5 their duties, including but not limited to guardians ad litem
6 appointed by the court, and members of review boards established
7 pursuant to the Oklahoma Children's Code;

8 3. A district attorney and the employees of an office of a
9 district attorney in the course of their official duties pursuant to
10 this title or the prosecution of crimes against children, including
11 providing summary dispositional and placement information to the
12 victim of the delinquent acts of the child;

13 4. The attorney representing a child who is the subject of a
14 juvenile proceeding pursuant to the provisions of this title. The
15 attorney representing a child or an attorney considering
16 representing a child in a juvenile proceeding may access other
17 confidential records listed in subsection A of Section ~~7307-1.2~~ 2-6-
18 102 of this title for use in the legal representation of the child;

19 5. Employees of juvenile bureaus in the course of their
20 official duties;

21 6. Employees of a law enforcement agency of this or another
22 state and employees of a child protective service of another state
23 or any federally recognized Indian tribe member in the course of
24 their official duties pertaining to investigations of a report of

1 known or suspected child abuse or neglect or crimes against children
2 or for the purpose of determining whether to place a child in
3 protective custody;

4 7. Employees of a law enforcement agency in the course of their
5 official duties pertaining to the investigation of a crime committed
6 or alleged to have been committed by a person under eighteen (18)
7 years of age. Records or information disclosed pursuant to this
8 paragraph may consist of summaries or may be limited to the
9 information or records necessary for the purpose of the
10 investigation;

11 8. The Oklahoma Commission on Children and Youth;

12 9. The Department of Human Services;

13 10. Any public or private agency or person authorized by the
14 Office of Juvenile Affairs to diagnose, or provide care, treatment,
15 supervision or other services to a child who is the subject of a
16 report or record of delinquency, child abuse or neglect, or other
17 adjudicatory category, provided the ~~Department~~ Office may limit the
18 disclosure to summaries or to information directly necessary for the
19 purpose of the disclosure;

20 11. Any federally recognized Indian tribe or state or county
21 child protective services or child welfare agency providing for or
22 supervising the diagnosis, care, treatment, supervision or other
23 services provided such child;

24 12. The parents of the child who is the subject of any records;

1 13. Any person or agency for research purposes, if all of the
2 following conditions are met:

3 a. the person or agency conducting the research is
4 employed by the State of Oklahoma or is under contract
5 with this state and is authorized by the Office of
6 Juvenile Affairs to conduct the research, and

7 b. the person or agency conducting the research ensures
8 that all documents containing identifying information
9 are maintained in secure locations and access to any
10 documents by unauthorized persons is prohibited; that
11 no identifying information is included in documents
12 generated from the research conducted; and that all
13 identifying information is deleted from documents used
14 in the research when the research is completed;

15 14. The Governor or to any person the Governor designates, in
16 writing;

17 15. Any federal official of the United States Department of
18 Health and Human Services, the United States Social Security
19 Administration, the United States Department of Justice, the United
20 States Department of Homeland Security, or any employee of the
21 United States Probation Office;

22 16. Any member of the Legislature, upon the written approval of
23 the Speaker of the House of Representatives or the President Pro
24 Tempore of the Senate; and

1 17. Employees of the Department of Corrections in the course of
2 their official duties.

3 B. Records and their contents disclosed without an order of the
4 court as provided by the provisions of this section shall remain
5 confidential. The use of any information shall be limited to the
6 purposes for which disclosure is authorized. It shall be unlawful
7 for any person to furnish any confidential record or disclose any
8 confidential information contained in any juvenile record for
9 commercial, political or any other unauthorized purpose. Any person
10 violating the provisions of this section shall, upon conviction, be
11 guilty of a misdemeanor.

12 SECTION 98. AMENDATORY 10 O.S. 2001, Section 7307-1.7,
13 is amended to read as follows:

14 Section 7307-1.7 A. No adjudication by the court upon the
15 status of a child in a juvenile proceeding shall operate to impose
16 any of the civil disabilities ordinarily resulting from conviction
17 of a crime, nor shall a child be deemed a criminal by reason of a
18 juvenile adjudication.

19 B. The court may order the records of a person alleged to be
20 delinquent to be sealed as follows:

21 1. When the person has been alleged to be delinquent and:

22 a. one (1) year has elapsed from the later of:

23 (1) dismissal or closure of the case by the court, or
24

1 (2) notice to the court by the ~~Department~~ Office of
2 Juvenile ~~Justice~~ Affairs or a juvenile bureau of
3 final discharge of such person from the
4 supervision of the ~~Department~~ Office of Juvenile
5 ~~Justice~~ Affairs or juvenile bureau, and

6 b. the person has not been found guilty of or admitted to
7 the commission of a subsequent criminal offense in
8 either a juvenile or adult proceeding, and

9 c. no juvenile or adult proceeding for a criminal offense
10 is pending;

11 2. When a juvenile court intake has been completed and:

12 a. the case has been dismissed, or

13 b. no petition has been filed pending fulfillment of
14 conditions of a voluntary probation, or

