

1 ENGROSSED HOUSE
2 BILL NO. 2740

By: Peters of the House

3 and

4 David of the Senate

5
6
7 (children and juvenile code - amending 14 sections
8 in Title 10A - Youthful Offender Act - educational
9 needs - repealing 10A O.S., Section 2-5-101 -
10 certification of juveniles - codification -
11 effective date)

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

15 SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-5-201, is
16 amended to read as follows:

17 Section 2-5-201. A. Sections 2-5-201 through 2-5-213 of this
18 title shall be known and may be cited as the "Youthful Serious
19 Juvenile Offender Act". The ~~Youthful Serious Juvenile~~ Offender Act
20 shall be implemented beginning January 1, ~~1998~~ 2013.

21 B. The Legislature recognizes that juveniles who commit certain
22 serious offenses need a greater level of security and treatment to
23 improve the likelihood of success in rehabilitation and
24 reintegration into society. It is the intent of the Legislature to

1 provide a sentencing alternative for courts and, where appropriate,
2 a treatment alternative in dealing with such offenders. It is the
3 purpose of the Serious Juvenile Offender Act to:

4 1. Provide a judicial framework for prosecuting a juvenile as a
5 serious juvenile offender and properly disposing of such cases,
6 including establishing time limitations for prosecution and
7 disposition and ensuring an expedited decision by the court on how
8 the juvenile will be prosecuted;

9 2. Provide that the decision of the court shall be based on the
10 risks and needs assessment of the juvenile, amenability to
11 rehabilitation including a review of the complete social,
12 educational, and certification evaluations of the juvenile as well
13 as the nature of the current charge or charges and past contacts
14 with law enforcement, the juvenile courts, juvenile probation, and
15 any commitments to juvenile institutions;

16 3. Allow the court discretion to continue reviewing the
17 progress of the juvenile in treatment and modify the disposition and
18 individualized treatment plan ordered by the court to ensure the
19 rehabilitation of the juvenile;

20 4. Cognitively and behaviorally redirect the juvenile through
21 the delivery of enhanced and individualized educational, vocational,
22 life, socialization, and independent living skills training,
23 counseling and public service opportunities whenever possible with
24

1 the goal of equipping the juvenile to effectively participate in
2 society and prepare for a gradual reintegration into the community;

3 5. Segregate by sight and sound the placement of the juvenile
4 with adults prior to bridging;

5 6. Require individual assessments for the juvenile and
6 individualized treatment plans based upon those assessments rather
7 than being based solely on the nature of the offense;

8 7. Develop individualized and effective treatment programs in
9 the community in order to provide rehabilitation for juveniles
10 adjudicated as serious juvenile offenders;

11 8. Develop an individualized reintegration plan and program for
12 every serious juvenile offender who is released back to the
13 community after placement in a secure facility with an
14 individualized plan and program involving ongoing monitoring,
15 treatment and support;

16 9. Authorize the Office of Juvenile Affairs to supervise the
17 juvenile while on parole and impose sanctions to ensure compliance;

18 10. Authorize the court to require the Office of Juvenile
19 Affairs to evaluate and implement as part of the treatment plan of
20 the serious juvenile offender, if necessary, a treatment plan for
21 the parents or custodian of the juvenile to ensure a safe and
22 healthy environment to which the juvenile can return;

23 11. When appropriate, require the juvenile to make restitution
24 to the victim of the offense;

1 12. Provide a means by which a juvenile, who has been sentenced
2 as a serious juvenile offender, may be bridged into the custody or
3 supervision of the Department of Corrections, if necessary; and

4 13. Provide a means by which the records of the serious
5 juvenile offender may be expunged.

6 C. It is the intent of the Legislature that all serious
7 juvenile offenders have access to services provided under the
8 Serious Juvenile Offender Act for a period of time necessary to
9 complete an individualized treatment plan or until the serious
10 juvenile offender reaches the maximum age of twenty-one (21) years,
11 regardless of the age of the serious juvenile offender at the time
12 of sentencing. To deny access to an otherwise eligible older youth
13 without cause is to circumvent the original intent of the
14 Legislature in creating the Serious Juvenile Offender Act.

15 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-5-202, is
16 amended to read as follows:

17 Section 2-5-202. ~~A.~~ For the purposes of the ~~Youthful~~ Serious
18 Juvenile Offender Act:

19 1. "~~Youthful~~ Serious juvenile offender" means a person:

- 20 a. thirteen (13) or fourteen (14) years of age who is
21 charged with murder in the first degree and certified
22 as a ~~youthful~~ serious juvenile offender as provided by
23 Section 2-5-205 of this title,

1 b. fifteen (15), sixteen (16), or seventeen (17) years of
2 age and charged with a crime listed in subsection A of
3 Section 2-5-206 of this title, and

4 c. sixteen (16) or seventeen (17) years of age and
5 charged with a crime listed in subsection B of Section
6 2-5-206 of this title,

7 if the offense was committed on or after January 1, 1998;

8 2. "Sentenced as a ~~youthful~~ serious juvenile offender" means

9 the imposition of a court order making disposition of a ~~youthful~~

10 serious juvenile offender as provided by Section 2-5-209 of this

11 title which shall constitute an adult criminal sentence if the

12 ~~youthful~~ serious juvenile offender is transferred to the custody or

13 supervision of the Department of Corrections; ~~and~~

14 3. "Next friend" means an individual or executive of an

15 organization who has assumed a parental role without formal legal

16 proceedings, but to all objective observers is readily identified as

17 custodian or guardian in fact;

18 4. "Certification evaluation" means an assessment of the

19 educational, academic, behavioral, emotional, psychological, family

20 and social aspects of the serious juvenile offender for the purpose

21 of making treatment recommendations which shall be conducted by a

22 qualified licensed mental health professional as evidenced by

23 documented training and experience in the administration, scoring

1 and interpretation of a broad spectrum of recognized psychometric
2 assessments;

3 5. "Individualized treatment plan" means the written
4 comprehensive plan, based on a risk and needs assessment that
5 outlines and defines the course of treatment for a serious juvenile
6 offender. The individualized treatment plan delineates the goals,
7 objectives, resources, services, and participants in the treatment
8 process. Goals indicated in the treatment plan not only address
9 correction of the criminal behavior that resulted in the serious
10 juvenile offender conviction, but also focus on other components in
11 the life of the serious juvenile offender that may negatively
12 influence the outcome. The individualized treatment plan considers
13 the history of the serious juvenile offender, family relationships,
14 substance abuse and dependence issues, and mental health issues of
15 the serious juvenile offender and the community resources available.
16 Priority is given to goals that address criminogenic needs, which
17 include the offending behavior pattern, peer relationships, criminal
18 thinking and attitudes, and personality factors. The individualized
19 treatment plan includes individualized educational, vocational,
20 socialization, and independent living and life skills that will be
21 acquired by the serious juvenile offender and the services that will
22 assist in achieving the goals set forth in the plan. The
23 individualized treatment plan should be revised periodically as the
24 serious juvenile offender completes treatment and additional needs

1 and resources are identified to be included in the plan or a change
2 of placement occurs;

3 6. "Custodial interrogation" means questioning of a serious
4 juvenile offender under eighteen (18) years of age while that
5 serious juvenile offender is in law enforcement custody or while
6 that serious juvenile offender is being deprived of freedom of
7 action in any significant way by a law enforcement officer, employee
8 of the court, or employee of the Office of Juvenile Affairs.

