

BILL SUMMARY

MEASURE: Proposed Conference Committee Substitute for HB 2029

AUTHOR: Rep. Steele
Sen. Coates

SUBJECT: Oklahoma Juvenile Code

PROVISIONS: The measure is the product of more than two years of work by the Oklahoma Children and Juvenile Law Reform Committee created by HB 2840 in 2006. The Committee is charged with conducting a systematic review of all laws in Title 10 and prepare a recommended draft to reclassify, update, reform, renumber and recodify the laws relating to children and juveniles.

This measure relates to the Juvenile Code.

Section 1. Designates Section 2-1-101 through 2-1-103 of Title 10A as Chapter 1 of Article 2.

Section 2. 10-7301-1.1- Clarifies that the district attorney is to prosecute cases within the purview of the Oklahoma Juvenile Code. (Moved from 10-7303-7.2)

Section 3. 10-7301-1.2- Updating references.

Section 4. 10-7301-1.3- Definitions, adds definition of “behavioral Health”. Modifies definition of “child or juvenile” to reflect a separate code for juveniles. Recognizes that a child or juvenile may be in need of substance abuse treatment. Removes reference to “teen court”. Moves definition of “responsible adult” from 10-7303-1.4.

Section 5. Designates Section 2-7-101 through 2-7-905 of Title 10A as Chapter 7 of Article 2.

Section 6. 10-7302-1.1- Updating references.

Section 7. 10-7302-3.1- Clarified to reflect change in Serious and Habitual Offender Act to Juvenile Offender Tracking Program. Deletes references to specific alternative diversion programs. Alternative programs are provided for in 10-7303-4.6.

Section 8. 10-7302-3.2- Updating references.

Section 9. 10-7302-3.5- Updating references.

Section 10. 10-7302-3.6- Updating references.

- Section 11. 10-7302-3.8- Updating references.
- Section 12. 10-7302-3.11- Updating references.
- Section 13. 10-7302-4.1- Updating references.
- Section 14. 10-7302-5.1- Consolidates provisions related to intake, probation and parole services.
- Section 15. 10-7302-5.2- Updating references.
- Section 16. 10-7302-5.3- Updating references.
- Section 17. 10-7302-5.4- Clarifies that jurisdiction may be retained and extended beyond the 18th birthday.
- Section 18. 10-7302-6.1- Updating references.
- Section 19. 10-7302-6.2- Updating references.
- Section 20. 10-7302-6.3- Changes from “mental health” to “behavioral health” to reflect DMHSAS and federal agency’s view of these services.
- Section 21. 10-7302-6.4- Updating references.
- Section 22. 10-7302-6.5- Updating references.
- Section 23. 10-7302-6.6- Deletes reference to what are now historic dates that are no longer needed.
- Section 24. 10-7302-6.7- Deletes reference to what are now historic dates that are no longer needed.
- Section 25. 10-7302-6.8- Updating references.
- Section 26. 10-7302-6.9- Updating references.
- Section 27. 10-7302-6.10- Changes name of Phil Smalley Children’s Unit of the Oklahoma Youth Center to the Phil Smalley Center.
- Section 28. 10-7302-7.1- Updating references.
- Section 29. 10-7302-7.2- Updating references.