15 c. a petition has been filed but no adjudication has
16 occurred pending the fulfillment of conditions of a
17 preadjudicatory probation;

18 3. When a juvenile participates in a court-approved alternative
19 diversion program for first-time offenders and:

20 a. the juvenile presents satisfactory evidence to the
21 court that the juvenile has successfully completed the
22 program, and

23 b. the court dismisses the case at the conclusion of the
24 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
24

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
24 unseal any juvenile court record, the court shall set a date for a

1 hearing and shall provide thirty (30) days' notice to all interested
2 parties. The hearing may be closed at the court's discretion. If,
3 after a hearing, the court determines that there is any reason
4 enumerated in subsection G of this section and it is necessary for
5 the protection of a legitimate public or private interest to unseal
6 the records, the court shall order the record unsealed.

7 I. Any record ordered to be sealed pursuant to this section, if
8 not unsealed within ten (10) years of the order, shall be
9 obliterated or destroyed at the end of the ten-year period.

10 SECTION 99. AMENDATORY 10 O.S. 2001, Section 7307-1.8,
11 as amended by Section 13, Chapter 434, O.S.L. 2003 (10 O.S. Supp.
12 2008, Section 7307-1.8), is amended to read as follows:

13 Section 7307-1.8 A. A person who is the subject of ~~an open a~~
14 juvenile court record, that is not confidential as provided by law,
15 may petition the district court in which the juvenile court record
16 is located for an order to expunge all or any part of the record
17 pertaining to the person, except basic identification information;
18 provided:

19 1. The person has attained twenty-one (21) years of age or
20 older;

21 2. The person has not been arrested for any adult criminal
22 offense and no charge, indictment, or information has been filed or
23 is pending against the person at the time of the petition for an
24 expungement;

1 3. The person has not been subject to any deferred prosecution
2 or deferred sentence, and has not been convicted of any criminal
3 offense; and

4 4. All court costs, restitution, fines and other court-ordered
5 requirements have been completed for all juvenile proceedings.

6 B. Upon the filing of a petition for expungement of a juvenile
7 court record, the court shall set a date for a hearing, which
8 hearing may be closed at the court's discretion, and shall provide a
9 thirty (30) days' notice of the hearing to the district attorney,
10 the ~~Department~~ Office of Juvenile ~~Justice~~ Affairs, the Oklahoma
11 State Bureau of Investigation, and any other person or agency whom
12 the court has reason to believe may have relevant information
13 related to the expungement of any record.

14 C. Upon a finding that the harm to privacy of the person in
15 interest or dangers of unwarranted adverse consequences outweigh the
16 public interest in retaining the records, the court may order the
17 records, or any part thereof except basic identification
18 information, to be expunged. If the court finds that neither
19 expungement of the records nor maintaining of the records unsealed
20 by the agency would serve the ends of justice, the court may enter
21 an appropriate order limiting access to the records. Any order
22 entered pursuant to the provisions of this subsection shall specify
23 those agencies to which the court order shall apply.

1 D. Upon the entry of an order to expunge any juvenile court
2 record, or any part thereof, the subject official actions shall be
3 deemed never to have occurred, and the person in interest and all
4 juvenile and criminal justice agencies may properly reply, upon any
5 inquiry in the matter, that no such action ever occurred and that no
6 such record exists with respect to the person.

7 E. Inspection of the records included in the order may
8 thereafter be permitted by the court only upon petition by the
9 person in interest who is the subject of the records, the Attorney
10 General, or by the district attorney and only to those persons and
11 for such purposes named in the petition.

12 F. Employers, educational institutions, state and local
13 government agencies, officials, and employees shall not, in any
14 application or interview or otherwise, require an applicant to
15 disclose any information contained in any expunged juvenile records.
16 An applicant need not, in answer to any question concerning arrest,
17 juvenile and criminal records, provide information that has been
18 expunged, including any reference to or information concerning
19 expungement and may state that no such action has ever occurred.
20 Such an application may not be denied solely because of the
21 applicant's refusal to disclose information that has been expunged.

22 G. Nothing in this section shall be construed to authorize the
23 physical destruction of any juvenile records.

24

1 H. For the purposes of this section, expunged materials which
2 are recorded in the same document as unsealed material may be
3 recorded in a separate document, and sealed, then obliterated in the
4 original document.

5 I. For the purposes of this act, district court index reference
6 of sealed material shall be destroyed, removed or obliterated.

7 J. Any record ordered to be expunged pursuant to this section
8 shall be sealed and, if not unsealed within ten (10) years of the
9 expungement order, may be obliterated or destroyed at the end of the
10 ten-year period.

11 K. Subsequent to records being sealed as provided herein, the
12 district attorney, the ~~Department~~ Office of Juvenile Justice
13 Affairs, the Oklahoma State Bureau of Investigation, or other
14 interested person or agency may petition the court for an order
15 unsealing any records. Upon filing of a petition, the court shall
16 set a date for hearing, which hearing may be closed at the court's
17 discretion, and shall provide thirty (30) days' notice to all
18 interested parties. If, upon hearing, the court determines there
19 has been a change of conditions or that there is a compelling reason
20 to unseal the records, the court may order all or a portion of the
21 records unsealed.