9 Custodial interrogation shall conform to all requirements for the
10 interrogation of adult criminal offenders. The term "custodial
11 interrogation" shall not be deemed to mean questioning of a serious
12 juvenile offender by a public school administrator or teacher, so
13 long as such questioning is not being conducted on behalf of a law
14 enforcement officer, an employee of the court or an employee of the
15 Office of Juvenile Affairs. Any information gained from
16 noncustodial questioning of a child or serious juvenile offender by
17 a public school administrator or teacher concerning a wrongful act
18 committed on public school property shall be admissible into
19 evidence against the serious juvenile offender;

20 7. "Motion for certification as a juvenile" means a motion
21 filed by an accused asking the court to transfer the case of the
22 accused to the Juvenile Division of the District Court where the
23 case will proceed as a delinquent matter;

1 8. "Motion for certification as a serious juvenile offender"
2 means a motion filed by the accused requesting that the accused be
3 prosecuted as a serious juvenile offender rather than as an adult;

4 9. "Motion for imposition of an adult sentence" means a motion
5 filed by the state pursuant to the guidelines set forth in Section
6 2-5-207 of this title asking the court to allow the accused to be
7 prosecuted and sentenced as if the accused were an adult at the time
8 of the alleged offense;

9 10. "Motion to transfer the serious juvenile offender to the
10 Department of Corrections" or "motion to bridge" means a motion of
11 the state asking the court to remove a serious juvenile offender
12 from the custody or supervision of the Office of Juvenile Affairs
13 and sentencing the serious juvenile offender as an adult pursuant to
14 the criteria set forth in subsection B of Section 2-5-209 of this
15 title; and

16 11. "Risk and needs assessment" means an offense-specific
17 evaluation of the treatment needs of an accused which shall include,
18 but not be limited to, the history of delinquent adjudications of
19 the accused, social information, education, employment, substance
20 abuse and mental health issues, as applicable. The evaluation shall
21 also include a violence risk assessment.

22 ~~B. It is the purpose of the Youthful Offender Act to better~~
23 ~~ensure the public safety by holding youths accountable for the~~
24 ~~commission of serious crimes, while affording courts methods of~~

1 ~~rehabilitation for those youths the courts determine, at their~~
2 ~~discretion, may be amenable to such methods. It is the further~~
3 ~~purpose of the Youthful Offender Act to allow those youthful~~
4 ~~offenders whom the courts find to be amenable to rehabilitation by~~
5 ~~the methods prescribed in the Youthful Offender Act to be placed in~~
6 ~~the custody or under the supervision of the Office of Juvenile~~
7 ~~Affairs for the purpose of accessing the rehabilitative programs~~
8 ~~provided by that Office.~~

9 SECTION 3. AMENDATORY 10A O.S. 2011, Section 2-5-203, is
10 amended to read as follows:

11 Section 2-5-203. A. 1. A child who is charged with having
12 violated any state statute or municipal ordinance other than as
13 provided in Sections 2-5-205 and 2-5-206 of this title shall not be
14 tried in a criminal action as an adult or a ~~youthful~~ serious
15 juvenile offender, but in a juvenile proceeding, unless certified as
16 an adult pursuant to Section 2-2-403 of this title.

17 2. However, when multiple offenses occur within the same course
18 of conduct within the same county and the person is prosecuted for
19 at least one offense as a ~~youthful~~ serious juvenile offender
20 pursuant to Section 2-5-205 or 2-5-206 of this title, then all the
21 charges may be prosecuted under the same action pursuant to the
22 provisions of the ~~Youthful~~ Serious Juvenile Offender Act, if so
23 ordered by the court. The decision to join the cases shall not be
24 appealable as a final order. If the offense listed in Section 2-5-

1 205 or Section 2-5-206 of this title is subsequently dismissed for
2 any reason, then any remaining pending charges shall be transferred
3 to the juvenile court.

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

14 C. Nothing in this section shall be construed to prevent the
15 exercise of concurrent jurisdiction by another division of the
16 district court or by municipal courts in cases involving children
17 wherein the child is charged with the violation of a state or
18 municipal traffic law or ordinance.

19 SECTION 4. AMENDATORY 10A O.S. 2011, Section 2-5-204, is
20 amended to read as follows:

21 Section 2-5-204. A. A child who is arrested for an offense
22 pursuant to subsection A or B of Section 2-5-206 of this title, or
23 who is certified as a ~~youthful~~ serious juvenile offender pursuant to
24 Section 2-5-205 of this title, shall be charged by information in

1 the same manner as provided for adults, unless the district attorney
2 files a petition alleging the child is a juvenile delinquent.

3 B. No information gained by a custodial interrogation of a
4 serious juvenile offender under eighteen (18) years of age nor any
5 evidence subsequently obtained as a result of such interrogation
6 shall be admissible into evidence against the serious juvenile
7 offender unless the custodial interrogation about any alleged
8 offense by any law enforcement officer, officer of an investigative
9 agency, employee of the court, or employee of the Office of Juvenile
10 Affairs is done in the presence of the parents, guardian, attorney,
11 adult relative, adult caretaker, or legal custodian of the serious
12 juvenile offender. No such custodial interrogation shall commence
13 until the serious juvenile offender and the parents, guardian,
14 attorney, adult relative, adult caretaker, or legal custodian of the
15 serious juvenile offender have been fully advised of the
16 constitutional and legal rights of the serious juvenile offender,
17 including the right to be represented by counsel at every stage of
18 the proceedings and the right to have counsel appointed by the court
19 if the parties are without sufficient financial means.

