

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 2741

By: Peters

5
6 COMMITTEE SUBSTITUTE

7
8 An Act relating to the children and juvenile code;
9 amending 10A O.S. 2011, Sections 2-1-102 and 2-1-103,
10 which relate to the Oklahoma Juvenile Code; modifying
11 legislative intent; clarifying definitions; amending
12 10A O.S. 2011, Sections 2-2-101, 2-2-102, 2-2-104 and
13 2-2-107, which relate to custody and court
14 proceedings; modifying circumstances that allow
15 taking a child into custody; clarifying juvenile
16 detention requirements and case transfer procedure;
17 providing preliminary inquiry procedures for intake
18 workers; directing district attorneys to determine
19 legal sufficiency of complaints; making diversion
20 services available for certain at-risk children;
21 providing for the use of diversion services after
22 supervision petition filed; prohibiting the filing of
23 supervision petition while participating in diversion
24 services; requiring notice when terminated from
diversion services program; construing certain
provision; amending 10A O.S. 2011, Section 2-2-301,
which relates to custodial interrogations and
appointment of counsel; clarifying manner in which
custodial interrogations may be conducted;
prohibiting certain information from being admitted
into evidence; providing representation for indigent
children; modifying guardian ad litem qualifications;
amending 10A O.S. 2011, Sections 2-2-402 and 2-2-404,
which relate to adjudicative hearings and delinquency
proceedings; clarifying privacy requirements for
adjudicative hearings; allowing open hearings under
certain circumstances; modifying circumstances that
allow for the deferral of delinquency proceedings;
amending 10A O.S. 2011, Sections 2-2-502 and 2-2-503,
which relate to treatment and service plans and
disposition orders; providing guidelines for

1 treatment and service plan assessment and evaluation
2 process; directing the Office of Juvenile Affairs to
3 identify risks and needs assessment instruments for
4 treatment and service plans; construing certain
5 provision; providing list of rights for disposition
6 hearings; authorizing use of sanctions under certain
7 circumstances; deleting certain redisposition
8 guidelines; prohibiting consideration of arrests,
9 detentions or adjudications for certain purposes;
10 amending 10A O.S. 2011, Section 2-2-701, which
11 relates to contempt of court violations; authorizing
12 issuance of bench warrants; defining terms;
13 describing contempt of court violations; modifying
14 punishment; amending 10A O.S. 2011, Section 2-3-101,
15 which relates to conditions of confinement; modifying
16 secure detention requirements; amending 10A O.S.
17 2011, Sections 2-6-101, 2-6-102 and 2-6-108, which
18 relate to records of juvenile cases; modifying
19 definitions; deleting and modifying exceptions to
20 confidentiality requirements; directing court to seal
21 records of delinquent proceedings; deleting directive
22 to establish certain records system; amending 10A
23 O.S. 2011, Sections 2-7-303 and 2-7-305, which relate
24 to community-based programs and youth shelters;
authorizing the use of school-based prevention
programs; allowing the Office of Juvenile Affairs to
enter into interlocal agreements with counties;
amending 10A O.S. 2011, Section 2-7-501, which
relates to probation services; directing the use of
common risk and needs assessments; amending 21 O.S.
2011, Section 1283, which relates to firearm
possession prohibitions; modifying certain prohibited
act; amending 43A O.S. 2011, Section 5-507, which
relates to the admission of deprived children;
clarifying manner in which minor children in state
custody may be admitted to hospital or treatment
facilities; amending 70 O.S. 2011, Section 24-101.3,
which relates to out-of-school suspensions; modifying
list of acts that provide for out-of-school
suspensions; repealing 10 O.S. 2011, Sections 22 and
24, which relate to personnel of state institutions
and the appointment of counsel; repealing 10 O.S.
2011, Sections 130.1, 130.2, 130.3, 130.4, 130.5,
130.6, 130.7, 130.8 and 130.9, which relate to
detention homes for juveniles; repealing 10 O.S.
2011, Section 1101.1, which relates to placement of
certain children in mental health facilities;

1 repealing 10A O.S. 2011, Section 2-2-806, which
2 relates to construction of certain juvenile custody
3 facility; providing for codification; and providing
4 an effective date.

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

6 SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-1-102, is
7 amended to read as follows:

8 Section 2-1-102. It is the intent of the Oklahoma Legislature
9 ~~that Article 2 of this title shall be liberally construed, to the~~
10 ~~end that its purpose may be carried out.~~

11 ~~The purpose of the laws relating to juveniles alleged or~~
12 ~~adjudicated to be delinquent is to promote the public safety and~~
13 ~~reduce juvenile delinquency. This purpose should be pursued through~~
14 ~~means that are fair and just, that:~~

15 1. ~~Recognize the unique characteristics and needs of juveniles;~~

16 2. ~~Give juveniles access to opportunities for personal and~~
17 ~~social growth;~~

18 3. ~~Maintain the integrity of substantive law prohibiting~~
19 ~~certain behavior and developing individual responsibility for lawful~~
20 ~~behavior;~~

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

23 5. ~~Preserve and strengthen family ties whenever possible,~~
24 ~~including improvement of home environment;~~

1 ~~6. Remove a juvenile from the custody of parents if the welfare~~
2 ~~and safety of the juvenile or the protection of the public would~~
3 ~~otherwise be endangered;~~

4 ~~7. Secure for any juvenile removed from the custody of parents~~
5 ~~the necessary treatment, care, guidance and discipline to assist the~~
6 ~~juvenile in becoming a responsible and productive member of~~
7 ~~society; and~~

8 ~~8. Provide procedures through which the provisions of the law~~
9 ~~are executed and enforced and which will assure the parties fair~~
10 ~~hearings at which their rights as citizens are recognized and~~
11 ~~protected to recognize that children are different from adults.~~

12 Each child is unique and should be raised in a safe and secure
13 environment, allowing the child to mature and thrive as a successful
14 law-abiding citizen. All Oklahoma citizens and their property
15 should be protected from conduct by a child that would be a crime if
16 committed by an adult. All families and communities should create
17 environments that encourage children to complete an education
18 program, comply with state laws, develop job skills, practice good
19 citizenship, and establish a career. To serve these ends, the most
20 effective way of reducing juvenile delinquency and promoting public
21 safety is through prevention and rehabilitative programs that rely
22 upon individualized treatment and best practices. It is the intent
23 of the Legislature that state and local agencies collaborate and

1 maintain partnerships to meet the needs of children and their
2 families.

3 In accomplishing these goals, it is the purpose of the Oklahoma
4 Juvenile Code and the juvenile justice system to:

5 1. Protect the safety of the community through prevention
6 programs and rehabilitation of juvenile delinquents;

7 2. Hold children and their parents accountable for delinquent
8 behavior by requiring individualized treatment programs that correct
9 delinquent behavior and promote proper family support;

10 3. Require individual assessments for delinquent children and
11 their families and base individual treatment plans upon those
12 assessments;

13 4. Involve the family in the rehabilitation of a delinquent
14 child and, whenever possible and appropriate, maintain the child in
15 the home of the child;

16 5. Involve and encourage the community in developing and
17 improving diversion, prevention, and treatment programs that keep
18 low-risk offenders out of court;

19 6. Develop probation programs that engage the community and the
20 family in preventing children from reoffending;

21 7. Develop individualized and effective treatment programs in
22 the community in order to provide rehabilitation for all juveniles
23 adjudicated as delinquent;

24

1 8. Develop a reintegration plan and program for every child
2 that is released back to the community after placement in a secure
3 facility. The reintegration plan and program shall involve the
4 family, the community, and the state so as to ensure that the
5 community is protected and to give the child the tools and resources
6 necessary to succeed;

7 9. Require the delivery of educational classes to juvenile
8 delinquents to keep the child engaged in school and enable the child
9 to graduate from high school;

10 10. Place children as close to their homes as possible when
11 effecting an out-of-home placement;

12 11. When appropriate, require the offender to make restitution
13 to the victim of the offense;

14 12. Require parents or guardians to participate to the best of
15 their ability in the rehabilitation of the juvenile; and

16 13. Develop criteria for admissions to out-of-home placements
17 that are based on assessments and evaluations of the likelihood of
18 the child to reoffend and the treatment needs of the child. Out-of-
19 home placements shall only be utilized when determined necessary for
20 the safety of the community or the rehabilitation of the child.

21 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-1-103, is
22 amended to read as follows:

23 Section 2-1-103. When used in the Oklahoma Juvenile Code,
24 unless the context otherwise requires:

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

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

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

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

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

20 6. "Child" or "juvenile" means any person under eighteen (18)
21 years of age, except for any person charged and convicted for any
22 offense specified in the Youthful Offender Act or against whom
23 judgment and sentence has been deferred for such offense, or any
24 person who is certified as an adult pursuant to any certification

1 procedure authorized in the Oklahoma Juvenile Code for any offense
2 which results in a conviction or against whom judgment and sentence
3 has been deferred for such offense;

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

8 8. "Child or juvenile in need of supervision" means a juvenile
9 who:

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

24

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

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

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

20 a. screening, evaluation and assessment which includes a
21 face-to-face screening and evaluation to establish
22 problem identification and to determine the risk level
23 of a child or adolescent and may result in clinical
24 diagnosis or diagnostic impression,

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

- 1 g. crisis intervention counseling which includes
2 unanticipated, unscheduled face-to-face emergency
3 intervention provided by a licensed level or qualified
4 staff with immediate access to a licensed provider to
5 resolve immediate, overwhelming problems that severely
6 impair the ability of the juvenile to function or
7 maintain in the community,
- 8 h. crisis intervention telephone support which includes
9 supportive telephone assistance provided by a licensed
10 level provider or qualified staff with immediate
11 access to a licensed provider to resolve immediate,
12 overwhelming problems that severely impair the ability
13 of the juvenile to function or maintain in the
14 community,
- 15 i. case management which includes planned linkage,
16 advocacy and referral assistance provided in
17 partnership with a client to support that client in
18 self-sufficiency and community tenure,
- 19 j. case management and home-based services which includes
20 that part of case management services dedicated to
21 travel for the purpose of linkage, advocacy and
22 referral assistance and travel to provide counseling
23 and support services to families of children as needed
24

1 to support specific youth and families in self-
2 sufficiency and community tenure,

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

12 l. group rehabilitative treatment which includes face-to-
13 face group services provided by qualified staff to
14 maintain or develop skills necessary to perform
15 activities of daily living and successful integration
16 into community life, including educational and
17 supportive services regarding independent living,
18 self-care, social skills regarding development,
19 lifestyle changes and recovery principles and
20 practices,

21 m. community-based prevention services which include
22 services delivered in an individual or group setting
23 by a qualified provider designed to meet the services
24 needs of a child or youth and family of the child or

1 youth who has been referred because of identified
2 problems in the family or community. The group
3 prevention planned activities must be focused on
4 reducing the risk that individuals will experience
5 behavioral, substance abuse or delinquency-related
6 problems. Appropriate curriculum-based group
7 activities include, but are not limited to, First
8 Offender groups, prevention and relationship
9 enhancement groups, anger management groups, life
10 skills groups, substance abuse education groups,
11 smoking cessation groups, STD/HIV groups and parenting
12 groups,

13 n. individual paraprofessional services which include
14 services delineated in the treatment plan of the
15 juvenile which are necessary for full integration of
16 the juvenile into the home and community, but do not
17 require a professional level of education and
18 experience. Activities include assisting families
19 with Medicaid applications, assisting with school and
20 General Educational Development (GED) enrollment,
21 assisting youth with independent living arrangements,
22 providing assistance with educational problems and
23 deficiencies, acting as a role model for youth while
24 engaging them in community activities, assisting youth

1 in seeking and obtaining employment, providing
2 transportation for required appointments and
3 activities, participating in recreational activities
4 and accessing other required community support
5 services necessary for full community integration and
6 successful treatment,

7 o. tutoring which includes a tutor and student working
8 together as a learning team to bring about overall
9 academic success, improved self-esteem and increased
10 independence as a learner for the student,

11 p. community relations which include public or community
12 relations activities directed toward the community or
13 public at large or any segment of the public to
14 encourage understanding, accessibility and use of
15 community-based facilities, programs or services,

16 q. emergency shelter beds and shelter host homes which
17 include emergency shelter care for juveniles referred
18 to the program needing shelter care within the State
19 of Oklahoma,

20 r. transitional living programs which include a
21 structured program to help older homeless youth
22 achieve self-sufficiency and avoid long-term
23 dependence on social services,
24

- s. community-at-risk services (C.A.R.S.) which include a program provided to juveniles in custody or under the supervision of the Office of Juvenile Affairs or a juvenile bureau to prevent out-of-home placement and to reintegrate juveniles returning from placements. The program shall include, but not be limited to, treatment plan development, counseling, diagnostic and evaluation services, mentoring, tutoring, and supervision of youth in independent living,
- t. first offender programs which include alternative diversion programs, as defined by Section 2-2-404 of this title, and
- u. other community-based facilities, programs or services designated by the Board as core community-based facilities, programs or services;

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

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

- a. has violated any federal or state law or municipal ordinance except a traffic statute or traffic ordinance or any provision of the Oklahoma Wildlife

1 Conservation Code, the Oklahoma Vessel and Motor
2 Regulation Act or the Oklahoma Boating Safety
3 Regulation Act, or has violated any lawful order of
4 the court made pursuant to the provisions of the
5 Oklahoma Juvenile Code, or

6 b. has habitually violated traffic laws, traffic
7 ordinances or boating safety laws or rules;

8 14. "Dispositional hearing" means a hearing to determine the
9 order of disposition which should be made with respect to a juvenile
10 adjudged to be a ward of the court;

11 15. "Executive Director" means the Executive Director of the
12 Office of Juvenile Affairs;

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

19 17. "Graduated sanctions" means a calibrated system of
20 sanctions designed to ensure that juvenile offenders face uniform,
21 immediate, and consistent consequences that correspond to the
22 seriousness of each offender's current offense, prior delinquent
23 history, and compliance with prior interventions;

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

7 19. "Independent living program" means a program designed to
8 assist a juvenile to enhance skills and abilities necessary for
9 successful adult living and may include but shall not be limited to
10 minimal direct staff supervision and supportive services in making
11 the arrangements necessary for an appropriate place of residence,
12 completing an education, vocational training, obtaining employment
13 or other similar services;

14 20. "Institution" means a residential facility offering care
15 and treatment for more than twenty residents. An institution shall
16 not be considered a correctional facility subject to the provisions
17 of Title 57 of the Oklahoma Statutes. Said institution may:

- 18 a. have a program which includes community participation
19 and community-based services, or
20 b. be a secure facility with a program exclusively
21 designed for a particular category of resident;

22 21. "Juvenile detention facility" means a secure facility which
23 meets the certification standards of the Office and which is
24 entirely separate from any prison, jail, adult lockup, or other

1 adult facility, for the temporary care of children. A juvenile
2 detention facility shall not be considered a correctional facility
3 subject to the provisions of Title 57 of the Oklahoma Statutes;

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

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

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

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

24

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

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

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

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

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

24

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

- 3 a. while under the continuing jurisdiction of the court
- 4 pending court disposition, or
- 5 b. pending placement by the Office of Juvenile Affairs
- 6 after adjudication;

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

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

23 33. "Youth Services Agency" means a nonprofit corporation with
24 a local board of directors, officers and staff that has been

1 designated by the Board as a Youth Services Agency, that is peer
2 reviewed annually, and that provides community-based facilities,
3 programs or services to juveniles and their families in the youth
4 services service area in which it is located.