22 L. Nothing herein shall prohibit the introduction of evidence
23 regarding actions sealed pursuant to the provisions of this section
24 at any hearing or trial for purposes of impeaching the credibility

1 of a witness or as evidence of character testimony pursuant to
2 Section 2608 of Title 12 of the Oklahoma Statutes.

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

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

13 Section 7307-1.9 The Office of Juvenile Affairs shall, in
14 cooperation with sheriffs in this state, develop procedures for
15 providing timely and relevant information to sheriffs concerning
16 juvenile court records and agency records of persons who have met
17 the criteria specified in paragraph 5 of subsection C of Section
18 ~~7307-1.2 of Title 10 of the Oklahoma Statutes~~ 2-6-102 of this title.
19 The procedures shall be designed to provide the type of information
20 useful and relevant to establishing security level requirements for
21 persons in the custody of a sheriff. The provisions of this section
22 shall not require the disclosure of any records or information which
23 is required by law to be kept confidential.

24

1 SECTION 101. NEW LAW A new section of law not to be
2 codified in the Oklahoma Statutes reads as follows:

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

5 CHAPTER 8 - JUVENILE SEX OFFENDER REGISTRATION ACT

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

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

10 SECTION 103. AMENDATORY 10 O.S. 2001, Section 7308-1.3,
11 as amended by Section 2, Chapter 164, O.S.L. 2002 (10 O.S. Supp.
12 2008, Section 7308-1.3), is amended to read as follows:

13 Section 7308-1.3 The Office of Juvenile Affairs shall establish
14 and maintain a registry for juvenile sex offenders required by the
15 court to register. The registry shall include fingerprints,
16 photographs, and information collected from forms submitted and
17 other communications relating to notice of duty to register, sex
18 offender registration, and notice of change of name or address.
19 Information in the juvenile sex offender registry is subject to
20 release to law enforcement agencies and may be released to the
21 public pursuant to court order as provided in Section ~~7308-1.4~~ 2-8-
22 104 of this title.

23
24

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

4 Section 7308-1.4 A. When a person meets the definition of a
5 juvenile sex offender pursuant to Section ~~7308-1.2~~ 2-8-102 of this
6 title, the district attorney may make an application to include the
7 juvenile in the juvenile sex offender registry. Upon the
8 application of the district attorney, the court shall appoint two
9 persons who are qualified sex offender treatment professionals to
10 evaluate the juvenile and report to the court on the treatment
11 prognosis and likelihood that the juvenile offender represents an
12 ongoing serious or aggressive threat to the public or children under
13 sixteen (16) years of age. One appointee shall be currently
14 licensed as a physician or psychologist in Oklahoma with a minimum
15 of two hundred (200) hours of clinical experience in juvenile sex
16 offender treatment. Other criteria for qualifying as a sex offender
17 treatment professional shall include, but not be limited to, current
18 licensure as a medical or mental health professional with a minimum
19 of two hundred (200) hours of clinical experience in juvenile sex
20 offender treatment, or current licensure as a medical or mental
21 health professional with a minimum of two (2) years' combined
22 clinical experience in child abuse treatment, child or adolescent
23 anger management treatment, juvenile delinquency or criminal
24 behavior treatment, sexual abuse treatment, child or adolescent

1 psychology, or therapeutic social work. A list of sex offender
2 treatment professionals meeting the established criteria shall be
3 provided to each district court by the Office of Juvenile Affairs.
4 Where professionals are appointed to conduct an evaluation in such
5 cases, the court may set reasonable compensation and order the
6 payment out of the court fund. In the event two qualified sex
7 offender treatment professionals are not available to the court to
8 evaluate the juvenile sex offender, the Office of Juvenile Affairs
9 may, at the court's request, select additional qualified sex
10 offender treatment professionals employed by the agency to assist
11 with the evaluation report.

12 B. The court shall, after consideration of the evaluation
13 report required by subsection A of this section, make a finding of
14 whether the juvenile offender represents an ongoing serious or
15 aggressive threat to the public or children under sixteen (16) years
16 of age. If the court finds the juvenile represents such threat, the
17 court shall order the juvenile to register on the juvenile sex
18 offender registry as provided in this act.

19 C. The court, in its discretion, may order information on any
20 juvenile sex offender released from the juvenile sex offender
21 registry to any person or to the public at large when the evaluation
22 report considered by the court indicates a likelihood of an ongoing
23 serious or aggressive threat to the public or children under sixteen
24 (16) years of age. If the court orders release of this information

1 to the public at large, it shall promptly be made available for
2 public inspection or copying pursuant to rules promulgated by the
3 Office of Juvenile Affairs. If the court orders the release of this
4 information through community notification, the notification shall
5 be carried out by the local law enforcement authority applicable to
6 the person's residence.

7 D. The court may review the treatment prognosis of any
8 registered juvenile sex offender at any time and may, in its
9 discretion, order release of additional information from the
10 juvenile sex offender registry, as deemed appropriate for the
11 protection of the public.