- Section 30. 10-7302-7.3- For contracting purposes, eliminates reference to “eligible entities” as potential contractors. Instead, provides for agreements entered into pursuant to the Inter-local Cooperation Act or requests for proposals and deletes reference to the Serious and Habitual Offender Act to reflect changes to that Act.
- Section 31. 10-7302-7.4- Clarifies the contracting procedures.
- Section 32. 10-7302-7.5- Updating references.
- Section 33. 10-7302-8.1- Updating references.
- Section 34. 10-7302-9.1- Changes name of Serious and Habitual Offender Act to Juvenile Offender Tracking Program.
- Section 35. 10-7302-9.2- Deletes provisions that have never been implemented. Retains provisions that relate to tracking juveniles through the system and exchanging information regarding juveniles with entities comprising the juvenile justice system.
- Section 36. 10-7302-9.3- Moves provisions regarding use of detention beds to 10-7304-1.1. Deletes provisions that have never been implemented or are redundant.
- Section 37. 10-7302-9.4- Changes program name.
- Section 38. 10-7302-9.6- Changes program name.
- Section 39. Designates Section 2-2-101 through 2-2-805 of Title 10A as Chapter 2 of Article 2.
- Section 40. 10-7303-1.1- Changes term “mental health treatment” to “behavioral health treatment” to reflect preferences of DMHSAS. Clarifies that “the next two (2) judicial days” means the second judicial day (ACA requirement). Clarifies that admissions to a behavioral health treatment facility is permissible pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.
- Section 41. 10-7303-1.2- Consolidates all provisions relating to jurisdiction of delinquent and in-need-of-supervision cases. Consolidates provisions related to jurisdiction of municipalities. Moves stricken language relating to arrest and detention to 10-7303-5.3. Moves stricken language relating to municipalities to Section 108 of the bill.
- Section 42. 10-7303-1.3- Deletes obsolete language related to contracting with the Supreme Court. All matters are embodied in statutory provisions related to intake functions. Moves language related to petitions or filing petitions to 10-7303-1.5. Provides for informal adjustments at intake in lieu of filing a petition.

- Section 43. 10-7303-1.4- Moves language regarding filing of petition within a certain time to 10-7303-1.5.
- Section 44. 10-7303-1.5- Petition language moved from 10-7303-1.3 and 10-7303-1.4.
- Section 45. 10-7303-1.6- Summons language is consolidated and moved to this section from 10-7303-2.1 and 10-7303-2.2.
- Section 46. 10-7303-1.7- Deletes redundant language regarding mental health evaluations and home studies. Already addressed in 10-7303-5.1.
- Section 47. 10-7303-3.1- Clarifies requirements for custodial interrogations. Redundant language is stricken regarding appointment of counsel and release of juvenile records.
- Section 48. 10-7303-4.2- Clarifies that adjudicatory hearings are private unless opened by the court. Provisions related to witness fees, orders of adjudication, and dismissals are consolidated in this sections from 10-7303-4.5 and 10-7303-4.6.
- Section 49. 10-7303-4.3- Provisions not related to certification are moved to 10-7303-1.2. Clarifies language related to rights prior to and following certification. Clarifies that once certified as an adult, a youth will be an adult in all subsequent prosecutions. A conviction or deferral of judgment is not required. Provides for appeal of certification orders.
- Section 50. 10-7303-4.6- Language regarding adjudications is moved to 10-7303-4.3. Deferral of delinquency is modified and deferral options expanded to give court greater discretion in structuring deferral agreements.
- Section 51. 10-7303-5.1- Updating references.
- Section 52. 10-7303-5.2- Language requiring justification for placement more than 50 miles from the home of the child is stricken.
- Section 53. 10-7303-5.3- Restitution language is stricken and new restitution language is added expanding conditions, providing for restitution hearings, procedures for payment, and consequences for failure to pay. Deletes language related to the Serious and Habitual Offender Act. Adds a dispositional option for participation in a drug court program. Language regarding effect of an arrest or adjudication is moved from 10-7303-1.2.
- Section 54. 10-7303-5.4- Adds language permitting certain review hearings to be held via teleconference communication.