20 C. If the child is not otherwise represented by counsel and
21 requests an attorney prior to or during interrogation, or whenever
22 charged by information, as provided in subsection A of this section,
23 the court shall appoint an attorney, who shall not be a district
24 attorney, for the child regardless of any attempted waiver by the

1 parent, legal guardian, or other legal custodian of the child of the
2 right of the child to be represented by counsel. Counsel shall be
3 appointed by the court only upon determination by the court that the
4 parent, legal guardian or legal custodian is found to be indigent.
5 If indigency is established, the Oklahoma Indigent Defense System
6 shall represent the serious juvenile offender in accordance with
7 Section 1355.6 of Title 22 of the Oklahoma Statutes or the
8 applicable Office of the Public Defender shall represent the serious
9 juvenile offender in accordance with Section 138.5 of Title 19 of
10 the Oklahoma Statutes.

11 ~~E. D.~~ When a person is certified to stand trial as an adult or
12 a ~~youthful~~ serious juvenile offender as provided by the ~~Youthful~~
13 Serious Juvenile Offender Act, the accused person shall have all the
14 statutory and constitutional rights and protections of an adult
15 accused of a crime. All proceedings shall be as for a criminal
16 action and the provisions of Title 22 of the Oklahoma Statutes shall
17 apply, except as provided for in the ~~Youthful~~ Serious Juvenile
18 Offender Act. ~~All youthful offender~~ The court records ~~for such a~~
19 ~~person~~ and court file of a serious juvenile offender shall be
20 ~~considered~~ remain confidential unless and until such time that the
21 person is sentenced as an adult records and shall not be subject to
22 the provisions of Chapter 6 of the Oklahoma Juvenile Code for the
23 offense in accordance with subsection H of Section 2-5-205 of this
24 title.

1 ~~D.~~ E. Proceedings against a ~~youthful~~ serious juvenile offender
2 shall be heard by any judge of the district court.

3 ~~E.~~ F. Upon arrest and detention of a person subject to the
4 provisions of Section 2-5-205 or 2-5-206 of this title, the person
5 has the same right to be released on bail as would an adult in the
6 same circumstances and, if detained, may be detained in a county
7 jail if separated by sight and sound from the adult population as
8 otherwise authorized by law. If no such county jail is available,
9 then such person may be detained at a juvenile detention facility.
10 The sheriff, chief of police, or juvenile or adult detention
11 facility operator shall forthwith notify the Office of Juvenile
12 Affairs of any such arrest and detention.

13 ~~F.~~ G. Upon certification for the imposition of an adult
14 sentence, a verdict of guilty or entry of a plea of guilty or nolo
15 contendere by a ~~youthful~~ serious juvenile offender who has been
16 certified for the imposition of an adult sentence as provided by
17 Section 2-5-208 of this title, the person may be detained as an
18 adult and, if incarcerated, may be incarcerated with the adult
19 population.

20 ~~G.~~ H. A child or ~~youthful~~ serious juvenile offender shall be
21 tried as an adult in all subsequent criminal prosecutions, and shall
22 not be subject to the jurisdiction of the juvenile court as a
23 juvenile delinquent or ~~youthful~~ serious juvenile offender processes
24 in any further proceedings if:

1 1. The child or ~~youthful~~ serious juvenile offender has been
2 certified to stand trial as an adult pursuant to any certification
3 procedure provided by law and is subsequently convicted of the
4 alleged offense or against whom the imposition of judgment and
5 sentence has been deferred; or

6 2. The ~~youthful~~ serious juvenile offender has been certified
7 for the imposition of an adult sentence as provided by Section 2-5-
8 208 of this title and is subsequently convicted of the alleged
9 offense or against whom the imposition of judgment and sentencing
10 has been deferred.

11 ~~H.~~ I. Except as otherwise provided in the ~~Youthful Serious~~
12 Juvenile Offender Act, a person who has been certified as a ~~youthful~~
13 serious juvenile offender shall be prosecuted as a ~~youthful~~ serious
14 juvenile offender in all subsequent criminal proceedings until the
15 ~~youthful~~ serious juvenile offender has attained eighteen (18) years
16 of age.

17 All proceedings for the commission of a crime committed after a
18 ~~youthful~~ serious juvenile offender has reached eighteen (18) years
19 of age shall be adult proceedings.

20 SECTION 5. AMENDATORY 10A O.S. 2011, Section 2-5-205, is
21 amended to read as follows:

22 Section 2-5-205. A. Any person thirteen (13) or fourteen (14)
23 years of age who is charged with murder in the first degree shall be
24 held accountable for the act as if the person were an adult;

1 provided, the person may be certified as a ~~youthful~~ serious juvenile
2 offender or a juvenile as provided by this section, unless the
3 person is subject to the provisions of subsection ~~G~~ H of Section 2-
4 5-204 of this title.

5 B. Any person fifteen (15), sixteen (16) or seventeen (17)
6 years of age who is charged with murder in the first degree at that
7 time shall be ~~held accountable for his or her act~~ prosecuted as if
8 the person was an adult and shall not be subject to the provisions
9 of the ~~Youthful~~ Serious Juvenile Offender Act or the provisions of
10 the Juvenile Code for certification as a juvenile. The person shall
11 have all the statutory rights and protections of an adult accused of
12 a crime. All proceedings shall be as for a criminal action and the
13 provisions of Title 22 of the Oklahoma Statutes shall apply. A
14 person having been convicted as an adult pursuant to this ~~paragraph~~
15 subsection shall be tried as an adult for every subsequent offense.

16 C. 1. Upon the filing of an adult criminal information against
17 such accused person, a warrant shall be issued which shall set forth
18 the rights of the accused person, and the rights of the parents,
19 guardian or next friend of the accused person to be present at the
20 preliminary hearing, to have an attorney present and to make
21 application for certification of such accused person as a ~~youthful~~
22 serious juvenile offender to the district court for the purpose of
23 prosecution as a ~~youthful~~ serious juvenile offender. The
24 information and all contents of the court file shall remain

1 confidential unless and until such time that the person is sentenced
2 as an adult for the offense.

3 2. The warrant shall be personally served together with a
4 certified copy of the information on the accused person and on a
5 custodial parent, guardian or next friend of the accused person.
6 The court may inquire of the accused as to the whereabouts of his or
7 her parents, guardian, or next friend in order to avoid unnecessary
8 delay in the proceedings.