5 SECTION 3. AMENDATORY 10A O.S. 2011, Section 2-2-101, is
6 amended to read as follows:

7 Section 2-2-101. A. A child may be taken into custody prior to
8 the filing of a petition alleging that the child is delinquent or in
9 need of supervision:

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

18 2. By a peace officer or an employee of the court without a
19 court order, if the child ~~is willfully and voluntarily absent~~ has
20 run away from the home ~~of the child~~ without the consent of the
21 ~~parent, legal guardian, legal custodian or other person having~~
22 ~~custody and control of the child for a substantial length of time or~~
23 ~~without intent to return,~~ or if the surroundings of the child are
24 ~~such as to endanger the welfare of the child~~ just cause or, in the

1 reasonable conclusion of the employee of the court or peace officer,
2 appears to have run away from home without just cause. For purposes
3 of this section, a peace officer may reasonably conclude that a
4 child has run away from home when the child refuses to give his or
5 her name or the name and address of a parent or other person legally
6 responsible for the care of the child or when the peace officer has
7 reason to doubt that the name and address given by the child are the
8 actual name and address of the parent or other person legally
9 responsible for the care of the child. A peace officer or court
10 employee is authorized by the court to take a child who has run away
11 from home or who, in the reasonable opinion of the peace officer,
12 appears to have run away from home, to a facility designated for
13 such purposes if the peace officer or court employee is unable to or
14 has determined that it is unsafe to return the child to the home of
15 the child or to the custody of his or her parent or other person
16 legally responsible for the care of the child. Any such facility
17 receiving a child shall inform a parent or other person responsible
18 for the care of the child;

19 3. Pursuant to an order of the district court issued on the
20 application of the office of the district attorney. The application
21 presented by the district attorney shall be supported by a sworn
22 affidavit which may be based upon information and belief. The
23 application shall state facts sufficient to demonstrate to the court
24 that there is probable cause to believe the child has committed a

1 crime or is in violation of the terms of probation, parole or order
2 of the court;

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

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

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

15 B. Whenever a child is taken into custody as a delinquent child
16 ~~or a child in need of supervision pursuant to subsection A of this~~
17 ~~section~~, the child shall be detained, held temporarily in the
18 custodial care of a peace officer or other person employed by a
19 police department, or be released to the custody of the parent of
20 the child, legal guardian, legal custodian, attorney or other
21 responsible adult, upon the written promise of such person to bring
22 the child to the court at the time fixed if a petition is to be
23 filed and to assume responsibility for costs for damages caused by
24 the child if the child commits any delinquent acts after being

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

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

13 C. When a child is taken into custody as a child in need of
14 supervision, the child shall be detained and held temporarily in the
15 custodial care of a peace officer or placed within a community
16 intervention center as defined in subsection D of Section 2-7-305 of
17 this title, an emergency shelter, emergency shelter host home, or be
18 released to the custody of the parent of the child, legal guardian,
19 legal custodian, attorney or other responsible adult, upon the
20 written promise of such person to bring the child to court at the
21 time fixed if a petition is to be filed.

22 1. A child who is alleged or adjudicated to be in need of
23 supervision shall not be detained in any jail, lockup, or other
24

1 place used for adults convicted of a crime or under arrest and
2 charged with a crime.

3 2. A child who is alleged to be in need of supervision shall
4 not be held in a secure juvenile detention facility for any period
5 of time; provided, however, in communities where a community
6 intervention center, emergency shelter or emergency shelter host
7 home is not available, a child alleged to be in need of supervision
8 as a runaway may be detained in a juvenile detention facility to
9 effect the return of the child to his or her home or place of abode
10 but such detention shall not last longer than twenty-four (24)
11 hours.

12 D. When any child is taken into custody pursuant to this title
13 and it reasonably appears to the peace officer, employee of the
14 court or person acting pursuant to court order that the child is in
15 need of medical treatment to preserve the health of the child, any
16 peace officer, any employee of the court or person acting pursuant
17 to court order shall have the authority to authorize medical
18 examination and medical treatment for any child found to be in need
19 of medical treatment as diagnosed by a competent medical authority
20 in the absence of the parent of the child, legal guardian, legal
21 custodian, or other person having custody and control of the child
22 who is competent to authorize medical treatment. The officer or the
23 employee of the court or person acting pursuant to court order shall
24 authorize said medical treatment only after exercising due diligence

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

11 ~~D.~~ E. A child who has been taken into custody as otherwise
12 provided by this Code who appears to be a minor in need of
13 treatment, as defined by the Inpatient Mental Health and Substance
14 Abuse Treatment of Minors Act, may be admitted to a behavioral
15 health treatment facility in accordance with the provisions of the
16 Inpatient Mental Health and Substance Abuse Treatment of Minors Act.
17 The parent of the child, legal guardian, legal custodian, or other
18 person having custody and control shall be responsible for such
19 behavioral health expenses as ordered by the court. No peace
20 officer, any employee of the court or person acting pursuant to
21 court order authorizing such treatment in accordance with the
22 provisions of this section for any child found in need of such
23 behavioral health evaluation or treatment shall have any liability,
24 civil or criminal, for giving such authorization.

1 ~~E.~~ F. 1. A child may be taken into custody pursuant to an
2 order of the court specifying that the child is in need of medical
3 treatment or other action to protect the health or welfare of the
4 child and the parent, legal guardian, legal custodian, or other
5 responsible adult having custody or control of a child is unwilling
6 or unavailable to consent to such medical treatment or other action.

7 2. If the child is in need of immediate medical treatment or
8 other action to protect the health or welfare of the child, the
9 court may issue an emergency ex parte order upon application of the
10 district attorney of the county in which the child is located. The
11 application for an ex parte order may be verbal or in writing and
12 shall be supported by facts sufficient to demonstrate to the court
13 that there is reasonable cause to believe that the child is in need
14 of immediate medical treatment or other action to protect the health
15 or welfare of the child. The emergency ex parte order shall be in
16 effect until a full hearing is conducted. A copy of the
17 application, notice for full hearing and a copy of any ex parte
18 order issued by the court shall be served upon such parent, legal
19 guardian, legal custodian, or other responsible adult having custody
20 or control of the child. Within twenty-four (24) hours of the
21 filing of the application the court shall schedule a full hearing on
22 the application, regardless of whether an emergency ex parte order
23 had been issued or denied.

24

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

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

18 5. a. The parent, legal guardian, legal custodian, or other
19 person having custody or control of the child shall be
20 responsible for such medical expenses as ordered by
21 the court.

22 b. No peace officer, any employee of the court or person
23 acting pursuant to court order authorizing such
24 treatment in accordance with the provisions of this

1 subsection for any child found in need of such medical
2 treatment shall have any liability, civil or criminal.

3 SECTION 4. AMENDATORY 10A O.S. 2011, Section 2-2-102, is
4 amended to read as follows:

5 Section 2-2-102. A. 1. Upon the filing of a petition alleging
6 the child to be in need of supervision, or upon the assumption of
7 custody pursuant to Section 2-2-101 of this title, the district
8 court of the county shall have jurisdiction where a child:

- 9 a. resides,
- 10 b. is found, or
- 11 c. is alleged to be or is found to be in need of
12 supervision.

13 2. The court shall have jurisdiction of the parent, legal
14 custodian, legal guardian, stepparent of the child, or any adult
15 person living in the home of the child regardless of where the
16 parent, legal custodian, legal guardian, stepparent, or adult person
17 living in the home of the child is found.

18 3. When jurisdiction has been obtained over a child who is or
19 is alleged to be in need of supervision, such may be retained until
20 the child becomes eighteen (18) years of age.

21 4. For the convenience of the parties and in the interest of
22 justice, a proceeding under the Oklahoma Juvenile Code, Article 2 of
23 this title, may be transferred to the district court in any other
24 county. However, prior to transferring a case to a different

1 county, the court shall contact the judge in the other county to
2 confirm that the judge will accept the transfer.

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

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

16 3. The juvenile proceeding may be filed before the child
17 becomes eighteen (18) years of age; within one (1) year after the
18 date of the eighteenth birthday of the child if the underlying act
19 would constitute a felony if committed by an adult; or within six
20 (6) months after the date of the eighteenth birthday if the
21 underlying act would constitute a misdemeanor if committed by an
22 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 2-2-101 of this title may retain jurisdiction
2 of a delinquent child in such proceeding notwithstanding the fact
3 that the child is subject to the jurisdiction of another district
4 court within the state. Any adjudication and disposition made by
5 the court in which said petition is filed shall control over prior
6 orders in regard to the child.

7 D. Except as otherwise provided in the Oklahoma Juvenile Code,
8 a child who is charged with having violated any state statute or
9 municipal ordinance, other than those enumerated in Section 2-5-101,
10 2-5-205 or 2-5-206 of this title, shall not be tried in a criminal
11 action but in a juvenile proceeding.

12 E. If, during the pendency of a criminal charge against any
13 person, it shall be ascertained that the person was a child at the
14 time of committing the alleged offense, the district court or
15 municipal court shall transfer the case, together with all the
16 papers, documents and testimony connected therewith, to the juvenile
17 division of the district court. The division making the transfer
18 shall order the child to be taken forthwith to the place of
19 detention designated by the juvenile division, to that division
20 itself, or release the child to the custody of a suitable person to
21 be brought before the juvenile division.

22 F. Nothing in this act shall be construed to prevent the
23 exercise of concurrent jurisdiction by another division of the
24 district court or by the municipal courts in cases involving

1 children wherein the child is charged with the violation of a state
2 or municipal traffic law or ordinance.

3 SECTION 5. AMENDATORY 10A O.S. 2011, Section 2-2-104, is
4 amended to read as follows:

5 Section 2-2-104. A. A preliminary inquiry shall be conducted
6 to determine whether the interests of the public or of the child who
7 is within the purview of the Oklahoma Juvenile Code require that
8 further court action be taken. ~~If it is determined by the~~
9 ~~preliminary inquiry that no further action be taken and if agreed to~~
10 ~~by the district attorney, the~~ An intake worker may make such
11 informal adjustment without a petition shall receive and examine
12 complaints and written allegations of delinquency of a child for the
13 purpose of considering the commencement of proceedings under this
14 chapter.

15 B. In the course of the preliminary inquiry, the intake worker
16 may:

17 1. Hold conferences with the child and the parents, guardian or
18 custodian of the child for the purpose of discussing the disposition
19 of the referral made. No statements, admissions or confessions made
20 by a child or incriminating information obtained from a child in the
21 course of a conference with the child shall be admitted into
22 evidence against the child on the issue of whether the child
23 committed the delinquent act or on the issue of guilt in any
24 criminal proceeding;

1 2. Interview such persons as are necessary to determine whether
2 the filing of a petition would be in the best interests of the child
3 and the community;

4 3. Check existing records of any district court or tribal
5 court, law enforcement agencies, Office of Juvenile Affairs, and
6 Department of Human Services;

7 4. Obtain existing mental health, medical and educational
8 records of the child only with the consent of the child, the
9 parents, guardian or custodian of the child or by court order; and

10 5. Administer any screening and assessment instruments or refer
11 for necessary screening and assessments to assist in the
12 determination of any immediate needs of the child as well as the
13 immediate risks to the community. All screening and assessment
14 instruments shall be uniformly used by all intake workers, including
15 those employed by juvenile bureaus, and shall be instruments
16 specifically prescribed by the Office of Juvenile Affairs.