- Section 55. 10-7303-5.5- Provides for drug court programs as a dispositional option, as opposed to a deferred delinquency program. Moves procedural requirements to 10-7303-5.6.
- Section 56. 10-7303-5.6- Clarifies that participation in drug court requires a delinquent act or underlying cause of the delinquent act to be related to alcohol or drug abuse. Provides requirements for a written treatment plan. Clarifies that juvenile participants in drug court may be OJA custody kids. Provides that statements made by a participant or findings reports may not be used against the participant.
- Section 57. 10-7303-5.8- Stricken as no longer needed since drug court is a post-adjudication/disposition option.
- Section 58. 10-7303-5.9- Eligibility hearing is streamlined and simplified. Redundant language is stricken. Consequences for a parent's failure to accept personal jurisdiction of the court is provided. Provides for a juvenile's active participation in the program.
- Section 59. 10-7303-5.10- Requires program user fee not to exceed \$20 per month.
- Section 60. 10-7303-6.2- Deletes unnecessary language and moves the provision regarding certification orders to 10-7303-4.3.
- Section 61. 10-7303-7.4- Provides for 10-day limit on detention of juveniles for contempt.
- Section 62. 10-7303-7.5- Language regarding authority of referees is modified. Lowers the population threshold for the appointment of court referees from 100,000 to 80,000 county populations. Allows judge to set reasonable compensation for referee.
- Section 63. 10-7303-7.6- Due process is provided to establish parental obligations to pay for expenses related to care and maintenance of the child. Other paragraphs modified to remove questionable provisions.
- Section 64. 10-7303-8.1- Removes language that might conflict with the provisions of the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.
- Section 65. 10-7303-8.2- Updating references.
- Section 66. 10-7303-8.3- Updating references.
- Section 67. 10-7303-8.4- Language regarding placement of children found to be in need of mental health and substance abuse treatment is stricken as redundant. Language already in the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.
- Section 68. 10-7303-8.6- Updating references.

- Section 69. Designates Sections 2-3-101 through 2-3-104 of Title 10A as Chapter 3 of Article 2.
- Section 70. 10-7304-1.1- Secure detention holding is reviewed every 15 days, instead of every 10 days. Deletes reference to the Serious and Habitual Offender Act. New language relating to detention moved in from 10-7302-9.3.
- Section 71. 10-7304-1.3- Strikes obsolete language regarding DHS Standards and contracting procedures if the Board of Juvenile Affairs has not promulgated new standards or contracting procedures.
- Section 72. Designates Sections 2-4-101 through 2-4-110 of Title 10A as Chapter 4 of Article 2.
- Section 73. 10-7305-1.1- Language regarding intake, probation and parole services moved to 10-7302-5.1.
- Section 74. 10-7305-1.3- Language regarding confidential information moved to 10-7307-1.1.
- Section 75. 10-7305-1.7- Minimum salaries for Juvenile Bureau personnel is stricken. Judge's approval is deleted for reimbursement payments for Juvenile Bureau personnel.
- Section 76. 10-7305-1.10- Updating references.
- Section 77. Designates Sections 2-5-101 through 2-5-301 of Title 10A as Chapter 5 of Article 2.
- Section 78. 10-7306-1.1- Updating references.
- Section 79. 10-7306-2.1- Updating references.
- Section 80. 10-7306-2.2- Updating references.
- Section 81. 10-7306-2.3- Updating references.
- Section 82. 10-7306-2.4- Provides for appointment of counsel moved from 10-7303-3.1.
- Section 83. 10-7306-2.5- Updating references.
- Section 84. 10-7306-2.6- Updating references.
- Section 85. 10-7306-2.7a- Updates references.
- Section 86. 10-7306-2.8- Updates references.