9 3. When personal service of a custodial parent, guardian or
10 next friend of the accused person cannot be effected, service may be
11 made by certified mail to ~~such person's~~ last-known address of such
12 person, requesting a return receipt from the addressee only. If
13 delivery is refused, notice may be given by mailing the warrant and
14 a copy of the information on the accused person by regular first-
15 class mail to the address where the person to be notified refused
16 delivery of the notice sent by certified mail. Where the address of
17 a custodial parent, guardian or next friend is not known, or if the
18 mailed warrant and copy of the information on the accused person is
19 returned for any reason other than refusal of the addressee to
20 accept delivery, after a thorough search of all reasonably available
21 sources to ascertain the whereabouts of a custodial parent, guardian
22 or next friend has been conducted, the court may order that notice
23 of the hearing be given by publication one time in a newspaper of
24 general circulation in the county. In addition, the court may order

1 other means of service of notice that the court deems advisable or
2 in the interests of justice.

3 4. Before service by publication is ordered, the court shall
4 conduct an inquiry to determine whether a thorough search has been
5 made of all reasonably available sources to ascertain the
6 whereabouts of any party for whom notice by publication is sought.

7 D. 1. The accused person shall file any motions for
8 certification as a ~~youthful~~ serious juvenile offender or a juvenile
9 before the start of the criminal preliminary hearing. If both a
10 motion for certification as a ~~youthful~~ serious juvenile offender and
11 a motion for certification as a juvenile are filed, they shall both
12 be heard at the same time. No motion for certification as a
13 ~~youthful~~ serious juvenile offender or certification as a juvenile
14 may be filed after the time specified in this subsection. Upon the
15 filing of such motion, the complete juvenile record of the accused
16 shall be made available to the district attorney and the accused
17 person.

18 2. The court shall commence a preliminary hearing within ninety
19 (90) days of the filing of the information, pursuant to Section 258
20 of Title 22 of the Oklahoma Statutes, to determine whether the crime
21 was committed and whether there is probable cause to believe the
22 accused person committed a crime. If the preliminary hearing is not
23 commenced within ninety (90) days of the date the accused person is
24 charged, the district court shall hold a hearing to determine the

1 reasons for delay utilizing the procedure set out in Section 812.2
2 of Title 22 of the Oklahoma Statutes, to ensure the preliminary
3 hearing is expedited. If the whereabouts of the accused are unknown
4 at the time of the filing of the information or if the accused is a
5 fugitive, the State of Oklahoma shall make reasonable efforts to
6 locate the accused in order to commence the proceedings. An accused
7 who flees the jurisdiction of the court or purposely avoids
8 apprehension for the charges, waives the right to have the
9 preliminary hearing commenced within ninety (90) days of the filing
10 of the information. An accused who fails to cooperate with
11 providing information in locating the parents of the accused,
12 guardian, or next friend for purpose of notice waives the right to
13 have the preliminary hearing commence within ninety (90) days of the
14 filing of the information. The court shall commence trial on the
15 matter within one hundred eighty (180) days of the filing of the
16 information, unless waived by the accused. An accused who is a
17 fugitive from justice or who fails to cooperate with providing
18 information in locating the parent, guardian, or next friend of the
19 accused for purpose of notice waives the right to have the trial
20 commence within one hundred eighty (180) days of the filing of the
21 information.

22 3. At the conclusion of the state's case at the criminal
23 preliminary hearing, the state and the accused person may offer
24 evidence to support or oppose the motions for certification as a

1 ~~youthful~~ serious juvenile offender or an alleged juvenile
2 delinquent. At the hearing on the motion for certification as a
3 juvenile, the burden of proof shall be on the accused to show by a
4 preponderance of the evidence that the child should be certified as
5 a juvenile.

6 E. The court shall rule on any motions for certification as a
7 ~~youthful~~ serious juvenile offender or an alleged juvenile delinquent
8 before ruling on whether to bind the accused over for trial. When
9 ruling on a motion for certification as a ~~youthful~~ serious juvenile
10 offender or juvenile, the court shall give consideration to the
11 following guidelines with greatest weight to be given to paragraphs
12 1, 2 ~~and~~, 3 and 6:

13 1. Whether the alleged offense was committed in an aggressive,
14 violent, premeditated or willful manner;

15 2. Whether the offense was against persons, and, if personal
16 injury resulted, the degree of personal injury;

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

21 4. The sophistication and maturity of the accused person and
22 the capability of distinguishing right from wrong as determined by
23 consideration of the ~~person's psychological~~ certification evaluation
24

1 of the person, home, environmental situation, emotional attitude and
2 pattern of living;

3 5. The prospects for adequate protection of the public if the
4 accused person is processed through the ~~youthful~~ serious juvenile
5 offender system or the juvenile system;

6 6. The reasonable likelihood of rehabilitation of the accused
7 person if such person is found to have committed the alleged
8 offense, by the use of procedures and facilities currently available
9 to the juvenile court; and

10 7. Whether the offense occurred while the accused person was
11 escaping or on escape status from an institution for ~~youthful~~
12 serious juvenile offenders or delinquent children.

13 The court, in its decision on a motion for certification as a
14 ~~youthful~~ serious juvenile offender or juvenile, shall detail
15 findings of fact and conclusions of law to each of the above
16 considerations, and shall state that the court has considered each
17 of the guidelines in reaching its decision.

18 F. The order certifying a person as a ~~youthful~~ serious juvenile
19 offender or an alleged juvenile delinquent or denying the request
20 for certification as either a ~~youthful~~ serious juvenile offender or
21 an alleged juvenile delinquent shall be a final order, appealable to
22 the Court of Criminal Appeals when entered.

23 G. ~~An~~ Except on remand from the Court of Criminal Appeals, an
24 order certifying the accused person as a ~~youthful~~ serious juvenile

1 offender or an alleged juvenile delinquent shall not be reviewable
2 by the trial court.

3 H. Upon conviction as a serious juvenile offender, a sentence
4 may be imposed for the serious juvenile offender as provided by
5 Section 2-5-209 of this title. If the accused person is prosecuted
6 as an adult and is subsequently convicted of the alleged offense or
7 against whom the imposition of judgment and sentencing has been
8 deferred, the person may be incarcerated with the adult population
9 and shall be prosecuted as an adult in all subsequent criminal
10 proceedings.

11 I. If a person who is charged with murder in the first degree
12 is not convicted of that offense but is convicted of a different
13 offense, the court may on its own motion or at the request of the
14 district attorney continue the hearing for a sufficient period of
15 time to conduct an investigation and further hearing to determine if
16 the child should be held accountable for acts of the child as if the
17 child were an adult pursuant to the considerations of Section 2-2-
18 403 of this title. Provided, the preliminary hearing to determine
19 whether or not there is prosecutive merit to the complaint would not
20 be required.