12 SECTION 105. AMENDATORY 10 O.S. 2001, Section 7308-1.5,
13 as amended by Section 4, Chapter 164, O.S.L. 2002 (10 O.S. Supp.
14 2008, Section 7308-1.5), is amended to read as follows:

15 Section 7308-1.5 On ~~and~~ or after ~~the effective date of this act~~
16 July 1, 2001, when the court orders a juvenile sex offender to
17 register on the juvenile sex offender registry as provided in
18 Section ~~7308-1.4~~ 2-8-104 of this title, the court shall provide at
19 the time of the order written notification of the duty to register.
20 The written notification shall be a form provided by the Office of
21 Juvenile Affairs and shall be signed by the juvenile and a parent or
22 guardian who has custody and control of the juvenile. One copy
23 shall be retained by the court, one copy shall be provided to the
24

1 juvenile offender, and one copy shall be submitted within three (3)
2 working days to the juvenile sex offender registry.

3 SECTION 106. NEW LAW A new section of law not to be
4 codified in the Oklahoma Statutes reads as follows:

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

7 CHAPTER 9 - INTERSTATE COMPACT FOR JUVENILES ACT

8 SECTION 107. AMENDATORY Section 1, Chapter 147, O.S.L.
9 2004 (10 O.S. Supp. 2008, Section 7309-1.1), is amended to read as
10 follows:

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

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

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

21 2. Any other municipality may enter into an interlocal
22 agreement with the district court pursuant to the Interlocal
23 Cooperation Act, to assume jurisdiction of cases involving children
24 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.

3 3. The chief juvenile judge of the district court judicial
4 district, or if there is no chief judge then the presiding judge of
5 the judicial administrative district, is hereby authorized to enter
6 into the interlocal agreement as provided for in this section for
7 and on behalf of said judicial district if the judge determines that
8 the agreement is constitutional and complies with state and federal
9 law.

10 B. 1. A child under eighteen (18) years of age who is taken
11 into custody for the alleged violation of a municipal ordinance
12 relating to truancy may be held pursuant to Section 10-109 of Title
13 70 of the Oklahoma Statutes.

14 2. A child under eighteen (18) years of age who is taken into
15 custody for the alleged violation of a municipal ordinance relating
16 to curfews may be held temporarily under the care of a peace officer
17 or other person employed by a police department only until the
18 parent of the child, legal guardian, legal custodian, attorney or
19 other responsible adult assumes custody or, if such a person cannot
20 be located within a reasonable time of the taking of the child into
21 custody or if such a person refuses to assume custody, until
22 temporary shelter is found for the child. The temporary custody
23 provided for by this paragraph shall be utilized as a means of

24

1 returning the child to the home of the child or other place of
2 shelter.

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

12 4. Notwithstanding any other provision of this Code, a child
13 less than eighteen (18) years of age, who is taken into custody for
14 the alleged violation of a municipal ordinance, and who can be
15 prosecuted in municipal court for such offense pursuant to
16 jurisdiction assumed by the municipal court pursuant to the
17 provisions of paragraph 1 of this subsection, may be temporarily
18 detained by the municipality in a municipal juvenile facility, as
19 defined by this section, but only pursuant to the following
20 conditions:

21 a. the municipality shall immediately take all reasonable
22 steps to attempt to locate the parent of the child,
23 legal guardian, legal custodian, attorney or another
24 responsible adult and determine if the parent, legal

1 guardian, legal custodian, attorney or other
2 responsible adult is willing to appear at the
3 municipal juvenile facility and assume personal
4 custody of the child upon the release of the child
5 from such facility,

6 b. the child shall be released to the personal custody of
7 the parent of the child, legal guardian, legal
8 custodian, attorney or other responsible adult as soon
9 as practicable and upon the written promise of such
10 person to return the child to municipal court to
11 answer the municipal charges on the date and at the
12 time set by the municipal court and to assume
13 responsibility for costs for damages by the child if
14 the child causes damages while committing any acts in
15 violation of municipal ordinances. Municipalities may
16 enact ordinances providing penalties for failure to
17 comply with the written promise and for refusal to
18 assume custody of a child in a timely manner,

19 c. the child shall be detained in the municipal juvenile
20 facility for no longer than twenty-four (24) hours;
21 provided, if the parent of the child, legal guardian,
22 legal custodian, attorney or other responsible adult
23 fails to appear at the municipal juvenile facility and
24 assume personal custody of the child within said

1 twenty-four-hour period, then custody or release of
2 the child shall be determined pursuant to the
3 provisions of Section 40 of this act,

4 d. the child shall be provided with adequate fresh
5 drinking water,

6 e. the child shall be provided with adequate food not
7 less than three times in a twenty-four-hour period,

8 f. the child shall be provided with adequate bathroom
9 facilities and bedding, and

10 g. the child shall be provided with any necessary medical
11 care and treatment.