17 C. The district attorney shall determine whether the complaint
18 made is legally sufficient for the filing of the petition. A
19 complaint shall be deemed legally sufficient for the filing of a
20 petition if the facts as alleged are sufficient to establish the
21 jurisdiction of the court and probable cause to believe that the
22 child has committed the delinquent act. If it is determined that
23 the complaint is legally sufficient to support the filing of a
24 petition the district attorney, in consultation with the intake

1 worker, shall determine whether the interests of the child and the
2 public will be best served by the dismissal of the complaint, the
3 information adjustment of the complaint, or the filing of the
4 petition.

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

14 1. Be voluntarily entered into by all parties;

15 2. Be revocable by the child at any time by a written
16 revocation;

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

21 4. Not be used as evidence against the child at any
22 adjudication hearing;

23 5. Be executed in writing and expressed in language
24 understandable to the persons involved; and

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

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

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

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

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

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

19 If the intake worker has reasonable cause to believe that the child
20 has failed to carry out the terms of the adjustment agreement or has
21 committed a subsequent offense, in lieu of revoking the agreement,
22 the intake worker may modify the terms of the agreement and extend
23 the period of the agreement for an additional six (6) months from
24

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

3 ~~D.~~ F. If an informal adjustment is agreed to pursuant to
4 subsection ~~B~~ D of this section, the informal adjustment agreement
5 may require the child to pay a fee equal to no more than what the
6 court costs would have been had a petition been filed. The child
7 shall remit the fee directly to the agency responsible for the
8 monitoring and supervision of the child. If the supervising agency
9 is a juvenile bureau, then the fee shall be remitted to a revolving
10 fund of the county in which the juvenile bureau is located to be
11 designated the "Juvenile Deferral Fee Revolving Fund" and shall be
12 used by the juvenile bureau to defray costs for the operation of the
13 juvenile bureau. In those counties without juvenile bureaus and in
14 which the Office of Juvenile Affairs or one of their contracting
15 agencies provides the monitoring and supervision of the juvenile,
16 the fee shall be paid directly to the Office of Juvenile Affairs and
17 shall be used to defray the costs for the operation of the Office of
18 Juvenile Affairs.

19 SECTION 6. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 2-2-104.1 of Title 10A, unless
21 there is created a duplication in numbering, reads as follows:

22 A. Diversion services shall be offered to children who are at
23 risk of being the subject of a child-in-need-of-supervision
24 petition. Diversion services shall be designed to provide an

1 immediate response to families in crisis and to divert children from
2 court proceedings. Diversion services may be provided by outside
3 agencies as designated by the district courts, juvenile bureaus,
4 court employees, or a combination thereof.

5 B. Diversion services shall clearly document diligent attempts
6 to provide appropriate services to the child and the family of the
7 child unless it is determined that there is no substantial
8 likelihood that the child and family of the child will benefit from
9 further diversion attempts.

10 C. Where the primary issue is truancy, steps taken by the
11 school district to improve the attendance or conduct of the child in
12 school shall be reviewed and attempts to engage the school district
13 in further diversion attempts shall be made if it appears that such
14 attempts will be beneficial to the child.

15 D. Efforts to prevent the filing of the petition may extend
16 until it is determined that there is no substantial likelihood that
17 the child and family of the child will benefit from further
18 attempts. Efforts at diversion may continue after the filing of the
19 petition where it is determined that the child and family of the
20 child will benefit therefrom.

21 E. A child-in-need-of-supervision petition shall not be filed
22 during the period that the designated agency, juvenile bureau, or
23 court employee is providing the diversion services. A finding that
24 the case has been successfully diverted shall constitute presumptive

1 evidence that the underlying allegations have been successfully
2 resolved.

3 F. The designated agency, juvenile bureau, or court employee
4 shall promptly give written notice to the child and family of the
5 child whenever attempts to prevent the filing of the petition have
6 terminated and shall indicate in the notice whether the efforts were
7 successful or whether a child-in-need-of-supervision petition should
8 be filed with the court. A petition shall not be filed where
9 diversion services have been terminated because the parent or other
10 person legally responsible for the child failed to consent to the
11 diversion plan or failed to actively participate in the services
12 provided.

13 SECTION 7. AMENDATORY 10A O.S. 2011, Section 2-2-107, is
14 amended to read as follows:

15 Section 2-2-107. A. After a petition shall have been filed,
16 unless the parties provided for in this section shall voluntarily
17 appear, a summons shall be issued which shall recite briefly the
18 nature of the proceeding with the phrase "as described more fully in
19 the attached petition" and requiring the person or persons who have
20 the custody or control of the child to appear personally and bring
21 the child before the court at a time and place stated. The summons
22 shall state the relief requested, and shall set forth the right of
23 the child, parents and other interested parties to have an attorney
24 present at the hearing on the petition.

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

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

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

16 D. Service of summons shall be made as provided for service in
17 civil actions.

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

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

1 E. If after a petition has been filed, it appears that the
2 child is in such condition or surroundings that the welfare of the
3 child requires that custody be immediately assumed by the court, the
4 judge may immediately issue a detention order or warrant authorizing
5 the taking of said child into emergency custody. Any such child
6 shall not be considered to be in the custody of the Office of
7 Juvenile Affairs.

8 F. In a delinquency proceeding, whenever a warrant for the
9 arrest of a child shall issue, it shall state the offense the child
10 is being charged with having committed; in a child in need of
11 supervision proceeding, whenever a warrant for detention of a child
12 shall issue, it shall state the reason for detention. Warrants for
13 the arrest or detention of a child shall comport with all other
14 requirements of issuance of arrest warrants for adult criminal
15 offenders.

16 G. In case the summons cannot be served, or the parties served
17 fail to obey the same, or in any case when it shall be made to
18 appear to the judge that the service will be ineffectual or that the
19 welfare of the child requires that the child should be brought into
20 the custody of the court, a warrant may be issued against the parent
21 or guardian or against the child. Nothing in this section shall be
22 construed to authorize placement of a child in secure detention who
23 is not eligible for secure detention pursuant to Section 2-3-101 of
24 this title.

1 SECTION 8. AMENDATORY 10A O.S. 2011, Section 2-2-301, is
2 amended to read as follows:

3 Section 2-2-301. A. No information gained by a custodial
4 interrogation of a ~~youthful offender under sixteen (16) years of age~~
5 ~~or a~~ child nor any evidence subsequently obtained as a result of
6 such interrogation shall be admissible into evidence against the
7 ~~youthful offender or~~ child unless the custodial interrogation about
8 any alleged offense by any law enforcement officer or investigative
9 agency, or employee of the court, or employee of the Office of
10 Juvenile Affairs is done in the presence of the parents, guardian,
11 attorney, adult relative, adult caretaker, or legal custodian of the
12 ~~youthful offender or~~ child. No such custodial interrogation shall
13 commence until the ~~youthful offender or~~ child and the parents,
14 guardian, attorney, adult relative, adult caretaker, or legal
15 custodian of the ~~youthful offender or~~ child have been fully advised
16 of the constitutional and legal rights of the ~~youthful offender or~~
17 child, including the right to be represented by counsel ~~at every~~
18 ~~stage of the proceedings,~~ and the right to have counsel appointed by
19 the court if the parties are without sufficient financial means;
20 provided, however, that no legal aid or other public or charitable
21 legal service shall make claim for compensation as contemplated
22 herein. ~~It is further provided that where private counsel is~~
23 ~~appointed in such cases, the court shall set reasonable compensation~~
24 ~~and order the payment out of the court fund.~~ As used in this

1 section, "custodial interrogation" means questioning of a ~~youthful~~
2 ~~offender under sixteen (16) years of age or child~~ while that
3 ~~youthful offender or child~~ is in law enforcement custody or while
4 that ~~youthful offender or child~~ is being deprived of freedom of
5 action in any significant way by a law enforcement officer, employee
6 of the court, or employee of the Office. Custodial interrogation
7 shall conform with all requirements for interrogation of adult
8 criminal offenders. The term "custodial interrogation" shall not be
9 deemed to mean questioning of a ~~youthful offender or child~~ by a
10 public school administrator or teacher, so long as such questioning
11 is not being conducted on behalf of a law enforcement officer, an
12 employee of the court or an employee of the Office. Any information
13 gained from noncustodial questioning of a child ~~or youthful offender~~
14 by a public school administrator or teacher concerning a wrongful
15 act committed on public school property shall be admissible into
16 evidence against the ~~youthful offender or child~~.

17 B. ~~A custodial interrogation of a youthful offender over~~
18 ~~sixteen (16) years of age shall conform with all the requirements~~
19 ~~for the interrogation of an adult~~ No statements, admissions,
20 confessions, or incriminating information obtained from a child in
21 the course of a screening, intake or assessment that is undertaken
22 in conjunction with any proceedings under this chapter including,
23 but not limited to, that which is court ordered, shall be admitted
24 into evidence against the child on the issue of whether the child

1 committed a delinquent act or on the issue of guilt in any criminal
2 proceeding.

3 C. If the ~~youthful offender or~~ child is not otherwise
4 represented by counsel, whenever a petition is filed pursuant to the
5 provisions of Section 2-2-104 of this title, the court shall appoint
6 an attorney, who shall not be a district attorney, for the ~~youthful~~
7 ~~offender or~~ child regardless of any attempted waiver by the parent
8 or other legal custodian of the ~~youthful offender or~~ child of the
9 right of the ~~youthful offender or~~ child to be represented by
10 counsel. Counsel shall be appointed by the court only upon
11 determination by the court that the parent, legal guardian or legal
12 custodian is found to be indigent. If indigency is established, the
13 Oklahoma Indigent Defense System shall represent the child in
14 accordance with Section 1355.6 of Title 22 of the Oklahoma Statutes
15 or the applicable office of the county indigent defender shall
16 represent the child in accordance with Section 138.5 of Title 19 of
17 the Oklahoma Statutes. Provided, if the parent or legal guardian of
18 a child is not indigent but refuses to employ counsel, the court
19 shall appoint counsel to represent the child at detention hearings
20 until counsel is provided. Costs of representation shall be imposed
21 on the parent or other legal custodian as provided by Section 138.10
22 of Title 19 of the Oklahoma Statutes. Thereafter, the court shall
23 not appoint counsel for a child with a nonindigent parent or legal
24 custodian and shall order the parent or legal custodian to obtain

1 private counsel. A parent or legal custodian of an indigent child
2 who has been ordered to obtain private counsel for the child and who
3 willfully fails to follow the court order shall be subject to
4 indirect contempt of court.

5 D. ~~Whenever a petition is filed alleging that a child is a~~
6 ~~delinquent child or a child in need of supervision, the court may~~
7 ~~appoint a guardian ad litem for the child at any time subsequent to~~
8 ~~the filing of the petition and shall appoint a guardian ad litem~~
9 ~~upon the request of the child or the attorney of the child. The~~
10 ~~guardian ad litem shall not be a district attorney, an employee of~~
11 ~~the office of the district attorney, an employee of the court, an~~
12 ~~employee of a juvenile bureau, or an employee of any public agency~~
13 ~~having duties or responsibilities towards the child~~ In all cases of
14 juvenile delinquency proceedings and appeals, adult certification
15 proceedings and appeals, reverse certification proceedings and
16 appeals, youthful offender proceedings and appeals, and any other
17 proceedings and appeals pursuant to the Oklahoma Juvenile Code,
18 except mental health proceedings and appeals, in-need-of-supervision
19 proceedings and appeals, and any other juvenile proceedings that are
20 civil in nature, and other than in counties where the office of the
21 county indigent defender is appointed, the Oklahoma Indigent Defense
22 System shall be appointed to represent indigent juveniles as
23 provided for in the Indigent Defense Act. In all other cases
24 pursuant to this title, including juvenile proceedings that are

1 civil in nature, juvenile mental health proceedings and appeals, and
2 in-need-of-supervision proceedings and appeals, with the exception
3 of proceedings in counties where the office of the county indigent
4 defender is appointed, the court shall, if counsel is appointed and
5 assigned, allow and direct to be paid from the local court fund a
6 reasonable and just compensation to the attorney or attorneys for
7 such services as they may render; provided, that any attorney
8 appointed pursuant to this subsection shall not be paid a sum in
9 excess of One Hundred Dollars (\$100.00) for services rendered in
10 preliminary proceedings, Five Hundred Dollars (\$500.00) for services
11 rendered during trial, and One Hundred Dollars (\$100.00) for
12 services rendered at each subsequent post-disposition hearing.

13 E. Counsel for the child shall advise the child and advocate
14 the expressed wishes of the child, as much as reasonably possible,
15 under the same ethical obligations as if the client were an adult.
16 Upon motion by the state, the child, the attorney for the child, or
17 a parent or legal custodian of the child, the court shall appoint a
18 guardian ad litem.

19 F. The guardian ad litem shall not be a district attorney, an
20 employee of the office of the district attorney, an employee of the
21 court, an employee of a juvenile bureau, or an employee of any
22 public agency having duties or responsibilities towards the child.
23 The guardian ad litem shall be given access to the court file and
24 access to all records and reports relevant to the case and to any

1 records and reports of examination of the child's parent or other
2 custodian, made pursuant to this section or Section ~~846~~ 1-2-101 of
3 ~~Title 21 of the Oklahoma Statutes~~ this title. Provided, nothing in
4 this subsection shall obligate counsel for the child to breach
5 attorney-client confidentiality with the child.

6 SECTION 9. AMENDATORY 10A O.S. 2011, Section 2-2-402, is
7 amended to read as follows:

8 Section 2-2-402. A. All cases of children shall be heard
9 separately from the trial of cases against adults. The adjudicative
10 hearings shall be conducted according to the rules of evidence, and
11 may be adjourned from time to time.