21 SECTION 6. AMENDATORY 10A O.S. 2011, Section 2-5-206, is
22 amended to read as follows:

23 Section 2-5-206. A. Any person fifteen (15), sixteen (16) or
24 seventeen (17) years of age who is charged with:

- 1 1. Murder in the second degree;
- 2 2. Kidnapping;
- 3 3. Manslaughter in the first degree;
- 4 4. Robbery with a dangerous weapon or a firearm or attempt
- 5 thereof;
- 6 5. Robbery in the first degree or attempt thereof;
- 7 6. Rape in the first degree or attempt thereof;
- 8 7. Rape by instrumentation or attempt thereof;
- 9 8. Forcible sodomy;
- 10 9. Lewd molestation;
- 11 10. Arson in the first degree or attempt thereof; or
- 12 11. Any offense in violation of Section 652 of Title 21 of the
- 13 Oklahoma Statutes,
- 14 shall be held accountable for such acts, upon conviction, as a
- 15 ~~youthful~~ serious juvenile offender.

16 B. Any person sixteen (16) or seventeen (17) years of age who
17 is charged with:

- 18 1. Burglary in the first degree or attempted burglary in the
- 19 first degree;
- 20 2. Battery or assault and battery on a state employee or
- 21 contractor while in the custody or supervision of the Office of
- 22 Juvenile Affairs;
- 23 3. Aggravated assault and battery of a police officer;
- 24 4. Intimidating a witness;

- 1 5. Trafficking in or manufacturing illegal drugs;
- 2 6. Assault or assault and battery with a deadly weapon;
- 3 7. Maiming;
- 4 8. Residential burglary in the second degree after two or more
5 adjudications that are separated in time for delinquency for
6 committing burglary in the first degree or residential burglary in
7 the second degree;
- 8 9. Rape in the second degree; or
- 9 10. Use of a firearm while in commission of a felony,
10 shall be held accountable for such acts, upon conviction, as a
11 ~~youthful~~ serious juvenile offender.

12 C. The district attorney may file a petition alleging the
13 person to be a delinquent or may file an information against the
14 accused person charging the person as a ~~youthful~~ serious juvenile
15 offender. The district attorney shall notify the Office of Juvenile
16 Affairs upon the filing of ~~youthful~~ serious juvenile offender
17 charges.

18 D. 1. Upon the filing of the information against such alleged
19 ~~youthful~~ serious juvenile offender, a warrant shall be issued which
20 shall set forth the rights of the accused person, and the rights of
21 the parents, guardian or next friend of the accused person to be
22 present at the preliminary hearing, ~~and~~ to have an attorney present,
23 and to make application for certification of such accused person as
24 a juvenile delinquent. The information and all contents of the

1 court file shall remain confidential unless and until such time that
2 the person is sentenced as an adult for the offense.

3 2. The warrant shall be personally served together with a
4 certified copy of the information on the alleged ~~youthful~~ serious
5 juvenile offender and on a custodial parent, guardian or next friend
6 of the accused person.

7 3. When personal service of a custodial parent, guardian or
8 next friend of the alleged ~~youthful~~ serious juvenile offender cannot
9 be effected, service may be made by certified mail to the last-known
10 address of the person, requesting a return receipt from the
11 addressee only. If delivery is refused, notice may be given by
12 mailing the warrant and a copy of the information on the accused
13 person by regular first-class mail to the address where the person
14 to be notified refused delivery of the notice sent by certified
15 mail. Where the address of a custodial parent, guardian or next
16 friend is not known, or if the mailed warrant and copy of the
17 information on the accused person is returned for any reason other
18 than refusal of the addressee to accept delivery, after a distinct
19 and meaningful search of all reasonably available sources to
20 ascertain the whereabouts of a custodial parent, guardian or next
21 friend has been conducted, the court may order that notice of the
22 hearing be given by publication one time in a newspaper of general
23 circulation in the county. In addition, the court may order other

1 means of service of notice that the court deems advisable or in the
2 interests of justice.

3 4. Before service by publication is ordered, the court shall
4 conduct an inquiry to determine whether a thorough search has been
5 made of all reasonably available sources to ascertain the
6 whereabouts of any party for whom notice by publication is sought.

7 E. The court shall commence a preliminary hearing within ninety
8 (90) days of the filing of the information pursuant to Section 258
9 of Title 22 of the Oklahoma Statutes, to determine whether the crime
10 was committed and whether there is probable cause to believe the
11 accused person committed the crime. If the preliminary hearing is
12 not commenced within ninety (90) days, the state shall be prohibited
13 from seeking an adult sentence unless the ninety-day requirement is
14 waived by the defendant. If the whereabouts of the accused are
15 unknown at the time of the filing of the information or if the
16 accused is a fugitive, the State of Oklahoma shall make reasonable
17 efforts to locate the accused in order to commence the proceedings.
18 An accused who flees the jurisdiction of the court or purposely
19 avoids apprehension for the charges, waives the right to have the
20 preliminary hearing commenced within ninety (90) days of the filing
21 of the information. An accused who fails to cooperate with
22 providing information in locating the accused parent, guardian, or
23 next friend for purpose of notice waives the right to have the
24 preliminary hearing commence within ninety (90) days of the filing

1 of the information. The court shall commence trial on the matter
2 within one hundred eighty (180) days of the filing of the
3 information, unless waived by the accused. An accused who is a
4 fugitive from justice or who fails to cooperate with providing
5 information in locating the parent, guardian, or next friend of the
6 accused for purpose of notice waives the right to have the trial
7 commence within one hundred eighty (180) days of the filing of the
8 information.

9 F. 1. The accused person may file a motion for certification
10 to the juvenile justice system before the start of the criminal
11 preliminary hearing:

12 a. upon the filing of such motion, the complete juvenile
13 record of the accused shall be made available to the
14 district attorney and the accused person,

15 b. at the conclusion of the state's case at the criminal
16 preliminary hearing, the accused person may offer
17 evidence to support the motion for certification as a
18 child.

19 2. If no motion to certify the accused person to the juvenile
20 justice system has been filed, at the conclusion of the criminal
21 preliminary hearing the court may on its own motion hold a hearing
22 on the matter of the certification of the accused ~~youthful~~ serious
23 juvenile offender to the juvenile system.