12 C. For the purposes of this section, a "municipal juvenile
13 facility" shall mean a secure facility which is entirely separate
14 from any jail, adult lockup, or other adult facility, or is
15 spatially separate if contained inside any jail, adult lockup, or
16 other adult facility which is certified by the Office of Juvenile
17 Affairs for the temporary detention of juveniles as authorized by
18 the provisions of this section.

19 1. A municipal juvenile facility shall be certified by the
20 Office of Juvenile Affairs pursuant to the applicable certification
21 standards. The Office of Juvenile Affairs is directed to and shall
22 establish standards for certification of municipal juvenile
23 facilities to include but not be limited to the conditions set forth
24

1 in subparagraphs a through g of paragraph 4 of subsection B of this
2 section.

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

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

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

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

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

21 2. 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
24 the number of hours of community service work by the prevailing

1 minimum wage plus any fine imposed does not result in a number which
2 exceeds the maximum fine authorized by law, or restitution, or both
3 community service work and restitution. The court may also impose
4 costs as authorized by law.

5 3. If the child fails to complete the community service, a
6 parent or guardian of the child who knew or should have known that
7 the child failed to complete the community service may be fined an
8 amount equal to the number of community service hours that are not
9 completed by the child multiplied by the hourly minimum wage amount.

10 4. In addition, during 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 which offenses occurred on different days, or
- 15 c. fails to pay any fine or cost properly assessed by a
16 municipal court,

17 and after the expiration of ninety (90) days, the court clerk shall
18 mail notice of such occurrence to the Department of Public Safety,
19 which Department shall thereafter suspend or deny driving privileges
20 for such child for six (6) months. The suspension may be modified
21 as provided in Section 6-107.2 of Title 47 of the Oklahoma Statutes.
22 In addition, the court may require the child to receive counseling
23 or other community-based services, as necessary.

24

1 E. If a child is prosecuted for an offense in a municipal
2 court, the child shall not be prosecuted for the offense in the
3 district court.

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

13 G. All municipal arrest records, prosecution records, court
14 records, and court proceedings for cases involving children less
15 than eighteen (18) years of age charged with violating municipal
16 ordinances shall be kept confidential and shall not be open to
17 public inspection except by order of the municipal court or as
18 otherwise provided by Chapter 6 of this Code and Section 620.6 of
19 Title 10 of the Oklahoma Statutes. Municipal conviction records
20 involving children less than eighteen (18) years of age convicted of
21 violating municipal ordinances shall be open to public inspection.

22 H. Funds generated from fines paid pursuant to an interlocal
23 agreement between a municipality and the district court shall be
24

1 earmarked and used by the municipality only for the following
2 purposes:

3 1. To fund local programs which address problems of juvenile
4 crime;

5 2. To fund the costs of prosecutions authorized pursuant to the
6 provisions of this section;

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

9 4. To fund administrative costs related to local programs that
10 address problems of juvenile crime or related to the prosecution,
11 detention, or punishment authorized pursuant to the provisions of
12 this section; and

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

15 Such earmarked funds shall not be used by the municipality for
16 any purpose other than the purposes set forth in paragraphs 1
17 through 5 of this subsection.

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

21 A. 1. Social records, as defined by Section 93 of this act,
22 shall not be filed in the court record unless so ordered by the
23 court. If filed in the court record, the records shall be placed in
24 confidential envelopes in the court file and may only be accessed by

1 the person who is the subject of the record, or the attorney for
2 such person.

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

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

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

12 SECTION 111. REPEALER 10 O.S. 2001, Sections 7303-2.1,
13 7303-2.2, 7303-4.5, Section 4, Chapter 226, O.S.L. 2005, 7303-6.1,
14 7303-6.3, 7303-7.1, 7303-7.2, 7303-7.3 and 7303-8.5, as amended by
15 Section 30, Chapter 327, O.S.L. 2002 (10 O.S. Supp. 2008, Sections
16 7303-5.7 and 7303-8.5), are hereby repealed.

17 SECTION 112. RECODIFICATION 10 O.S. 2001, Sections 7301-
18 1.1 and 7301-1.2, as amended by Sections 2 and 3 of this act, and
19 7301-1.3, as last amended by Section 4 of this act, shall be
20 recodified as Sections 2-1-101, 2-1-102 and 2-1-103 of Title 10A of
21 the Oklahoma Statutes, unless there is created a duplication in
22 numbering.

23 SECTION 113. RECODIFICATION 10 O.S. 2001, Section 7302-
24 1.1, as last amended by Section 6 of this act, shall be recodified

1 as Section 2-7-101 of Title 10A of the Oklahoma Statutes, unless
2 there is created a duplication in numbering.

3 SECTION 114. RECODIFICATION 10 O.S. 2001, Sections 7302-
4 2.1, as last amended by Section 1, Chapter 341, O.S.L. 2008, 7302-
5 2.2, as last amended by Section 1, Chapter 61, O.S.L. 2007, 7302-2.3
6 and 7302-2.4 (10 O.S. Supp. 2008, Sections 7302-2.1 and 7302-2.2),
7 shall be recodified as Sections 2-7-201, 2-7-202, 2-7-203 and 2-7-
8 204 of Title 10A of the Oklahoma Statutes, unless there is created a
9 duplication in numbering.