12 1. Except as provided by paragraph 2 of this subsection, the
13 hearings shall be private ~~unless specifically ordered by the judge~~
14 ~~to be conducted in public, and;~~ however, all persons having a direct
15 interest in the case as provided in this paragraph shall be
16 admitted. Any victim, relative, legal guardian of a victim, or a
17 person designated by the victim who is not subject to the rule of
18 sequestration as a witness of a delinquent act shall be considered
19 to have a direct interest in the case ~~and,~~ and, shall be notified of all
20 court hearings involving that particular delinquent act ~~as provided~~
21 ~~by Section 215.33 of Title 19 of the Oklahoma Statutes,~~ and shall be
22 admitted to the proceedings. The court shall, however, remove all
23 persons having a direct interest in the case that are not the
24 parents or legal guardian of the child from any hearing where

1 evidence of the medical or behavioral health condition of the child
2 or specific instances of deprivation are being presented.

3 Stenographic notes or other transcript of the hearings shall be kept
4 as in other cases, but they shall not be open to inspection except
5 by order of the court or as otherwise provided by law.

6 2. ~~Hearings related to the second or subsequent delinquency~~
7 ~~adjudication of a child shall be public proceedings. The~~
8 ~~adjudications relied upon to determine whether a hearing is a public~~
9 ~~proceeding pursuant to this paragraph shall not have arisen out of~~
10 ~~the same transaction or occurrence or series of events closely~~
11 ~~related in time and location. Upon its own motion or the motion of~~
12 ~~any of the parties to the hearing and for good cause shown, the~~
13 ~~court may order specific testimony or evidence to be heard in~~
14 ~~private; provided, the court shall not exclude any relative, legal~~
15 ~~guardian of a victim, or a person designated by the victim who is~~
16 ~~not subject to the rule of sequestration as a witness from the~~
17 ~~hearing during testimony of the victim. For the purposes of this~~
18 ~~paragraph, "good cause" shall mean a showing that it would be~~
19 ~~substantially harmful to the mental or physical well-being of the~~
20 ~~child if such testimony or evidence were presented at a public~~
21 ~~hearing~~ The judge may, for good cause shown, open the court hearings
22 to educate members of the public about juvenile justice issues;
23 however, the identities of the juvenile respondents shall not be
24 published in any reports or articles of general circulation.

1 B. The child may remain silent as a matter of right in
2 delinquency hearings and in need of supervision hearings, and before
3 the child testifies, the child shall be so advised.

4 C. A decision determining a child to come within the purview of
5 the Oklahoma Juvenile Code shall be based on sworn testimony and the
6 child shall have the opportunity for cross-examination unless the
7 facts are stipulated or unless the child enters into a stipulation
8 that the allegations of the petition are true or that sufficient
9 evidence exists to meet the burden of proof required for the court
10 to sustain the allegations of the petition. In proceedings pursuant
11 to the Oklahoma Juvenile Code, the court may allow mileage as in
12 civil actions to witnesses and reimbursement for expert witnesses
13 but such shall not be tendered in advance of the hearing. If a
14 child is alleged to be delinquent and the facts are stipulated, the
15 judge shall ascertain from the child if the child agrees with the
16 stipulation and if the child understands the consequences of
17 stipulating the facts.

18 D. If the court finds that the allegations of a petition
19 alleging a child to be delinquent or in need of supervision are
20 supported by the evidence, the court shall sustain the petition, and
21 shall make an order of adjudication setting forth whether the child
22 is delinquent or in need of supervision and shall adjudge the child
23 as a ward of the court.

24

1 E. If the court finds that the allegations of the petition are
2 not supported by the evidence, the court shall order the petition
3 dismissed and shall order the child discharged from any detention or
4 restriction previously ordered. The parents, legal guardian or
5 other legal custodian of the child shall also be discharged from any
6 restriction or other previous temporary order.

7 SECTION 10. AMENDATORY 10A O.S. 2011, Section 2-2-404,
8 is amended to read as follows:

9 Section 2-2-404. A. A court may defer delinquency adjudication
10 proceedings or proceedings to determine if a child is in need of
11 supervision for one hundred eighty (180) days if the child:

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

16 2. ~~Waives the privilege against self-incrimination and~~
17 ~~testifies, under oath, Enters into a stipulation that the~~
18 ~~allegations are true or that sufficient evidence exists to meet the~~
19 ~~burden of proof required for the court to sustain the allegations of~~
20 ~~the petition; and~~

21 3. Has not been previously adjudicated a delinquent.

22 B. During such period of deferral, the court may require the
23 following:
24

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

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

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

12 4. An alternative diversion program; or

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

15 C. The court shall dismiss the case with prejudice at the
16 conclusion of the deferral period if the child presents satisfactory
17 evidence that the requirements of the court have been successfully
18 completed.

19 D. As used in this section, "alternative diversion program"
20 means a program for juveniles who have been identified by law
21 enforcement personnel, the district attorney, or the court as having
22 committed acts which are not serious enough to warrant adjudication
23 through the juvenile court process, but which do indicate a need for
24 intervention to prevent further development toward juvenile

1 delinquency. The program shall be administered, pursuant to
2 contract with the Office of Juvenile Affairs, by organizations
3 designated as youth services agencies by law.

4 SECTION 11. AMENDATORY 10A O.S. 2011, Section 2-2-502,
5 is amended to read as follows:

6 Section 2-2-502. A. An individual treatment and service plan
7 shall be ~~filed with~~ provided to the court and counsel for the
8 parties within the thirty (30) days after any child has been
9 adjudicated to be delinquent or in need of supervision. Said plan
10 shall be ~~filed~~ prepared by the person, department or agency
11 responsible for the supervision of the case or by the legal
12 custodian if the child has been removed from the custody of its
13 lawful parent or parents. The treatment and service plan shall be
14 based on a comprehensive assessment and evaluation process of the
15 child and family ~~and~~ that identifies the priority needs of the child
16 for rehabilitation and treatment and identifies any needs of the
17 parent or legal guardian of the child for services that would
18 enhance their ability to provide adequate support, guidance, and
19 supervision of the child. This process should take into account the
20 detention risk assessment decision, the intake preliminary
21 assessment, any comprehensive assessment for substance abuse
22 treatment services, behavioral health services, intellectual
23 disabilities, literary services, and other educational and treatment
24 services as components. The completed assessment process shall

1 result in an individual treatment and service plan which shall
2 include, but not be limited to:

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

5 2. The eligibility of the child for disposition of probation,
6 placement in community residential treatment, commitment with the
7 Office of Juvenile Affairs and, if appropriate, assignment of a
8 residential commitment level;

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

14 ~~3.~~ 4. Identification of the services to be provided to the
15 parent, legal guardian, legal custodian, stepparent, other adult
16 person living in the home or other family members, to remediate or
17 alleviate the conditions that led to the adjudication, including
18 services needed to assist the family to provide proper care and
19 supervision of the child;

20 ~~4.~~ 5. Performance criteria that will measure the progress of
21 the child and family toward completion of the treatment and service
22 plan;

23 ~~5.~~ 6. A projected date for the completion of the treatment and
24 service plan; and

1 ~~6.~~ 7. The name and business address of the attorney
2 representing the child, if any.

3 B. The Office of Juvenile Affairs shall identify the
4 appropriate risk and needs assessment instruments used to develop
5 the recommendations of the individualized treatment and service
6 plan. The juvenile probation counselor shall be responsible for
7 making informed decisions and recommendations to other agencies, the
8 district attorney, and the courts so that the child and family of
9 the child may receive the least intrusive service alternative
10 throughout the court process.

11 C. The individual treatment and service plan shall be amended
12 as necessary and appropriate to reflect the disposition of the
13 court. The amended plan shall be filed with the court within thirty
14 (30) days of the order of disposition removing the child from the
15 home and shall state:

16 1. The reasons for such placement and a statement as to the
17 unavailability or inappropriateness of local placement, or other
18 good cause, for any placement more than fifty (50) miles from the
19 home of the child;

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

22 3. The services necessary to assist the child to reintegrate
23 with the family of the child or other community-based placement; and
24

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

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

12 SECTION 12. AMENDATORY 10A O.S. 2011, Section 2-2-503,
13 is amended to read as follows:

14 Section 2-2-503. A. The following kinds of orders of
15 disposition may be made in respect to children adjudicated in need
16 of supervision or delinquent:

17 1. The court may place the child on probation with or without
18 supervision in the home of the child, or in the custody of a
19 suitable person, upon such conditions as the court shall determine.
20 If the child is placed on probation, the court may impose a
21 probation fee of not more than Twenty-five Dollars (\$25.00) per
22 month, if the court finds that the child or parent or legal guardian
23 of the child has the ability to pay the fee. In counties having a
24 juvenile bureau, the fee shall be paid to the juvenile bureau; in

1 all other counties, the fee shall be paid to the Office of Juvenile
2 Affairs-;

3 2. If it is consistent with the welfare of the child, the child
4 shall be placed with the parent or legal guardian of the child, but
5 if it appears to the court that the conduct of such parent,
6 guardian, legal guardian, stepparent or other adult person living in
7 the home has contributed to the child becoming delinquent or in need
8 of supervision, the court may issue a written order specifying
9 conduct to be followed by such parent, guardian, legal custodian,
10 stepparent or other adult person living in the home with respect to
11 such child. The conduct specified shall be such as would reasonably
12 prevent the child from continuing to be delinquent or in need of
13 supervision.

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

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

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

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

23 d. No child who has been adjudicated in need of
24 supervision only upon the basis of truancy or

1 noncompliance with the mandatory school attendance law
2 shall be placed in a public or private institutional
3 facility or be removed from the custody of the lawful
4 parent, guardian or custodian of the child.

5 e. Nothing in the Oklahoma Juvenile Code or the Oklahoma
6 Children's Code may be construed to prevent a child
7 from being found both deprived and delinquent if there
8 exists a factual basis for such a finding;

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

22 4. The court may order the child to receive counseling or other
23 community-based services as necessary-; i

1 5. The court may commit the child to the custody of the Office
2 of Juvenile Affairs. Any order adjudicating the child to be
3 delinquent and committing the child to the Office of Juvenile
4 Affairs shall be for an indeterminate period of time;

5 6. If the child has been placed outside the home, and it
6 appears to the court that the parent, guardian, legal custodian, or
7 stepparent, or other adult person living in the home has contributed
8 to the child becoming delinquent or in need of supervision, the
9 court may order that the parent, guardian, legal custodian,
10 stepparent, or other adult living in the home be made subject to any
11 treatment or placement plan prescribed by the Office or other person
12 or agency receiving custody of the child;

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

- 15 a. for acts involving criminally injurious conduct as
16 defined in Section 142.3 of Title 21 of the Oklahoma
17 Statutes, order the child to pay a victim compensation
18 assessment in an amount not to exceed that amount
19 specified in Section 142.18 of Title 21 of the
20 Oklahoma Statutes. The court shall forward a copy of
21 the adjudication order to the Crime Victims
22 Compensation Board for purposes of Section 142.11 of
23 Title 21 of the Oklahoma Statutes. Except as
24

1 otherwise provided by law, such adjudication order
2 shall be kept confidential by the Board,

3 b. order the child to engage in a term of community
4 service without compensation. The state or any
5 political subdivision shall not be liable if a loss or
6 claim results from any acts or omission of a child
7 ordered to engage in a term of community service
8 pursuant to the provisions of this paragraph,

9 c. order the child, the parent or parents of the child,
10 legal guardian of the child, or both the child and the
11 parent or parents of the child or legal guardian at
12 the time of the delinquent act of the child to make
13 full or partial restitution to the victim of the
14 offense which resulted in property damage or personal
15 injury.

16 (1) The court shall notify the victim of the
17 dispositional hearing. The court may consider a
18 verified statement from the victim concerning
19 damages for injury or loss of property and actual
20 expenses of medical treatment for personal
21 injury, excluding pain and suffering. If
22 contested, a restitution hearing to determine the
23 liability of the child, the parent or parents of
24 the child, or legal guardian shall be held not

1 later than thirty (30) days after the disposition
2 hearing and may be extended by the court for good
3 cause. The parent or parents of the child or
4 legal guardian may be represented by an attorney
5 in the matter of the order for remittance of the
6 restitution by the parent or parents of the child
7 or legal guardian. The burden of proving that
8 the amount indicated on the verified statement is
9 not fair and reasonable shall be on the person
10 challenging the fairness and reasonableness of
11 the amount.

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

1 with the welfare of the child, require community
2 service in lieu of restitution or require both
3 community service and full or partial restitution
4 for the acts of delinquency by the child.