24

1 3. The court shall rule on the certification motion before
2 ruling on whether to bind the accused over for trial. When ruling
3 on the certification motion, the court shall give consideration to
4 the following guidelines with the greatest weight given to
5 subparagraphs a, b ~~and~~, c and f:

6 a. whether the alleged offense was committed in an
7 aggressive, violent, premeditated or willful manner,

8 b. whether the offense was against persons, and if
9 personal injury resulted, the degree of personal
10 injury,

11 c. the record and past history of the accused person,
12 including previous contacts with law enforcement
13 agencies and juvenile or criminal courts, prior
14 periods of probation and commitments to juvenile
15 institutions,

16 d. the sophistication and maturity of the accused person
17 and the accused person's capability of distinguishing
18 right from wrong as determined by consideration of the
19 ~~accused person's psychological~~ certification

20 evaluation of the accused person, home, environmental
21 situation, emotional attitude and pattern of living,

22 e. the prospects for adequate protection of the public if
23 the accused person is processed through the ~~youthful~~

1 serious juvenile offender system or the juvenile
2 system,

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

8 g. whether the offense occurred while the accused person
9 was escaping or in an escape status from an
10 institution for ~~youthful~~ serious juvenile offenders or
11 juvenile delinquents.

12 4. In its decision on the motion for certification as an
13 alleged juvenile delinquent, the court shall detail findings of fact
14 and conclusions of law to each of the above considerations and shall
15 state that the court has considered each of the guidelines in
16 reaching its decision.

17 5. An order certifying a person or denying such certification
18 to the juvenile justice system shall be a final order, appealable
19 when entered.

20 G. Upon conviction, sentence may be imposed as a sentence for a
21 ~~youthful~~ serious juvenile offender as provided by Section 2-5-209 of
22 this title. If the ~~youthful~~ serious juvenile offender sentence is
23 imposed as an adult sentence as provided by Section 2-5-208 of this
24

1 title, the convicted person may be incarcerated with the adult
2 population.

3 SECTION 7. AMENDATORY 10A O.S. 2011, Section 2-5-207, is
4 amended to read as follows:

5 Section 2-5-207. It is the intent of the Legislature to fully
6 utilize the ~~Youthful~~ Serious Juvenile Offender Act as a means to
7 protect the public while rehabilitating and holding youth
8 accountable for serious crimes. The Legislature finds that eligible
9 seventeen-year-olds should have the opportunity to be processed as
10 ~~youthful~~ serious juvenile offenders as provided by law and held
11 accountable through the various provisions of the ~~Youthful~~ Serious
12 Juvenile Offender Act for custody, institutional placement,
13 supervision, extended jurisdiction within the Office of Juvenile
14 Affairs, and the ability to transfer ~~youthful~~ serious juvenile
15 offenders to the Department of Corrections when incarceration or
16 additional supervision is required beyond the maximum age allowed in
17 the Office of Juvenile Affairs. No older youth should be deemed
18 ineligible or denied consideration as a ~~youthful~~ serious juvenile
19 offender who is otherwise lawfully eligible based upon the age of
20 the youth being seventeen (17) years, but it is the intent of the
21 Legislature that such ~~youthful~~ serious juvenile offender shall not
22 remain in the custody or under the supervision of the Office of
23 Juvenile Affairs beyond the ~~youthful~~ serious juvenile offender's
24 maximum age of ~~eighteen (18)~~ twenty-one (21) years and ~~five (5)~~

1 ~~months~~. To deny access to an otherwise eligible older youth without
2 cause is to circumvent the original intent of the Legislature in
3 creating the ~~Youthful~~ Serious Juvenile Offender Act.

4 SECTION 8. AMENDATORY 10A O.S. 2011, Section 2-5-208, is
5 amended to read as follows:

6 Section 2-5-208. A. Whenever the district attorney believes
7 that there is good cause to believe that a person charged as a
8 ~~youthful~~ serious juvenile offender would not reasonably complete a
9 plan of rehabilitation or the public would not be adequately
10 protected if the person were to be sentenced as a ~~youthful~~ serious
11 juvenile offender, and should receive an adult sentence, the
12 district attorney shall file a motion for consideration of the
13 imposition of the sentence as for an adult if the person is
14 convicted:

15 1. Not more than thirty (30) days following formal arraignment
16 and such motion will be ruled upon by the trial court; or the
17 district attorney may file the motion to impose adult sentence
18 fourteen (14) days prior to the start of the preliminary hearing and
19 the preliminary hearing magistrate will rule on that motion. The
20 district attorney must elect when to file the motion for adult
21 sentence and if the motion is filed and argued to the magistrate, it
22 cannot again be filed and argued to the trial court after
23 arraignment; or

24

1 2. If, prior to that time, the accused person indicates to the
2 court that the accused person wishes to plead guilty or nolo
3 contendere, the court shall grant the state ten (10) days from that
4 date to file the motion required by this subsection, if requested by
5 the state.

6 B. Upon the filing of such motion and prior to the trial or
7 before the entry of the plea of guilty or nolo contendere the court
8 shall hold a hearing to determine the matter.

9 C. 1. The court shall order ~~an investigation~~ a certification
10 evaluation to be conducted unless waived by the accused person with
11 approval of the court. Any such ~~investigation~~ evaluation required
12 shall be conducted by the Office of Juvenile Affairs.

13 2. At the hearing the court shall consider, with the greatest
14 weight given to subparagraphs a, b ~~and~~, c and f:

- 15 a. whether the offense was committed in an aggressive,
16 violent, premeditated or willful manner,
- 17 b. whether the offense was against persons and, if
18 personal injury resulted, the degree of injury,
- 19 c. the record and past history of the accused person,
20 including previous contacts with law enforcement
21 agencies and juvenile or criminal courts, prior
22 periods of probation and commitments to juvenile
23 institutions,

24

- 1 d. the sophistication and maturity of the accused person
2 and the capability of distinguishing right from wrong
3 as determined by consideration of the ~~psychological~~
4 certification evaluation, home, environmental
5 situation, emotional attitude and pattern of living of
6 the accused person,
- 7 e. the prospects for adequate protection of the public if
8 the accused person is processed through the ~~youthful~~
9 serious juvenile offender system or the juvenile
10 system,
- 11 f. the reasonable likelihood of rehabilitation of the
12 accused person if the accused person is found to have
13 committed the alleged offense, by the use of
14 procedures and facilities currently available to the
15 juvenile court, and
- 16 g. whether the offense occurred while the accused person
17 was escaping or on escape status from an institution
18 for ~~youthful~~ serious juvenile offenders or delinquent
19 children.