10 SECTION 115. RECODIFICATION 10 O.S. 2001, Sections 7302-
11 3.1, as last amended by Section 7 of this act, 7302-3.2, as amended
12 by Section 8 of this act, 7302-3.3, as amended by Section 6, Chapter
13 320, O.S.L. 2006, 7302-3.4, as amended by Section 7, Chapter 320,
14 O.S.L. 2006, and 7302-3.5, as last amended by Section 9 of this act
15 (10 O.S. Supp. 2008, Sections 7302-3.3 and 7302-3.4), shall be
16 recodified as Sections 2-7-301, 2-7-302, 2-7-303, 2-7-304 and 2-7-
17 305 of Title 10A of the Oklahoma Statutes, unless there is created a
18 duplication in numbering. Section 4, Chapter 4, O.S.L. 2002 (10
19 O.S. Supp. 2008, Section 7302-3.6a), as last amended by Section 10
20 of this act, shall be recodified as Section 2-7-306 of Title 10A of
21 the Oklahoma Statutes, unless there is created a duplication in
22 numbering. Sections 7302-3.7, as amended by Section 10, Chapter
23 320, O.S.L. 2006, 7302-3.8, as last amended by Section 11 of this
24 act, 7302-3.9, as amended by Section 12, Chapter 320, O.S.L. 2006,

1 7302-3.10, as amended by Section 13, Chapter 320, O.S.L. 2006 and
2 7302-3.11, as last amended by Section 12 of this act (10 O.S. Supp.
3 2008, Sections 7302-3.7, 7302-3.9 and 7302-3.10), shall be
4 recodified as Sections 2-7-307, 2-7-308, 2-7-309, 2-7-310 and 2-7-
5 311 of Title 10A of the Oklahoma Statutes, unless there is created a
6 duplication in numbering.

7 SECTION 116. RECODIFICATION 10 O.S. 2001, Sections 7302-
8 4.1, as amended by Section 13 of this act and 7302-4.2, shall be
9 recodified as Sections 2-7-401 and 2-7-402 of Title 10A of the
10 Oklahoma Statutes, unless there is created a duplication in
11 numbering.

12 SECTION 117. RECODIFICATION 10 O.S. 2001, Sections 7302-
13 5.1, 7302-5.2, 7302-5.3 and 7302-5.4, as last amended by Sections
14 14, 15, 16 and 17 of this act, shall be recodified as Sections 2-7-
15 501, 2-7-502, 2-7-503 and 2-7-504 of Title 10A of the Oklahoma
16 Statutes, unless there is created a duplication in numbering.

17 SECTION 118. RECODIFICATION 10 O.S. 2001, Sections 7302-
18 6.1, 7302-6.2 and 7302-6.3, as last amended by Sections 18, 19 and
19 20 of this act, 7302-6.4 and 7302-6.5, as amended by Sections 21 and
20 22 of this act, 7302-6.6, as last amended by Section 23 of this act,
21 7302-6.7 and 7302-6.8, as amended by Sections 24 and 25 of this act,
22 7302-6.9, as last amended by Section 26 of this act and 7302-6.10,
23 as amended by Section 27 of this act, shall be recodified as
24 Sections 2-7-601, 2-7-602, 2-7-603, 2-7-604, 2-7-605, 2-7-606, 2-7-

1 607, 2-7-608, 2-7-609 and 2-7-610 of Title 10A of the Oklahoma
2 Statutes, unless there is created a duplication in numbering.

3 SECTION 119. RECODIFICATION 10 O.S. 2001, Sections 7302-
4 7.1, 7302-7.2, 7302-7.3, 7302-7.4 and 7302-7.5, as last amended by
5 Sections 28, 29, 30, 31 and 32 of this act, shall be recodified as
6 Sections 2-7-701, 2-7-702, 2-7-703, 2-7-704 and 2-7-705 of Title 10A
7 of the Oklahoma Statutes, unless there is created a duplication in
8 numbering.

9 SECTION 120. RECODIFICATION 10 O.S. 2001, Section 7302-
10 8.1, as amended by Section 33 of this act, shall be recodified as
11 Section 2-7-801 of Title 10A of the Oklahoma Statutes, unless there
12 is created a duplication in numbering.

13 SECTION 121. RECODIFICATION 10 O.S. 2001, Sections 7302-
14 9.1, 7302-9.2, 7302-9.3, 7302-9.4 and 7302-9.6, as amended by
15 Sections 34, 35, 36, 37 and 38 of this act, shall be recodified as
16 Section 2-7-901, 2-7-902, 2-7-903, 2-7-904 and 2-7-905 of Title 10A
17 of the Oklahoma Statutes, unless there is created a duplication in
18 numbering.