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

14 (4) If the restitution is not being paid as ordered,
15 the official designated by the court to collect
16 and disburse the restitution ordered shall file a
17 written report of the violation with the court.
18 The report shall include a statement of the
19 amount of the arrearage and any reasons for the
20 arrearage that are known by the official. A copy
21 of the report shall be provided to all parties
22 and the court shall promptly take any action
23 necessary to compel compliance.
24

1 (5) Upon the juvenile attaining eighteen (18) years
2 of age, the court shall determine whether the
3 restitution order has been satisfied. If the
4 restitution order has not been satisfied, the
5 court shall enter a judgment of restitution in
6 favor of each person entitled to restitution for
7 the unpaid balance of any restitution ordered
8 pursuant to this subparagraph. The clerk of the
9 court shall send a copy of the judgment of
10 restitution to each person who is entitled to
11 restitution. The judgment shall be a lien
12 against all property of the individual or
13 individuals ordered to pay restitution and may be
14 enforced by the victim or any other person or
15 entity named in the judgment to receive
16 restitution in the same manner as enforcing
17 monetary judgments. The restitution judgment
18 does not expire until paid in full and is deemed
19 to be a criminal penalty for the purposes of a
20 federal bankruptcy involving the child,

21 d. order the child to pay the fine which would have been
22 imposed had such child been convicted of such crime as
23 an adult. Any such fine collected pursuant to this
24 paragraph shall be deposited in a special Work

1 Restitution Fund to be established by the court to
2 allow children otherwise unable to pay restitution to
3 work in community service projects in the private or
4 public sector to earn money to compensate their
5 victims,

6 e. order the cancellation or denial of driving privileges
7 as provided by Sections 6-107.1 and 6-107.2 of Title
8 47 of the Oklahoma Statutes,

9 f. sanction detention in the residence of the child or
10 facility designated by the Department of Juvenile
11 Justice or the juvenile bureau for such purpose for up
12 to five (5) days, order weekend detention in a place
13 other than a juvenile detention facility or shelter,
14 tracking, or house arrest with electronic monitoring,
15 and

16 g. impose ~~sanctions~~ consequences, including detention as
17 provided for in subparagraph f of this paragraph, for
18 ~~the violation of preadjudicatory or postadjudicatory~~
19 ~~violations of probation;~~;

20 8. The court may order the child to participate in the Juvenile
21 Drug Court Program;

22 9. The court may dismiss the petition or otherwise terminate
23 its jurisdiction at any time for good cause shown; and

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

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

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

8 D. ~~No~~ A child who has been adjudicated in need of supervision
9 and has not been adjudicated a delinquent child may not be placed in
10 a secure facility.

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

21 F. The court may revoke or modify a disposition order and may
22 order redispotion. The child whose disposition is being
23 considered for revocation or modification at said hearing shall ~~have~~
24 ~~the right to be represented by counsel, to present evidence on~~

1 ~~behalf of the child and to be confronted by witnesses against the~~
2 ~~child. Any revocation, modification or redispotion of the court~~
3 ~~in whole or in part shall be subject to review on appeal, as in~~
4 ~~other appeals of criminal cases. Bail may be allowed pending~~
5 ~~appeal.~~

6 ~~G. Any arrest or detention under the Oklahoma Juvenile Code or~~
7 ~~any adjudication in a juvenile proceeding shall not be considered an~~
8 ~~arrest, detention or conviction for purposes of employment, civil~~
9 ~~rights, or any statute, regulation, license, questionnaire,~~
10 ~~application, or any other public or private purposes, unless~~
11 ~~otherwise provided by law be afforded the following rights:~~

12 1. Notice by the filing of a motion for redispotion by the
13 district attorney. The motion shall be served on the child and the
14 parent or legal guardian of the child at least one (1) business day
15 prior to the hearing;

16 2. The proceedings shall be heard without a jury and shall
17 require establishment of the facts alleged by a preponderance of the
18 evidence;

19 3. During the proceeding, the child shall have the right to be
20 represented by counsel, to present evidence, and to confront any
21 witness testifying against the child;

22 4. Any modification, revocation or redispotion removing the
23 child from the physical custody of a parent or guardian shall be
24

1 subject to review on appeal, as in other appeals of delinquent
2 cases;

3 5. If the child is placed in secure detention, bail may be
4 allowed pending appeal; and

5 6. The court shall not enter an order removing the child from
6 the custody of a parent or legal guardian pursuant to this section
7 unless the court first finds that:

8 a. such removal is necessary to protect the public,

9 b. the child is likely to sustain harm if not immediately
10 removed from the home,

11 c. allowing the child to remain in the home is contrary
12 to the welfare of the child,

13 d. immediate placement of the child is in the best
14 interests of the child, and

15 e. reasonable efforts have been made to maintain the
16 family unit and prevent the unnecessary removal of the
17 child from the home of the child or that an emergency
18 exists which threatens the safety of the child.

19 The court shall state the basis of each finding in writing.

20 G. The court may authorize, by administrative order, the agency
21 providing probation supervision services to sanction minor
22 violations of probation by modifying curfews, imposing community
23 service, or any other nondetention consequence, provided:

24

1 1. The child is notified in writing of the nature of the
2 violation;

3 2. The terms of the sanction are clearly stated; and

4 3. The child is advised of the right to challenge and dispute
5 the allegations or the sanction by demanding a hearing pursuant to
6 subsection F of this section and elects to waives this right in
7 writing.

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

14 SECTION 13. AMENDATORY 10A O.S. 2011, Section 2-2-701,
15 is amended to read as follows:

16 Section 2-2-701. ~~A willful violation of any provision of an~~
17 ~~order of the court issued under the provisions of the Oklahoma~~
18 ~~Juvenile Code shall constitute~~ A. When it is determined to be in
19 the best interests of the child, the court may order a parent, legal
20 custodian, legal guardian, stepparent, or any adult person living in
21 the home to be present at or bring the child to any proceeding under
22 the provisions of the Oklahoma Juvenile Code. The court may issue a
23 bench warrant for any parent, guardian, or custodian who, without
24 good cause, fails to appear at any proceeding.

1 B. In any proceeding under the Oklahoma Juvenile Code, the
2 court shall enter an order specifically requiring a parent, legal
3 custodian, legal guardian, stepparent, or any adult person living in
4 the home to participate in the rehabilitation process of a child
5 including, but not limited to, mandatory attendance at a juvenile
6 proceeding, parenting class, counseling, treatment, or an education
7 program unless the court determines that such an order is not in the
8 best interests of the child.

9 1. Any parent, legal custodian, legal guardian, stepparent, or
10 any adult person living in the home willfully failing to comply with
11 an order issued under this section without good cause may be found
12 in indirect contempt of court.

13 2. The court may issue a bench warrant for any parent, legal
14 custodian, legal guardian, stepparent, or any adult person living in
15 the home who, without good cause, fails to appear at any juvenile
16 proceeding or court-ordered program.

17 3. For purposes of this section, "without good cause, fails to
18 appear" shall include, but not be limited to, a situation where a
19 parent, legal custodian, legal guardian, stepparent, or any adult
20 person:

21 a. has employment obligations that would result in the
22 loss of said employment,

1 b. does not have physical custody of the child and
2 resides outside the county of residence of the child,
3 and

4 c. resides in the county of the residence of the child
5 but is outside that county at the time of the juvenile
6 proceeding or court-ordered program for reasons other
7 than avoiding participation or appearance before the
8 court and participating or appearing in the court will
9 result in undue hardship to such parent or guardian.

10 4. Nothing in this section shall be construed to create a right
11 for any child to have his or her parent, legal custodian, legal
12 guardian, stepparent, or any adult person living in the home present
13 at any juvenile proceeding or court-ordered program at which such
14 child is present.

15 C. A parent, legal custodian, legal guardian, stepparent, or
16 any adult person living in the home may be ordered by the court to:

17 1. Report any probation, parole or conditional release
18 violations; or

19 2. Aid in enforcing terms and conditions of probation, parole
20 or conditional release or other orders of the court.

21 Any person placed under an order to report any probation, parole
22 or conditional release violations or aid in enforcing terms and
23 conditions of probation, parole or conditional release or other
24 orders of the court and who fails to do as ordered may be proceeded

1 against for indirect contempt of court ~~and shall be punishable as~~
2 ~~such.~~ Punishment for any such act of contempt shall not exceed a
3 fine of Three Hundred Dollars (\$300.00), or imprisonment for not
4 more than thirty (30) days in the county jail if the violator is an
5 adult, ~~or placement in a juvenile detention center for not more than~~
6 ~~ten (10) days if the violator is a juvenile,~~ or both such fine and
7 imprisonment ~~or detention.~~ The pursuit and prosecution of an
8 indirect contempt of court judgment shall be initiated by the
9 district attorney.

10 D. As used in this section, "guardian" or "custodian" shall not
11 include any private or public agency having temporary or permanent
12 custody of the child. Provided, nothing in this subsection shall
13 allow said agency to fail to comply with a writ of habeas corpus
14 issued by the court.

15 SECTION 14. AMENDATORY 10A O.S. 2011, Section 2-3-101,
16 is amended to read as follows:

17 Section 2-3-101. A. When a child is taken into custody
18 pursuant to the provisions of the Oklahoma Juvenile Code, the child
19 shall be detained only if it is necessary to assure the appearance
20 of the child in court or for the protection of the child or the
21 public.

22 1. a. No preadjudicatory or predisposition detention or
23 custody order shall remain in force and effect for
24 more than thirty (30) days. The court, for good and

1 sufficient cause shown, may extend the effective
2 period of such an order for an additional period not
3 to exceed sixty (60) days. If the child is being
4 detained for the commission of a murder, the court
5 may, if it is in the best interests of justice, extend
6 the effective period of such an order an additional
7 sixty (60) days.

8 b. Whenever the court orders a child to be held in a
9 juvenile detention facility, an order for secure
10 detention shall remain in force and effect for not
11 more than fifteen (15) days after such order. Upon an
12 application of the district attorney and after a
13 hearing on such application, the court, for good and
14 sufficient cause shown, may extend the effective
15 period of such an order for an additional period not
16 to exceed fifteen (15) days after such hearing. The
17 total period of preadjudicatory or predisposition
18 shall not exceed the ninety-day limitation as
19 specified in subparagraph a of this paragraph. The
20 child shall be present at the hearing on the
21 application for extension unless, as authorized and
22 approved by the court, the attorney for the child is
23 present at the hearing and the child is available to
24 participate in the hearing via telephone conference

1 communication. For the purpose of this paragraph,
2 "telephone conference communication" means use of a
3 telephone device that allows all parties, including
4 the child, to hear and be heard by the other parties
5 at the hearing. After the hearing, the court may
6 order continued detention in a juvenile detention
7 center, may order the child detained in an alternative
8 to secure detention or may order the release of the
9 child from detention.

10 2. No child alleged or adjudicated to be deprived or in need of
11 supervision or who is or appears to be a minor in need of treatment
12 as defined by the Inpatient Mental Health and Substance Abuse
13 Treatment of Minors Act, shall be confined in any jail, adult
14 lockup, or adult detention facility. No child shall be transported
15 or detained in association with criminal, vicious, or dissolute
16 persons.

17 3. Except as otherwise authorized by this section a child who
18 has been taken into custody as a deprived child, a child in need of
19 supervision, or who appears to be a minor in need of treatment, may
20 not be placed in any detention facility pending court proceedings,
21 but must be placed in shelter care or foster care or, with regard to
22 a child who appears to be a minor in need of treatment, a behavioral
23 health treatment facility in accordance with the provisions of the
24 Inpatient Mental Health and Substance Abuse Treatment of Minors Act,

1 or released to the custody of the parents of the child or some other
2 responsible party. When a child is taken into custody as a child in
3 need of supervision as a result of being a runaway, the court may
4 order the child placed in a juvenile detention facility pending
5 court proceedings if it finds the detention to be essential for the
6 safety of the child.

7 B. No child shall be placed in secure detention unless:

8 1. The child is an escapee from any delinquent placement;

9 2. The child is a fugitive from another jurisdiction with a
10 warrant on a delinquency charge or confirmation of delinquency
11 charges by the home jurisdiction;

12 3. The child is seriously assaultive or destructive towards
13 others or self;

14 4. The child is currently charged with any criminal offense
15 that would constitute a felony if committed by an adult or a
16 misdemeanor and:

17 a. is on probation or parole on a prior delinquent
18 offense,

19 b. is on preadjudicatory community supervision, or

20 c. is currently on release status on a prior delinquent
21 offense,~~or~~

22 ~~and~~;

23

24

1 5. The child has willfully failed or there is reason to believe
2 that the child will willfully fail to appear for juvenile court
3 proceedings;

4 6. A warrant for the child has been issued on the basis that
5 the child is absent from court-ordered placement without court
6 approval or there is reason to believe the child will not remain at
7 said placement; or

8 7. The child requests detention for protection from an imminent
9 threat to the personal safety of the child.

10 C. A child who has violated a court order and has had the order
11 revoked or modified pursuant to Section 2-2-503 of this title may be
12 placed into an Office-of-Juvenile-Affairs-designated sanction
13 detention bed or an Office-of-Juvenile-Affairs-approved sanction
14 program.

15 D. Priority shall be given to the use of juvenile detention
16 facilities for the detention of juvenile offenders through
17 provisions requiring the removal from detention of a juvenile with a
18 lower priority status if an empty detention bed is not available at
19 the time of referral of a juvenile with a higher priority status and
20 if the juvenile with a higher priority status would be more of a
21 danger to the public than the juvenile with the lower priority
22 status.

1 E. 1. Except as otherwise provided in this section, no child
2 shall be placed in secure detention in a jail, adult lockup, or
3 other adult detention facility unless:

- 4 a. the child is detained for the commission of a crime
5 that would constitute a felony if committed by an
6 adult, and
- 7 b. the child is awaiting an initial court appearance, and
- 8 c. the initial court appearance of the child is scheduled
9 within twenty-four (24) hours after being taken into
10 custody, excluding weekends and holidays, and
- 11 d. the court of jurisdiction is outside of the Standard
12 Metropolitan Statistical Area as defined by the Bureau
13 of Census, and
- 14 e. there is no existing acceptable alternative placement
15 for the child, and
- 16 f. the jail, adult lockup or adult detention facility
17 provides sight and sound separation for juveniles,
18 pursuant to standards required by subsection E of
19 Section 2-3-103 of this title, or
- 20 g. the jail, adult lockup or adult detention facility
21 meets the requirements for licensure of juvenile
22 detention facilities, as adopted by the Office of
23 Juvenile Affairs, is appropriately licensed, and
24

1 provides sight and sound separation for juveniles,
2 which includes:

3 (1) total separation between juveniles and adult
4 facility spatial areas such that there could be
5 no haphazard or accidental contact between
6 juvenile and adult residents in the respective
7 facilities,

8 (2) total separation in all juvenile and adult
9 program activities within the facilities,
10 including recreation, education, counseling,
11 health care, dining, sleeping and general living
12 activities, and

13 (3) separate juvenile and adult staff, specifically
14 direct care staff such as recreation, education
15 and counseling.