20 D. After the hearing and consideration of the report of the
21 investigation, the court shall certify the person as eligible for
22 the imposition of an adult sentence only if it finds that the state
23 has proven by clear and convincing evidence that there is good cause
24 to believe that the accused person would not reasonably complete a

1 plan of rehabilitation or that the public would not be adequately
2 protected if the person were to be sentenced as a ~~youthful~~ serious
3 juvenile offender.

4 In its decision on the motion of the state for imposition of an
5 adult sentence, the court shall detail findings of fact and
6 conclusions of law to each of the considerations in subsection C of
7 this section and shall state that the court has considered each of
8 its guidelines in reaching its decision.

9 E. An order certifying or denying certification for imposition
10 of an adult sentence shall be a final order, appealable when
11 entered.

12 F. If the person has been certified as eligible to be sentenced
13 as an adult, the court shall, upon a verdict of guilty or the entry
14 of a plea of guilty or nolo contendere, impose sentence as provided
15 by law for an adult for punishment of the offense committed, subject
16 to the power and authority of the court to suspend or delay
17 sentence, defer judgment, or otherwise structure, limit, or modify
18 sentence as provided in Title 22 of the Oklahoma Statutes or the
19 ~~Youthful~~ Serious Juvenile Offender Act. When sentence is imposed
20 pursuant to this subsection, the person shall be treated as an adult
21 for purposes of supervision, incarceration and in all subsequent
22 criminal proceedings.

23 G. Upon a verdict of guilty or a plea of guilty or nolo
24 contendere, the court may order the person to pay a fee to the

1 Office of Juvenile Affairs of not less than Twenty-five Dollars
2 (\$25.00), nor more than Five Hundred Dollars (\$500.00), for the
3 ~~presentence investigation~~ certification evaluation. In hardship
4 cases, the court may waive the fee or set the amount of the fee and
5 establish a payment schedule.

6 SECTION 9. AMENDATORY 10A O.S. 2011, Section 2-5-209, is
7 amended to read as follows:

8 Section 2-5-209. A. Upon a verdict of guilty or a plea of
9 guilty or nolo contendere of a ~~youthful~~ serious juvenile offender
10 and prior to the imposition of a ~~youthful~~ serious juvenile offender
11 sentence by the court:

12 1. A ~~youthful~~ serious juvenile offender ~~presentence~~
13 ~~investigation~~ certification evaluation shall be conducted unless
14 waived by the ~~youthful~~ serious juvenile offender with approval of
15 the court or unless ~~an investigation~~ a certification evaluation is
16 conducted pursuant to subsection C of Section 2-5-208 of this title.
17 Any ~~presentence investigation~~ certification evaluation required by
18 this section shall be conducted by the Office of Juvenile Affairs;
19 and

20 2. The court shall conduct a hearing and shall consider, with
21 the greatest weight given to subparagraphs a, b ~~and~~, c and f:

22 a. whether the offense was committed in an aggressive,
23 violent, premeditated or willful manner,
24

- 1 b. whether the offense was against persons and, if
2 personal injury resulted, the degree of personal
3 injury,
4 c. the record and past history of the person, including
5 previous contacts with law enforcement agencies and
6 juvenile or criminal courts, prior periods of
7 probation and commitments to juvenile institutions,
8 d. the sophistication and maturity of the person and the
9 capability of distinguishing right from wrong as
10 determined by consideration of the ~~psychological~~
11 certification evaluation, home, environmental
12 situation, emotional attitude and pattern of living of
13 the person,
14 e. the prospects for adequate protection of the public if
15 the person is processed through the ~~youthful~~ serious
16 juvenile offender system or the juvenile system,
17 f. the reasonable likelihood of rehabilitation of the
18 person if found to have committed the offense, by the
19 use of procedures and facilities currently available
20 to the juvenile, and
21 g. whether the offense occurred while the person was
22 escaping or on escape status from an institution for
23 ~~youthful~~ serious juvenile offenders or delinquent
24 children.

1 B. 1. After the hearing and consideration of the ~~report of the~~
2 ~~presentence investigation~~ certification evaluation, the court shall
3 impose sentence as a ~~youthful~~ serious juvenile offender, and such
4 ~~youthful~~ serious juvenile offender shall be subject to the same type
5 of sentencing procedures and duration of sentence, except for
6 capital offenses, including suspension or deferment, as an adult
7 convicted of a felony offense, except that any sentence imposed upon
8 the ~~youthful~~ serious juvenile offender shall be served in the
9 custody or under the supervision of the Office of Juvenile Affairs
10 until the expiration of the sentence, the ~~youthful~~ serious juvenile
11 offender is discharged, or the ~~youthful~~ serious juvenile offender
12 reaches eighteen (18) years of age, whichever first occurs. If an
13 individual sentenced as a ~~youthful~~ serious juvenile offender attains
14 eighteen (18) years of age prior to the expiration of the sentence,
15 such individual shall be returned to the sentencing court. At that
16 time, the sentencing court shall make one of the following
17 determinations:

18 a. whether the ~~youthful~~ serious juvenile offender shall
19 be returned to the Office of Juvenile Affairs to
20 complete a treatment program, provided that the
21 treatment program shall not exceed the ~~youthful~~
22 serious juvenile offender's attainment of ~~eighteen~~
23 ~~(18)~~ twenty-one (21) years of age and ~~five (5) months~~.
24 At the conclusion of the treatment program, the

1 individual shall be returned to the sentencing court
2 for a determination under subparagraph b, c or d of
3 this paragraph,

4 b. whether the ~~youthful~~ serious juvenile offender shall
5 be placed in the custody of the Department of
6 Corrections,

7 c. whether the ~~youthful~~ serious juvenile offender shall
8 be placed on probation with the Department of
9 Corrections with a suspended or deferred sentence as
10 determined by the court, or

11 d. whether the ~~youthful~~ serious juvenile offender shall
12 be discharged from custody.

13 2. The sentence imposed shall not exceed the maximum sentence
14 already imposed in the originating sentence.

15 3. If a ~~youthful~~ serious juvenile offender has attained
16 eighteen (18) years of age but less than ~~eighteen (18)~~ twenty-one
17 (21) years of age ~~and five (5) months~~ prior to sentencing, that
18 individual shall be returned to the sentencing court upon attaining
19 ~~the age of eighteen (18)~~ twenty-one (21) years ~~and five (5) months~~
20 of age if that individual has been sentenced to a period of
21 placement or treatment with the Office of Juvenile Affairs and has
22 remained in the custody of the Office of Juvenile Affairs following
23 the annual review hearings required pursuant to Section 2-5-210 of
24 this title. The court shall have the same dispositional options as

1 provided in subparagraphs b, c and d of paragraph 1 of this
2 subsection.