- Section 87. 10-7306-2.9- Changes “incarcerated in an institution operated by” the Department of Corrections to “placed in the custody” of the Department of Corrections.
- Section 88. 10-7306-2.10- Provides for certain review hearings to be conducted via teleconference communication.
- Section 89. 10-7306-2.10a- Updating references.
- Section 90. 10-7306-2.11- Updating references.
- Section 91. 10-7306-2.12- Updating references.
- Section 92. Designates Sections 2-6-101 through 2-6-110 of Title 10A as Chapter 6 of Article 2.
- Section 93. 10-7307-1.1- Definition of “social record” is changed to include family histories, psychiatric evaluations or assessments and home studies. Changes reference to the Serious and Habitual Offender Act.
- Section 94. 10-7307-1.2- Confidentiality of records is not required upon charging or certifying a juvenile as an adult or youthful offender. Changes references to the Serious and Habitual Offender Act. New language relating to records moved from 10-7303-1.3.
- Section 95. 10-7307-1.3- Changes Serious and Habitual Offender Act reference. Changes new language regarding tracking program.
- Section 96. 10-7307-1.4- Updating references.
- Section 97. 10-7307-1.5- Updating references.
- Section 98. 10-7307-1.7- Updating references.
- Section 99. 10-7307-1.8- Clarifies what an “open” juvenile court record is and substitutes that language.
- Section 100. 10-7307-1.9- Updating references.
- Section 101. Designates Sections 2-8-101 through 2-8-112 of Title 10A as Chapter 8 of Article 2.
- Section 102. 10-7308-1.1- Updating references.
- Section 103. 10-7308-1.3- Updating references.

- Section 104. 10-7308-1.4- Updating references.
- Section 105. 10-7308-1.5- Updating references.
- Section 106. Designates Section 2-9-101 through 2-9-114 of Title 10A as Chapter 9 of Article 2.
- Section 107. 10-7309-1.1- Updating references.
- Section 108. New law relating to municipal jurisdiction adopted from 10-7303-1.2.
- Section 109. New law prohibiting social records from being filed in court unless authorized by the court. If filed, social records are to be placed in confidential envelopes only to be accessed by the subject of the record or the subject's attorney.
- Section 110
Through
- Section 164. Makes necessary statutory updates to the sections of law referencing Title 10 to reflect the changes in statutory numbering found in this bill.
- Section 165. New law directing that in publishing the cumulative supplements in 2009, and thereafter and the decennial Oklahoma Statutes, there shall be included in such supplements and the decennial statutes a new Title 10A to be designated as "Children and Juvenile Code".
- Section 166. Repealer- repeals:
- 10-7302-2.5. **Annual Report of the Office of Juvenile Affairs to the State Department of Education.** Department of Education confirms that there is no requirement for this report and no need for it.
- Section 167. Repealer- Repeals:
- 10-7303-2.1- **Summons - Service - Hearing - Consent of Parent - Finality of Order Determining if Child is Delinquent or in Need of Supervision.** Summons language was rewritten and moved into Section 44 and Section 45 of the bill.
- 10-7303-2.2- **Failure of Summoned Person to Appear.** Summons language was rewritten and moved into Section 44 and Section 45 of the bill.
- 10-7303-4.5- **Dismissal of Petition - Discharge from Detention or Restriction.** Language relating to the dismissal of a petition is rewritten and contained in Section 49 of the bill.

10-7303-6.1- **Modification of Decree or Order.** Language regarding certification orders is placed into Section 49 of the bill.

10-7303-6.3- **Initial of Child's Surname Used in Published Opinions of Appellate Courts.** This language is placed into Section 60 of the bill.

10-7303-7.1- **Placing Child Within Religious Faith of Parents of Child.** Language stricken at request of Task Force as redundant.

10-7303-7.2- **Duty of District Attorney.** This language is moved to Section 2 of the bill.

10-7303-7.3- **Allowance of Mileage to Witnesses and Reimbursement for Expert Witnesses.** Language is rewritten and added to Section 48 of the bill.

10-7303-8.5- **Procedures for Placement - Appointment of Arbitrator.** Placement is dictated by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act in Title 43A.

Section 168.

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Section 192. Provides for Recodification of existing Juvenile Code to Title 10A.

Section 193. Provides for Emergency Effective Date.

EFFECTIVE

DATE: Emergency

PREPARED BY: Brad Wolgamott, Senior Research Analyst

DATE: 5-11-09