16 Specialized services staff, such as cooks,
17 bookkeepers, and medical professionals who are not
18 normally in contact with detainees or whose infrequent
19 contacts occur under conditions of separation of
20 juvenile and adults can serve both.

21 2. Nothing in this section shall preclude a child who is
22 detained for the commission of a crime that would constitute a
23 felony if committed by an adult, or a child who is an escapee from a
24 juvenile training school or from an Office of Juvenile Affairs group

1 home from being held in any jail certified by the State Department
2 of Health, police station or similar law enforcement offices for up
3 to six (6) hours for purposes of identification, processing or
4 arranging for transfer to a secure detention or alternative to
5 secure detention. Such holding shall be limited to the absolute
6 minimum time necessary to complete these actions.

7 a. The time limitations for holding a child in a jail for
8 the purposes of identification, processing or
9 arranging transfer established by this section shall
10 not include the actual travel time required for
11 transporting a child from a jail to a juvenile
12 detention facility or alternative to secure detention.

13 b. Whenever the time limitations established by this
14 subsection are exceeded, this circumstance shall not
15 constitute a defense in a subsequent delinquency or
16 criminal proceeding.

17 3. Nothing in this section shall preclude detaining in a county
18 jail or other adult detention facility an eighteen-year old charged
19 in a juvenile petition for whom certification to stand trial as an
20 adult is prayed.

21 4. Nothing in this section shall preclude detaining in a county
22 jail or other adult detention facility a person provided for in
23 Section 2-3-102 of this title if written or electronically
24 transmitted confirmation is received from the state seeking return

1 of the individual that the person is a person provided for in
2 Section 2-3-102 of this title and if, during the time of detention,
3 the person is detained in a facility meeting the requirements of
4 Section 2-3-103 of this title.

5 5. Nothing in this section shall preclude detaining a person,
6 whose age is not immediately ascertainable and who is being detained
7 for the commission of a felony, in a jail certified by the State
8 Department of Health, a police station or similar law enforcement
9 office for up to twenty-four (24) hours for the purpose of
10 determining whether or not the person is a child, if:

- 11 a. there is a reasonable belief that the person is
12 eighteen (18) years of age or older,
- 13 b. there is a reasonable belief that a felony has been
14 committed by the person,
- 15 c. a court order for such detention is obtained from a
16 judge of the district court within six (6) hours of
17 initially detaining the person,
- 18 d. there is no juvenile detention facility that has space
19 available for the person and that is within thirty
20 (30) miles of the jail, police station, or law
21 enforcement office in which the person is to be
22 detained, and

23
24

1 e. during the time of detention the person is detained in
2 a facility meeting the requirements of subparagraph g
3 of paragraph 1 of this subsection.

4 The time limitation provided for in this paragraph shall include the
5 time the person is detained prior to the issuance of the court
6 order.

7 The time limitation provided for in this paragraph shall not include
8 the actual travel time required for transporting the person to the
9 jail, police station, or similar law enforcement office. If the
10 time limitation established by this paragraph is exceeded, this
11 circumstance shall not constitute a defense in any subsequent
12 delinquency or criminal proceeding.

13 F. Nothing contained in this section shall in any way reduce or
14 eliminate the liability of a county as otherwise provided by law for
15 injury or damages resulting from the placement of a child in a jail,
16 adult lockup, or other adult detention facility.

17 G. Any juvenile detention facility shall be available for use
18 by any eligible Indian child as that term is defined by the Oklahoma
19 Indian Child Welfare Act, providing that the use of the juvenile
20 detention facility meets the requirements of the Oklahoma Juvenile
21 Code. The Indian tribe may contract with any juvenile detention
22 facility for the providing of detention services.

1 H. Each member of the staff of a juvenile detention facility
2 shall satisfactorily complete a training program provided or
3 approved by the Office of Juvenile Affairs.

4 SECTION 15. AMENDATORY 10A O.S. 2011, Section 2-6-101,
5 is amended to read as follows:

6 Section 2-6-101. A. The court shall make and keep records of
7 all cases brought before the court pursuant to the Oklahoma Juvenile
8 Code. The court shall devise and cause to be printed such forms for
9 social and legal records and such other papers as may be required.

10 B. As used in the Oklahoma Juvenile Code:

11 1. "Records" or "record" shall include but not be limited to
12 written or printed documents, papers, logs, reports, files, case
13 notes, films, photographs, psychological evaluations, certification
14 studies, presentence investigations, 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 family social histories, medical
13 reports, psychological and psychiatric evaluations or assessments,
14 clinical or other treatment reports, educational records, or home
15 studies, even if attached to court reports prepared by the agency;
16 and

17 9. "Participating agency" means any public or private agency
18 that has entered into a contract or an interagency agreement under
19 the Interlocal Cooperation Act in accordance with the rules and
20 guidelines adopted pursuant to Section 620.6 of Title 10 of the
21 Oklahoma Statutes or the Juvenile Offender Tracking Program for the
22 purpose of accessing and sharing information necessary for the care,
23 treatment, and supervision of children and youth.

24

1 SECTION 16. AMENDATORY 10A O.S. 2011, Section 2-6-102,
2 is amended to read as follows:

3 Section 2-6-102. A. Except as provided by this section or as
4 otherwise specifically provided by state or federal laws, the
5 following juvenile records are confidential and shall not be open to
6 the general public, inspected, or their contents disclosed:

- 7 1. Juvenile court records;
- 8 2. Agency records;
- 9 3. District attorney's records;
- 10 4. Law enforcement records;
- 11 5. Nondirectory education records; and
- 12 6. Social records.

13 B. The confidentiality limitation of subsection A of this
14 section shall not apply to statistical information or information of
15 a general nature obtained pursuant to the provisions of the Oklahoma
16 Juvenile Code.

17 C. The confidentiality requirements of subsection A of this
18 section for juvenile court records and law enforcement records shall
19 not apply:

- 20 1. Upon the ~~charging or~~ certification or sentencing of a
21 juvenile as an adult or youthful offender;
- 22 2. ~~Upon the charging of an individual pursuant to Section 2-5-~~
23 ~~101 of this title;~~

24

1 ~~3.~~ To a violation of any traffic regulation or motor vehicle
2 regulation of Title 47 of the Oklahoma Statutes, or to a violation
3 of any city ordinance or county resolution which relates to the
4 regulation of traffic on the roads, highways or streets, or to the
5 operation of self-propelled or nonself-propelled vehicles of any
6 kind in this state;

7 ~~4.~~ To a juvenile who is fourteen (14) years of age or older and
8 who has been adjudicated delinquent and who subsequently comes
9 before the juvenile court on a new delinquency matter after July 1,
10 1995;

11 ~~5.~~ To a juvenile adjudicated a delinquent for committing a
12 delinquent act which, if committed by an adult, would be a felony
13 offense that is a crime against the person or a felony offense
14 involving a dangerous weapon;

15 ~~6.~~ To arrest records of a juvenile arrested for committing an
16 act, which if committed by an adult, would be a felony offense;

17 ~~7.~~ To a violation of the Prevention of Youth Access to Tobacco
18 Act; or

19 ~~8.~~ 3. Whenever a juvenile is accepted for placement or
20 treatment in a facility or private treatment facility within this
21 state as a result of or following a conviction or adjudication for
22 an out-of-state offense that would qualify the juvenile as a
23 youthful offender, as defined in Section 2-5-202 of this title, had
24 the crime occurred within this state. The facility shall provide

1 ~~any law enforcement agency or peace officer all prior criminal~~
2 ~~offense, conviction, and adjudication information. If or when a~~
3 ~~juvenile flees or is otherwise absent from the facility without~~
4 ~~permission, the. The facility shall provide any law enforcement~~
5 ~~agency or peace officer all prior criminal offense, conviction, and~~
6 ~~adjudication information. Any law enforcement agency or peace~~
7 ~~officer shall have the authority to review or copy any records~~
8 ~~concerning the juvenile, including prior criminal offense,~~
9 ~~conviction, or adjudication information-; or~~

10 ~~D. Following the first adjudication as a delinquent, the court~~
11 ~~having jurisdiction shall note on the juvenile court record of the~~
12 ~~person that any subsequent juvenile court records shall not be~~
13 ~~confidential; provided, the child is at least fourteen (14) years of~~
14 ~~age or older. Any juvenile court record which becomes an open~~
15 ~~juvenile record as provided in this subsection may be expunged as~~
16 ~~provided in Section 7307-1.8 of this title.~~

17 ~~The provisions of this subsection shall only apply to the~~
18 ~~juvenile court records and law enforcement records of juvenile~~
19 ~~offenders certified, charged or adjudicated on and after July 1,~~
20 ~~1995.~~

21 ~~E. 4. When a delinquent child has escaped or run away from a~~
22 ~~training school or other institutional placement for delinquents,~~
23 ~~the. The name and description of the child may be released to the~~
24 ~~public by the agency having custody of the child as necessary and~~

1 appropriate for the protection of the public and the apprehension of
2 the delinquent child ~~whether or not the juvenile record is~~
3 ~~confidential or open.~~

4 ~~F.~~ D. Except as otherwise required by state or federal law, the
5 confidential records listed in subsection A of this section may only
6 be inspected, released, disclosed, corrected or expunged pursuant to
7 an order of the court. Except as otherwise provided in Section
8 601.6 of Title 10 of the Oklahoma Statutes or any provision of this
9 chapter, no subpoena or subpoena duces tecum purporting to compel
10 disclosure of confidential information or any confidential juvenile
11 record shall be valid.

12 ~~G.~~ E. An order of the court authorizing the inspection,
13 release, disclosure, correction or expungement of confidential
14 records shall be entered by the court only after a review of the
15 records by the court and a determination by the court, with due
16 regard for the confidentiality of the records and the privacy of
17 persons identified in the records, that a compelling reason exists
18 and such inspection, release or disclosure is necessary for the
19 protection of a legitimate public or private interest.

20 Except for district attorney records, any court order
21 authorizing the disclosure, release or inspection of a confidential
22 juvenile record may be conditioned on such terms and restrictions as
23 the court deems necessary and appropriate.

24

1 ~~H.~~ F. Upon receiving a written request for inspection, release,
2 disclosure, or correction of a juvenile record, the court shall
3 determine whether the record of a juvenile falls under one of the
4 exceptions listed in subsection C of this section. If the record
5 falls under one of the exceptions in subsection C of this section,
6 the court shall issue an order authorizing inspection, release,
7 disclosure or correction of the juvenile record. If the release of
8 a juvenile record is authorized by the court, the Office of Juvenile
9 Affairs shall provide information to the requestor regarding the
10 location of the juvenile record to be released.

11 ~~F.~~ G. Any agency or person may seek an order from the juvenile
12 court prohibiting the release of confidential information subject to
13 disclosure without an order of the court pursuant to Section 620.6
14 of Title 10 of the Oklahoma Statutes or any provision of this
15 chapter. The court may, for good cause shown, prohibit the release
16 of such information or authorize release of the information upon
17 such conditions as the court deems necessary and appropriate.

18 ~~J.~~ H. In accordance with the provisions of the Juvenile
19 Offender Tracking Program and Section 620.6 of Title 10 of the
20 Oklahoma Statutes:

21 1. Information included in the records listed in subsection A
22 of this section may be entered in and maintained in the Juvenile
23 Justice Information System and other automated information systems

24

1 related to services to children and youth whether or not the record
2 is confidential or open; and

3 2. The information systems may be accessed by participating
4 agencies as defined by this chapter or as otherwise provided by law.

5 ~~K.~~ I. The court may authorize a designated person to review
6 juvenile court confidential reports and records and collect
7 statistical information and other abstract information for research
8 purposes. Such authorization shall be in writing and shall state
9 specifically the type of information which may be reviewed and
10 reported.

11 Each person granted permission to inspect confidential reports
12 and records for research purposes shall present a notarized
13 statement to the court stating that the names of juveniles, parents
14 and other persons as may be required by the court to be confidential
15 will remain confidential.

16 ~~L.~~ J. Nothing contained in the provisions of Section 620.6 of
17 Title 10 of the Oklahoma Statutes or any provision of this chapter
18 shall be construed as:

19 1. Authorizing the inspection of records or the disclosure of
20 information contained in records relating to the provision of
21 benefits or services funded, in whole or in part, with federal
22 funds, except in accord with federal statutes and regulations
23 governing the receipt or use of such funds;

24

1 2. Authorizing the disclosure of information required to be
2 kept confidential by Section 7505-1.1, 7506-1.1 or 7510-1.5 of ~~this~~
3 ~~title~~ Title 10 of the Oklahoma Statutes, the Oklahoma Adoption Code
4 or disclosure of any other confidential record pursuant to the
5 provisions of this chapter;

6 3. Abrogating any privilege, including the attorney-client
7 privilege, or affecting any limitation on such privilege found in
8 any other statutes;

9 4. Limiting or otherwise affecting access of parties to a
10 juvenile proceeding to any records filed with or submitted to the
11 court;

12 5. Limiting or otherwise affecting access of agencies to
13 information subject to disclosure, review or inspection by contract
14 or as a condition for the receipt of public funds or participation
15 in any program administered by the agency;

16 6. Prohibiting the Office of Juvenile Affairs from summarizing
17 the outcome of an investigation to the person who reported a known
18 or suspected instance of child abuse or neglect; or

19 7. Prohibiting the person or agency conducting a preliminary
20 inquiry relating to an alleged delinquent act from providing
21 information, as to the disposition of the matter by the district
22 attorney, to the person or agency which referred the matter,
23 including but not limited to whether a petition was filed or an
24 alternative action taken, and the basis for such action and the

1 terms of any agreement entered into by the child for payment of
2 restitution, and including but not limited to provisions for
3 community services.