19 SECTION 122. RECODIFICATION 10 O.S. 2001, Sections 7303-
20 1.1, 7303-1.2, 7303-1.3 and 7303-1.4, as last amended by Sections
21 40, 41, 42 and 43 of this act, 7303-1.5 and 7303-1.6, as amended by
22 Sections 44 and 45 of this act, and 7303-1.7, as last amended by
23 Section 46 of this act, shall be recodified as Sections 2-2-101, 2-
24 2-102, 2-2-104, 2-2-105, 2-2-106, 2-2-107 and 2-2-108 of Title 10A

1 of the Oklahoma Statutes, unless there is created a duplication in
2 numbering.

3 SECTION 123. RECODIFICATION 10 O.S. 2001, Section 7303-
4 3.1, as amended by Section 47 of this act, shall be recodified as
5 Section 2-2-301 of Title 10A of the Oklahoma Statutes, unless there
6 is created a duplication in numbering.

7 SECTION 124. RECODIFICATION 10 O.S. 2001, Sections 7303-
8 4.1, 7303-4.2, as amended by Section 48 of this act, and 7303-4.3
9 and 7303-4.6, as last amended by Sections 49 and 50 of this act,
10 shall be recodified as Sections 2-2-401, 2-2-402, 2-2-403 and 2-2-
11 404 of Title 10A of the Oklahoma Statutes, unless there is created a
12 duplication in numbering.

13 SECTION 125. RECODIFICATION 10 O.S. 2001, Sections 7303-
14 5.1, as amended by Section 51 of this act, and 7303-5.2, 7303-5.3,
15 7303-5.4 and 7303-5.5, as last amended by Sections 52, 53, 54 and 55
16 of this act, shall be recodified as Sections 2-2-501, 2-2-502, 2-2-
17 503, 2-2-504 and 2-2-505 of Title 10A of the Oklahoma Statutes,
18 unless there is created a duplication in numbering. Sections 3, 5,
19 6 and 7, Chapter 226, O.S.L. 2005 (10 O.S. Supp. 2008, Sections
20 7303-5.6, 7303-5.8, 7303-5.9 and 7303-5.10), as amended by Sections
21 56, 57, 58 and 59 of this act, shall be recodified as Sections 2-2-
22 506, 2-2-507, 2-2-508 and 2-2-509 of Title 10A of the Oklahoma
23 Statutes, unless there is created a duplication in numbering.

24

1 SECTION 126. RECODIFICATION 10 O.S. 2001, Section 7303-
2 6.2, as amended by Section 60 of this act, shall be recodified as
3 Section 2-2-601 of Title 10A of the Oklahoma Statutes, unless there
4 is created a duplication in numbering.

5 SECTION 127. RECODIFICATION 10 O.S. 2001, Sections
6 7303-7.4, 7303-7.5 and 7303-7.6, as amended by Sections 61, 62 and
7 63 of this act, shall be recodified as Sections 2-2-701, 2-2-702 and
8 2-2-703 of Title 10A of the Oklahoma Statutes, unless there is
9 created a duplication in numbering.

10 SECTION 128. RECODIFICATION 10 O.S. 2001, Sections
11 7303-8.1, as last amended by Section 64 of this act, 7303-8.2 and
12 7303-8.3, as amended by Sections 65 and 66 of this act, and 7303-8.4
13 and 7303-8.6, as last amended by Sections 67 and 68 of this act,
14 shall be recodified as Sections 2-2-801, 2-2-802, 2-2-803, 2-2-804
15 and 2-2-805 of Title 10A of the Oklahoma Statutes, unless there is
16 created a duplication in numbering.

17 SECTION 129. RECODIFICATION 10 O.S. 2001, Sections 7304-
18 1.1, as last amended by Section 70 of this act, 7304-1.2, 7304-1.3,
19 as amended by Section 71 of this act and 7304-1.4, shall be
20 recodified as Sections 2-3-101, 2-3-102, 2-3-103 and 2-3-104 of
21 Title 10A of the Oklahoma Statutes, unless there is created a
22 duplication in numbering.

23 SECTION 130. RECODIFICATION 10 O.S. 2001, Sections
24 7305-1.1, as last amended by Section 73 of this act, 7305-1.2, as

1 amended by Section 2, Chapter 176, O.S.L. 2007, 7305-1.3, as amended
2 by Section 74 of this act, 7305-1.4, 7305-1.5, 7305-1.6, 7305-1.7,
3 as last amended by Section 75 of this act, 7305-1.8, 7305-1.9 and
4 7305-1.10, as amended by Section 76 of this act (10 O.S. Supp. 2008,
5 Section 7305-1.2), shall be recodified as Sections 2-4-101, 2-4-102,
6 2-4-103, 2-4-104, 2-4-105, 2-4-106, 2-4-107, 2-4-108, 2-4-109 and 2-
7 4-110 of Title 10A of the Oklahoma Statutes, unless there is created
8 a duplication in numbering.

9 SECTION 131. RECODIFICATION 10 O.S. 2001, Section 7306-
10 1.1, as amended by Section 78 of this act, shall be recodified as
11 Section 2-5-101 of Title 10A of the Oklahoma Statutes, unless there
12 is created a duplication in numbering.