4 ~~M.~~ K. The confidential records listed in subsection A of this
5 section may be inspected and their contents disclosed without a
6 court order to a school district in which the child who is the
7 subject of the record is currently enrolled or has been presented
8 for enrollment. The inspection of records and disclosure authorized
9 by this subsection may be limited to summaries or to information
10 directly necessary for the purpose of such inspection or disclosure.
11 Upon request by the school district, the agency in possession of the
12 records shall provide in writing, digitally, or by delivery to a
13 secure facsimile line, the requested information to the school
14 district within five (5) business days upon receipt of the request.
15 Any records disclosed as provided by this subsection shall remain
16 confidential. The use of any information shall be limited to the
17 purposes for which disclosure is authorized.

18 ~~N.~~ L. The records of a case for which a petition is not filed
19 shall be subject to the provisions of Chapter 6 of the Oklahoma
20 Juvenile Code.

21 SECTION 17. AMENDATORY 10A O.S. 2011, Section 2-6-108,
22 is amended to read as follows:

23 Section 2-6-108. A. No adjudication by the court upon the
24 status of a child in a juvenile proceeding shall operate to impose

1 any of the civil disabilities ordinarily resulting from conviction
2 of a crime, nor shall a child be deemed a criminal by reason of a
3 juvenile adjudication.

4 B. The court ~~may~~ shall order the records of a person alleged to
5 be delinquent to be sealed as follows:

6 1. When the person has been alleged to be delinquent and:

7 a. one (1) year has elapsed from the later of:

8 (1) dismissal or closure of the case by the court, or

9 (2) notice to the court by the Office of Juvenile

10 Affairs or a juvenile bureau of final discharge

11 of such person from the supervision of the Office

12 of Juvenile Affairs or juvenile bureau, and

13 b. the person has not been found guilty of or admitted to

14 the commission of a subsequent criminal offense in

15 either a juvenile or adult proceeding, and

16 c. no juvenile or adult proceeding for a criminal offense

17 is pending;

18 2. When a juvenile court intake has been completed and:

19 a. the case has been dismissed, or

20 b. no petition has been filed pending fulfillment of

21 conditions of a voluntary probation, or

22 c. a petition has been filed but no adjudication has

23 occurred pending the fulfillment of conditions of a

24 preadjudicatory probation;

1 3. When a juvenile participates in a court-approved alternative
2 diversion program for first-time offenders 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; or

8 4. When a juvenile participates in a court-approved military
9 mentor program and:

10 a. the juvenile presents satisfactory evidence to the
11 court that the juvenile has successfully completed the
12 program, and

13 b. the court dismisses the case at the conclusion of the
14 deferral period.

15 The records may be sealed one (1) year after such dismissal or
16 completion of the conditions of a voluntary or preadjudicatory
17 probation, alternative diversion program for first-time offenders,
18 or military mentor program or upon the person attaining the age of
19 eighteen (18) years in the discretion of the court.

20 C. ~~The Administrative Office of the Courts shall establish on~~
21 ~~or before January 1, 1994, a system for sealing records as required~~
22 ~~by subsection B of this section and records shall be sealed in~~
23 ~~accordance with the procedures established pursuant to said system.~~

1 ~~D.~~ Upon the sealing of any record of a person alleged to be
2 delinquent pursuant to this title, the record and official actions
3 subject to the order shall be deemed never to have occurred, and the
4 person who is the subject of the record and all juvenile justice
5 agencies may properly reply upon any inquiry in the matter that no
6 such action ever occurred and no such record exists with respect to
7 such person.

8 ~~E. D.~~ 1. ~~Upon the entry of an order to seal a juvenile court~~
9 ~~record, the~~ The court clerk shall seal the juvenile court record
10 indicated in the court's order, except that a confidential index
11 shall be maintained for the purpose of locating records subject to
12 inspection or release pursuant to subsection ~~G~~ F of this section.

13 2. When notified by the court clerk of a court order sealing a
14 juvenile court record, the law enforcement agency having records
15 pertaining to the person shall seal the records as ordered, except
16 basic identification information shall be maintained.

17 3. Except where such documents are necessary to maintain state
18 or federal funding, the juvenile court personnel records pertaining
19 to the person shall be sealed.

20 ~~F. E.~~ Members of the judiciary, district attorneys, the
21 defendant, the defendant's counsel and employees of juvenile
22 bureaus, the Office of Juvenile Affairs assigned juvenile court
23 intake responsibilities, and the Department of Corrections may
24 access records that have been sealed pursuant to this section

1 without a court order for the purpose of determining whether to
2 dismiss an action, seek a voluntary probation, file a petition, or
3 for purposes of sentencing or placement in a case where the person
4 who is the subject of the sealed record is alleged to have committed
5 a subsequent juvenile delinquent act or any adult criminal offense.
6 Provided, any record sealed pursuant to this section may be used in
7 a subsequent juvenile delinquent or adult prosecution only after the
8 issuance of a court order unsealing the record.

9 ~~G.~~ F. The court may issue an order unsealing sealed juvenile
10 court records, for use for the following purposes:

11 1. In subsequent cases against the same child pursuant to this
12 title;

13 2. In an adult criminal proceeding pursuant to Section 2-2-403
14 or 2-5-101 of this title;

15 3. Upon conviction of a criminal offense in an adult
16 proceeding, in connection with the sentencing of such person;

17 4. If the person is placed in the custody or under the
18 supervision of the Department of Corrections;

19 5. In accordance with the guidelines adopted pursuant to the
20 Juvenile Offender Tracking Program and Section 620.6 of Title 10 of
21 the Oklahoma Statutes, for maintaining juvenile justice and criminal
22 justice statistical information;

23 6. For the purpose of a criminal investigation; or
24

1 7. When the court finds that there is a compelling reason and
2 it is in the interest of justice to order the record unsealed.

3 ~~H.~~ G. Any person or agency having a legitimate interest in a
4 delinquency case or proceeding may petition the court for an order
5 unsealing a juvenile court record. Upon the filing of a petition to
6 unseal any juvenile court record, the court shall set a date for a
7 hearing and shall provide thirty (30) ~~days~~ days of notice to all
8 interested parties. The hearing may be closed at the court's
9 discretion. If, after a hearing, the court determines that there is
10 any reason enumerated in subsection ~~G~~ F of this section and it is
11 necessary for the protection of a legitimate public or private
12 interest to unseal the records, the court shall order the record
13 unsealed.

14 ~~F.~~ H. Any record ordered to be sealed pursuant to this section,
15 if not unsealed within ten (10) years of the order, shall be
16 obliterated or destroyed at the end of the ten-year period.

17 SECTION 18. AMENDATORY 10A O.S. 2011, Section 2-7-303,
18 is amended to read as follows:

19 Section 2-7-303. The Office of Juvenile Affairs, in its role as
20 planner and coordinator for juvenile justice and delinquency
21 prevention services, is hereby authorized to and shall enter into
22 contracts for the establishment and maintenance of community-based
23 facilities, services and programs which may include, but are not
24 limited to: Emergency shelter, diagnosis, crisis intervention,

1 counseling, group work, case supervision, job placement, school-
2 based prevention programs, alternative diversion programs for first-
3 time offenders and for youth alleged or adjudicated to be in need of
4 supervision, recruitment and training of volunteers, consultation,
5 case management services, and agency coordination with emphasis on
6 keeping youth with a high potential for delinquency out of the
7 traditional juvenile justice process and community intervention
8 centers. The Office of Juvenile Affairs shall enter into contracts
9 with Youth Services Agencies for core community-based facilities,
10 programs and services based on need as indicated in its State Plan
11 for Youth Services Agencies.

12 SECTION 19. AMENDATORY 10A O.S. 2011, Section 2-7-305,
13 is amended to read as follows:

14 Section 2-7-305. A. The Office of Juvenile Affairs is
15 authorized to enter into contracts to establish or maintain
16 community-based youth service programs, shelters and community
17 intervention centers out of local, state and federal monies.

18 B. The Office of Juvenile Affairs shall take all necessary
19 steps to develop and implement a diversity of community services and
20 community-based residential care as needed to provide for adequate
21 and appropriate community-based care, treatment and rehabilitation
22 of children in the care, custody, and supervision of the Office of
23 Juvenile Affairs. Such community services and residential care
24

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

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

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

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

23 D. 1. The Office of Juvenile Affairs shall implement programs
24 for establishment and continued operation of community intervention

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

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

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

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

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

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

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

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 care of the juvenile. Such person and the
6 juvenile may review the assessment instrument prior to
7 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 20. AMENDATORY 10A O.S. 2011, Section 2-7-501,
7 is amended to read as follows:

8 Section 2-7-501. A. The Office of Juvenile Affairs shall
9 provide intake and probation services for juveniles in all counties
10 not having a juvenile bureau and parole services in all counties of
11 the state and may enter into agreements to supplement probationary
12 services to juveniles in any county. The Office of Juvenile Affairs
13 may participate in federal programs for juvenile probation officers,
14 and may apply for, receive, use and administer federal funds for
15 such purpose.

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

22 1. Information gained from the substance abuse assessment
23 pursuant to this subsection shall be used only for substance abuse
24 treatment and for no other purpose. The results shall not be used

1 in any evidentiary or fact-finding hearing in a juvenile proceeding
2 or as the sole basis for the revocation of a community-based
3 placement or participation in a community-based program.

4 2. The results of the substance abuse assessment may be given
5 to the intake, probation or parole counselor of the child, the
6 parent or guardian of the child or to the attorney of the child. In
7 accordance with the Juvenile Offender Tracking Program and Section
8 620.6 of Title 10 of the Oklahoma Statutes, the counselor may also
9 provide the results of the substance abuse assessment to medical
10 personnel, therapists, school personnel or others for use in the
11 treatment and rehabilitation of the child.

12 C. The Office of Juvenile Affairs and the juvenile bureaus
13 shall implement:

14 1. ~~Court~~ Use of a common court intake risk-assessment risk and
15 needs assessment for children alleged or adjudicated to be
16 delinquent;

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

19 3. A case management system for ensuring appropriate:

- 20 a. diversion of youth from the juvenile justice system,
- 21 b. services for and supervision of all youth on pre-
22 adjudicatory or postadjudicatory probation or on
23 parole, and for juvenile offenders in the custody of
24 the Office of Juvenile Affairs, and

1 c. intensive supervision of juvenile offenders and
2 communication between law enforcement and juvenile
3 court personnel and others regarding such offenders;
4 and

5 4. Guidelines for juvenile court personnel recommendations to
6 district attorneys regarding the disposition of individual cases by
7 district attorneys.

8 D. 1. The Office of Juvenile Affairs shall establish directly
9 and by contract, services including, but not limited to:

- 10 a. misdemeanor and nonserious first-time offender
11 programs,
- 12 b. tracking and mentor services,
- 13 c. weekend detention,
- 14 d. five-day out-of-home sanction placements,
- 15 e. short-term thirty-day intensive, highly structured
16 placements,
- 17 f. transitional programs,
- 18 g. substance abuse treatment and diagnostic and
19 evaluation programs, and
- 20 h. day treatment programs.

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

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

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

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

- 12 a. structured interviews,
- 13 b. standardized literacy testing instruments which
14 measure the educational proficiency of the child, and
- 15 c. any other measure used to determine:
 - 16 (1) whether a child is reading at an age-appropriate
17 level, and
 - 18 (2) the capacity of the child to read at such level.

19 3. The results of the literacy skills assessment required
20 pursuant to this subsection shall be made available to the court by
21 the district attorney for use in the disposition phase; provided,
22 however, the results shall not be used in any evidentiary or fact-
23 finding hearing in a juvenile proceeding to determine whether a
24 juvenile should be adjudicated. Provided, further, such results

1 shall not be used as the sole basis for the revocation of a
2 community-based placement or participation in a community-based
3 program.

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

- 6 (1) the child's intake, probation or parole
7 counselor,
8 (2) the parent or guardian of the child, or
9 (3) the child's attorney.

10 b. In accordance with the Juvenile Offender Tracking
11 Program and Section 620.6 of Title 10 of the Oklahoma
12 Statutes, the counselor may also provide the results
13 of the literacy skills assessment to therapists,
14 school personnel or others for use in the training and
15 rehabilitation of the child.

16 5. a. If the child is a juvenile placed in an institution or
17 facility operated by the Office of Juvenile Affairs,
18 the child shall be assessed and a literacy improvement
19 program shall be implemented in accordance with
20 Sections 2-7-601 and 2-7-603 of this title.

21 b. If the child is adjudicated delinquent or in need of
22 supervision or is being detained as part of a deferral
23 of prosecution agreement, deferral to file agreement
24 or a deferral sentence agreement, and the results of

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

16 SECTION 21. AMENDATORY 21 O.S. 2011, Section 1283, is
17 amended to read as follows:

18 Section 1283. A. Except as provided in subsection B of this
19 section, it shall be unlawful for any person convicted of any felony
20 in any court of this state or of another state or of the United
21 States to have in his or her possession or under his or her
22 immediate control, or in any vehicle which the person is operating,
23 or in which the person is riding as a passenger, or at the residence
24 where the convicted person resides, any pistol, imitation or

1 homemade pistol, altered air or toy pistol, machine gun, sawed-off
2 shotgun or rifle, or any other dangerous or deadly firearm.