13 SECTION 132. RECODIFICATION 10 O.S. 2001, Sections 7306-
14 2.1, as amended by Section 79 of this act, 7306-2.2, as last amended
15 by Section 80 of this act, 7306-2.3, as amended by Section 81 of
16 this act, and 7306-2.4, 7306-2.5 and 7306-2.6, as last amended by
17 Sections 82, 83 and 84 of this act, shall be recodified as Sections
18 2-5-201, 2-5-202, 2-5-203, 2-5-204, 2-5-205 and 2-5-206 of Title 10A
19 of the Oklahoma Statutes, unless there is created a duplication in
20 numbering. Section 2, Chapter 239, O.S.L. 2006 (10 O.S. Supp. 2008,
21 Section 7306-2.7a), as amended by Section 85 of this act, shall be
22 recodified as Section 2-5-207 of Title 10A of the Oklahoma Statutes,
23 unless there is created a duplication in numbering. 10 O.S. 2001,
24 Sections 7306-2.8, 7306-2.9 and 7306-2.10, as last amended by

1 Sections 86, 87 and 88 of this act, shall be recodified as Sections
2 2-5-208, 2-5-209 and 2-5-210 of Title 10A of the Oklahoma Statutes,
3 unless there is created a duplication in numbering. Section 1,
4 Chapter 144, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7306-2.10a),
5 as last amended by Section 89 of this act, shall be recodified as
6 Section 2-5-211 of Title 10A of the Oklahoma Statutes, unless there
7 is created a duplication in numbering. Sections 7306-2.11 and 7306-
8 2.12, as last amended by Sections 90 and 91 of this act, shall be
9 recodified as Sections 2-5-212 and 2-5-213 of Title 10A of the
10 Oklahoma Statutes, unless there is created a duplication in
11 numbering.

12 SECTION 133. RECODIFICATION Section 11, Chapter 286,
13 O.S.L. 2006 (10 O.S. Supp. 2008, Section 7306-3.1), shall be
14 recodified as Section 2-5-301 of Title 10A of the Oklahoma Statutes,
15 unless there is created a duplication in numbering.

16 SECTION 134. RECODIFICATION 10 O.S. 2001, Sections 7307-
17 1.1, as amended by Section 93 of this act, 7307-1.2, as last amended
18 by Section 94 of this act, 7307-1.3, as amended by Section 95 of
19 this act, 7307-1.4 and 7307-1.5, as last amended by Sections 96 and
20 97 of this act, 7307-1.6, 7307-1.7, as amended by Section 98 of this
21 act, 7307-1.8, as last amended by Section 99 of this act and 7307-
22 1.9, as amended by Section 100 of this act, shall be recodified as
23 Sections 2-6-101, 2-6-102, 2-6-104, 2-6-105, 2-6-106, 2-6-107, 2-6-
24

1 108, 2-6-109 and 2-6-110 of Title 10A of the Oklahoma Statutes,
2 unless there is created a duplication in numbering.

3 SECTION 135. RECODIFICATION 10 O.S. 2001, Sections 7308-
4 1.1, as amended by Section 102 of this act, 7308-1.2, as amended by
5 Section 1, Chapter 164, O.S.L. 2002, 7308-1.3, 7308-1.4 and 7308-
6 1.5, as last amended by Sections 103, 104 and 105 of this act, 7308-
7 1.7, 7308-1.8, 7308-1.9, as amended by Section 5, Chapter 164,
8 O.S.L. 2002, 7308-1.10, 7308-1.11, 7308-1.12 and 7308-1.13 (10 O.S.
9 Supp. 2008, Sections 7308-1.2 and 7308-1.9), shall be recodified as
10 Sections 2-8-101, 2-8-102, 2-8-103, 2-8-104, 2-8-105, 2-8-106, 2-8-
11 107, 2-8-108, 2-8-109, 2-8-110, 2-8-111 and 2-8-112 of Title 10A of
12 the Oklahoma Statutes, unless there is created a duplication in
13 numbering.

14 SECTION 136. RECODIFICATION Section 1, Chapter 147,
15 O.S.L. 2004 (10 O.S. Supp. 2008, Section 7309-1.1), as amended by
16 Section 107 of this act, shall be recodified as Section 2-9-101 of
17 Title 10A of the Oklahoma Statutes, unless there is created a
18 duplication in numbering. Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,
19 12, 13 and 14, Chapter 147, O.S.L. 2004 (10 O.S. Supp. 2008,
20 Sections 7309-1.2, 7309-1.3, 7309-1.4, 7309-1.5, 7309-1.6, 7309-1.7,
21 7309-1.8, 7309-1.9, 7309-1.10, 7309-1.11, 7309-1.12, 7309-1.13 and
22 7309-1.14), shall be recodified as Sections 2-9-102, 2-9-103, 2-9-
23 104, 2-9-105, 2-9-106, 2-9-107, 2-9-108, 2-9-109, 2-9-110, 2-9-111,
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1 2-9-112, 2-9-113 and 2-9-114 of Title 10A of the Oklahoma Statutes,
2 unless there is created a duplication in numbering.

3 SECTION 137. This act shall become effective November 1, 2009.

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