3 B. Any person who has previously been convicted of a nonviolent
4 felony in any court of this state or of another state or of the
5 United States, and who has received a full and complete pardon from
6 the proper authority and has not been convicted of any other felony
7 offense which has not been pardoned, shall have restored the right
8 to possess any firearm or other weapon prohibited by subsection A of
9 this section, the right to apply for and carry a concealed handgun
10 pursuant to the Oklahoma Self-Defense Act and the right to perform
11 the duties of a peace officer, gunsmith, or for firearms repair.

12 C. It shall be unlawful for any person supervised by the
13 Department of Corrections or any division thereof to have in his or
14 her possession or under his or her immediate control, or at his or
15 her residence, or in any passenger vehicle which the supervised
16 person is operating or is riding as a passenger, any pistol, shotgun
17 or rifle, including any imitation or homemade pistol, altered air or
18 toy pistol, shotgun or rifle, while such person is subject to
19 supervision, probation, parole or inmate status.

20 D. It shall be unlawful for any person previously adjudicated
21 as a delinquent child ~~or a youthful offender~~ for the commission of
22 an offense, ~~which would have constituted a felony offense if~~
23 ~~committed by an adult,~~ in violation of Section 645, 650, 650.2, 652,
24 681 or 798 of this title or as a youthful offender for the

1 commission of any felony offense to have in the person's possession
2 or under the person's immediate control, or have in any vehicle
3 which he or she is driving or in which the person is riding as a
4 passenger, or at the person's residence, any pistol, imitation or
5 homemade pistol, altered air or toy pistol, machine gun, sawed-off
6 shotgun or rifle, or any other dangerous or deadly firearm within
7 ten (10) years after such adjudication; provided, that nothing in
8 this subsection shall be construed to prohibit the placement of the
9 person in a home with a full-time duly appointed peace officer who
10 is certified by the Council on Law Enforcement Education and
11 Training (CLEET) pursuant to the provisions of Section 3311 of Title
12 70 of the Oklahoma Statutes.

13 E. Any person having been issued a concealed handgun license
14 pursuant to the provisions of the Oklahoma Self-Defense Act and who
15 thereafter knowingly or intentionally allows a convicted felon or
16 adjudicated delinquent ~~or a youthful offender~~ as prohibited by the
17 provisions of subsection A, C, or D of this section to possess or
18 have control of any pistol authorized by the Oklahoma Self-Defense
19 Act shall, upon conviction, be guilty of a felony punishable by a
20 fine not to exceed Five Thousand Dollars (\$5,000.00). In addition,
21 the person shall have the handgun license revoked by the Oklahoma
22 State Bureau of Investigation after a hearing and determination that
23 the person has violated the provisions of this section.

24

1 F. Any convicted or adjudicated person violating the provisions
2 of this section shall, upon conviction, be guilty of a felony
3 punishable as provided in Section 1284 of this title.

4 G. For purposes of this section, "sawed-off shotgun or rifle"
5 shall mean any shotgun or rifle which has been shortened to any
6 length.

7 H. For purposes of this section, "altered toy pistol" shall
8 mean any toy weapon which has been altered from its original
9 manufactured state to resemble a real weapon.

10 I. For purposes of this section, "altered air pistol" shall
11 mean any air pistol manufactured to propel projectiles by air
12 pressure which has been altered from its original manufactured
13 state.

14 SECTION 22. AMENDATORY 43A O.S. 2011, Section 5-507, is
15 amended to read as follows:

16 Section 5-507. A. No minor who is ~~taken~~ placed into emergency,
17 temporary or permanent custody of a state agency pursuant to ~~Section~~
18 ~~1-4-201~~ of Title 10A of the Oklahoma Statutes ~~as an alleged deprived~~
19 ~~child, or who has been adjudicated a ward of the court~~ shall be
20 admitted to a hospital or mental health or substance abuse treatment
21 facility:

- 22 1. On an emergency basis except as provided by this section;
- 23 2. For inpatient treatment except upon a commitment order of
24 the court pursuant to the provisions of subsection D of this section

1 and after a finding that the minor requires such services as
2 provided by Section 5-512 of this title.

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

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

19 D. If after an inpatient or outpatient mental health evaluation
20 it appears that the minor may require inpatient treatment, the
21 district attorney shall file a petition as provided by Section 5-509
22 of this title within three (3) days after receiving the mental
23 health evaluation requesting an order committing the minor to a
24 facility for inpatient treatment. After the filing of a petition

1 and upon issuance of a prehearing detention order, the minor may be
2 detained in the facility for no longer than necessary for a hearing
3 on the petition as provided by Section 5-510 of this title or
4 further order of the court.

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

10 SECTION 23. AMENDATORY 70 O.S. 2011, Section 24-101.3,
11 is amended to read as follows:

12 Section 24-101.3 A. Any student who is guilty of an act
13 described in paragraph 1 of subsection C of this section may be
14 suspended out-of-school in accordance with the provisions of this
15 section. Each school district board of education shall adopt a
16 policy with procedures which provides for out-of-school suspension
17 of students. The policy shall address the term of the out-of-school
18 suspension, provide an appeals process as described in subsection B
19 of this section, and provide that before a student is suspended out-
20 of-school, the school or district administration shall consider and
21 apply, if appropriate, alternative in-school placement options that
22 are not to be considered suspension, such as placement in an
23 alternative school setting, reassignment to another classroom, or
24 in-school detention. The policy shall address education for

1 students subject to the provisions of subsection D of this section
2 and whether participation in extracurricular activities shall be
3 permitted.

4 B. 1. Students suspended out-of-school for ten (10) or fewer
5 days shall have the right to appeal the decision of the
6 administration as provided in the policy required in subsection A of
7 this section. The policy shall specify whether appeals for short-
8 term suspensions as provided in this subsection shall be to a local
9 committee composed of district administrators or teachers or both,
10 or to the district board of education. Upon full investigation of
11 the matter, the committee or board shall determine the guilt or
12 innocence of the student and the reasonableness of the term of the
13 out-of-school suspension. If the policy requires appeals for short-
14 term suspensions to a committee, the policy adopted by the board
15 may, but is not required to, provide for appeal of the committee's
16 decision to the board.

17 2. Students suspended out-of-school for more than ten (10) days
18 and students suspended pursuant to the provisions of paragraph 2 of
19 subsection C of this section may request a review of the suspension
20 with the administration of the district. If the administration does
21 not withdraw the suspension, the student shall have the right to
22 appeal the decision of the administration to the district board of
23 education. Except as otherwise provided for in paragraph 2 of
24 subsection C of this section, no out-of-school suspension shall

1 extend beyond the current semester and the succeeding semester.
2 Upon full investigation of the matter, the board shall determine the
3 guilt or innocence of the student and the reasonableness of the term
4 of the out-of-school suspension. A board of education may conduct
5 the hearing and render the final decision or may appoint a hearing
6 officer to conduct the hearing and render the final decision. The
7 decision of the district board of education or the hearing officer,
8 if applicable, shall be final.

9 C. 1. Students who are guilty of any of the following acts may
10 be suspended out-of-school by the administration of the school or
11 district:

- 12 a. violation of a school regulation,
- 13 b. ~~immorality,~~
- 14 c. ~~adjudication as a delinquent for an offense that is~~
15 ~~not a violent offense. For the purposes of this~~
16 ~~section, "violent offense" shall include those~~
17 ~~offenses listed as the exceptions to the term~~
18 ~~"nonviolent offense" as specified in Section 571 of~~
19 ~~Title 57 of the Oklahoma Statutes. "Violent offense"~~
20 ~~shall include the offense of assault with a dangerous~~
21 ~~weapon but shall not include the offense of assault,~~
- 22 d. possession of an intoxicating beverage, low-point
23 beer, as defined by Section 163.2 of Title 37 of the
24 Oklahoma Statutes, or missing or stolen property if

1 the property is reasonably suspected to have been
2 taken from a student, a school employee, or the school
3 during school activities, and

4 ~~e. c.~~ possession of a dangerous weapon or a controlled
5 dangerous substance, as defined in the Uniform
6 Controlled Dangerous Substances Act. Possession of a
7 firearm shall result in out-of-school suspension as
8 provided in paragraph 2 of this subsection.

9 2. Any student found in possession of a firearm while on any
10 public school property or while in any school bus or other vehicle
11 used by a public school for transportation of students or teachers
12 shall be suspended out-of-school for a period of not less than one
13 (1) year, to be determined by the district board of education
14 pursuant to the provisions of this section. The term of the
15 suspension may be modified by the district superintendent on a case-
16 by-case basis. For purposes of this paragraph the term "firearm"
17 shall mean and include all weapons as defined by 18 U.S.C., Section
18 921.

19 3. Any student in grades six through twelve found to have
20 assaulted, attempted to cause physical bodily injury, or acted in a
21 manner that could reasonably cause bodily injury to a school
22 employee or a person volunteering for a school as prohibited
23 pursuant to Section ~~§~~ 6-146 of this ~~act~~ title shall be suspended
24 for the remainder of the current semester and the next consecutive

1 semester, to be determined by the board of education pursuant to the
2 provisions of this section. The term of the suspension may be
3 modified by the district superintendent on a case-by-case basis.

4 D. At its discretion a school district may provide an education
5 plan for students suspended out-of-school for five (5) or fewer days
6 pursuant to the provisions of this subsection. The following
7 provisions shall apply to students who are suspended out-of-school
8 for more than five (5) days and who are guilty of acts listed in
9 subparagraphs ~~a~~ a ~~and b~~ and c ~~and d~~ of paragraph 1 of subsection C of
10 this section. Upon the out-of-school suspension, the parent or
11 guardian of a student suspended out-of-school pursuant to the
12 provisions of this subsection shall be responsible for the provision
13 of a supervised, structured environment in which the parent or
14 guardian shall place the student and bear responsibility for
15 monitoring the student's educational progress until the student is
16 readmitted into school. The school administration shall provide the
17 student with an education plan designed for the eventual
18 reintegration of the student into school which provides only for the
19 core units in which the student is enrolled. A copy of the
20 education plan shall also be provided to the student's parent or
21 guardian. For the purposes of this section, the core units shall
22 consist of the minimum English, mathematics, science, social studies
23 and art units required by the State Board of Education for grade
24 completion in grades kindergarten through eight and for high school

1 graduation in grades nine through twelve. The plan shall set out
2 the procedure for education and shall address academic credit for
3 work satisfactorily completed.

4 E. A student who has been suspended out-of-school from a public
5 or private school in the State of Oklahoma or another state for a
6 violent act or an act showing deliberate or reckless disregard for
7 the health or safety of faculty or other students shall not be
8 entitled to enroll in a public school of this state, and no public
9 school shall be required to enroll the student, until the terms of
10 the suspension have been met or the time of suspension has expired.

11 F. No public school of this state shall be required to provide
12 education services in the regular school setting to any student who
13 has been adjudicated as a delinquent for an offense defined in
14 Section 571 of Title 57 of the Oklahoma Statutes as an exception to
15 a nonviolent offense or convicted as an adult of an offense defined
16 in Section 571 of Title 57 of the Oklahoma Statutes as an exception
17 to a nonviolent offense, who has been removed from a public or
18 private school in the State of Oklahoma or another state by
19 administrative or judicial process for a violent act or an act
20 showing deliberate or reckless disregard for the health or safety of
21 faculty or other students, or who has been suspended as provided for
22 in paragraph 3 of subsection C of this section until the school in
23 which the student is subsequently enrolled determines that the
24 student no longer poses a threat to self, other students or school

1 district faculty or employees. Until the school in which such
2 student subsequently enrolls or re-enrolls determines that the
3 student no longer poses a threat to self, other students or school
4 district faculty or employees, the school may provide education
5 services through an alternative school setting, home-based
6 instruction, or other appropriate setting. If the school provides
7 education services to such student at a district school facility,
8 the school shall notify any student or school district faculty or
9 employee victims of such student, when known, and shall ensure that
10 the student will not be allowed in the general vicinity of or
11 contact with a victim of the student, provided such victim notifies
12 the school of the victim's desire to refrain from contact with the
13 offending student.

14 G. Students suspended out-of-school who are on an
15 individualized education plan pursuant to the Individuals with
16 Disabilities Education Act, P.L. No. 101-476, or who are subject to
17 the provisions of subsection F of this section and who are on an
18 individualized education plan shall be provided the education and
19 related services in accordance with the student's individualized
20 education plan.

21 H. A student who has been suspended for a violent offense which
22 is directed towards a classroom teacher shall not be allowed to
23 return to that teacher's classroom without the approval of that
24 teacher.

1 I. No school board, administrator or teacher may be held
2 civilly liable for any action taken in good faith which is
3 authorized by this section.

4 SECTION 24. REPEALER 10 O.S. 2011, Sections 22 and 24,
5 are hereby repealed.

6 SECTION 25. REPEALER 10 O.S. 2011, Sections 130.1,
7 130.2, 130.3, 130.4, 130.5, 130.6, 130.7, 130.8 and 130.9, are
8 hereby repealed.

9 SECTION 26. REPEALER 10 O.S. 2011, Section 1101.1, is
10 hereby repealed.

11 SECTION 27. REPEALER 10A O.S. 2011, Section 2-2-806, is
12 hereby repealed.

13 SECTION 28. This act shall become effective November 1, 2012.

14

15 53-2-9944 CJB 03/01/12

16

17

18

19

20

21

22

23

24