3 4. Any period of probation required by the sentencing court to
4 be served shall be supervised by:

5 a. the Office of Juvenile Affairs or designated
6 representative, if the ~~youthful~~ serious juvenile
7 offender is under eighteen (18) years of age, or

8 b. the Department of Corrections or designated
9 representative, upon the ~~youthful~~ serious juvenile
10 offender attaining eighteen (18) years of age.

11 5. In addition to or in lieu of the placement of the ~~youthful~~
12 serious juvenile offender in the custody of or under the supervision
13 of the Office of Juvenile Affairs, the court may issue orders with
14 regard to the ~~youthful~~ serious juvenile offender as provided by law
15 for the disposition of an adjudicated juvenile delinquent ~~as long as~~
16 ~~the age of the youthful offender does not exceed eighteen (18) years~~
17 ~~and five (5) months.~~

18 6. It is the intent of the Oklahoma Legislature that ~~youthful~~
19 serious juvenile offenders be held insofar as is practical separate
20 from the juvenile delinquent population.

21 7. The Office of Juvenile Affairs may make recommendations to
22 the court concerning the disposition of the ~~youthful~~ serious
23 juvenile offender.

24

1 C. A ~~youthful~~ serious juvenile offender who is seventeen (17)
2 or eighteen (18) years of age or older and who has been sentenced to
3 the custody of the Office of Juvenile Affairs may be detained in a
4 county jail pending placement in an Office of Juvenile Affairs
5 facility, provided the county jail meets the jail standards
6 promulgated by the State Department of Health for juvenile
7 offenders. Said ~~youthful~~ serious juvenile offender who is eighteen
8 (18) years of age or older may be held in the general population of
9 the county jail.

10 SECTION 10. AMENDATORY 10A O.S. 2011, Section 2-5-210,
11 is amended to read as follows:

12 Section 2-5-210. A. Whenever a ~~youthful~~ serious juvenile
13 offender is placed in the custody of or under the supervision of the
14 Office of Juvenile Affairs, the Office shall within ~~thirty (30)~~
15 sixty (60) days prepare and file with the court a ~~written~~
16 ~~rehabilitation~~ proposed individualized treatment plan for the
17 ~~youthful~~ serious juvenile offender. The court shall hold a
18 dispositional hearing within ten (10) days of the filing of the
19 proposed individualized treatment plan, unless good cause is shown
20 to have the hearing at a later time. At the dispositional hearing,
21 the court shall review, approve and adopt an individualized
22 treatment plan. The ~~rehabilitation~~ individualized treatment plan
23 shall be tailored to the individual needs and goals of the ~~youthful~~
24 serious juvenile offender while ensuring protection of the public

1 while the offender is in the custody or supervision of the Office of
2 Juvenile Affairs. The ~~rehabilitation~~ individualized treatment plan
3 shall include, but not be limited to:

4 1. ~~Clearly stated and measurable objectives which the youthful~~
5 ~~offender is expected to achieve~~ A plan based on the individual
6 treatment needs of the serious juvenile offender as determined by a
7 diagnostic evaluation and an individual assessment of the
8 psychological, emotional, developmental, social and education needs
9 of the serious juvenile offender; and

10 2. Identification of the specific services and programs that
11 will be provided to the ~~youthful~~ serious juvenile offender by the
12 Office of Juvenile Affairs to assist the ~~youthful~~ serious juvenile
13 offender in achieving the measurable objectives to be reached,
14 including, but not limited to, diagnostic testing consistent with
15 the current standards of medical practice. The plan shall be based
16 on a comprehensive risk and needs assessment;

17 3. Measurable objectives the serious juvenile offender is
18 expected to achieve and details of the proposed placement of the
19 serious juvenile offender along with the expected treatment duration
20 based on the individualized treatment plan; and

21 4. Any other necessary provisions as determined by the court
22 that will assist in the rehabilitation of the serious juvenile
23 offender.

1 B. The court shall schedule an annual review hearing in open
2 court for every ~~youthful~~ serious juvenile offender in the custody of
3 the Office of Juvenile Affairs. Such hearing may be scheduled
4 either upon the court's own motion or upon a motion filed by the
5 Office of Juvenile Affairs. Each annual review hearing shall be
6 scheduled and completed within the thirty-day period immediately
7 preceding the date the sentence was imposed upon the ~~youthful~~
8 serious juvenile offender. Notice shall be given to the ~~youthful~~
9 serious juvenile offender, the counsel, parent or guardian of the
10 ~~youthful~~ serious juvenile offender, the district attorney, and the
11 Office of Juvenile Affairs at the time the motion for review is made
12 or filed. The court, at its discretion, may schedule other review
13 hearings as the court deems necessary, after notice to the parties.
14 The court shall hold a review hearing for good cause shown, upon any
15 motion filed by the district attorney, the Office of Juvenile
16 Affairs, or the ~~youthful~~ serious juvenile offender for the purpose
17 of making a determination to:

18 1. Review the individualized treatment plan including any
19 revisions to the plan which have been made by the Office of Juvenile
20 Affairs since the last court review;

21 2. Review the progress of the serious juvenile offender in his
22 or her individualized treatment plan since the last review hearing
23 by the court. In addition, the court shall review and, if
24 necessary, amend the individualized treatment plan to ensure the

1 plan is meeting the treatment needs and goals of the serious
2 juvenile offender;

3 3. Order the ~~youthful~~ serious juvenile offender discharged from
4 the custody of the Office of Juvenile Affairs without a court
5 judgment of guilt, and order the verdict or plea of guilty or plea
6 of nolo contendere expunged from the record as provided in
7 paragraphs 1 through 5 of subsection C of Section 991c of Title 22
8 of the Oklahoma Statutes and dismiss the charge with prejudice to
9 any further action, if the court finds that the ~~youthful~~ serious
10 juvenile offender has reasonably completed the ~~rehabilitation~~
11 individualized treatment plan and objectives and that such dismissal
12 will not jeopardize public safety. If a ~~youthful~~ serious juvenile
13 offender has been discharged without a court judgment of guilt and
14 the charge has been dismissed with prejudice as provided in this
15 paragraph, upon the motion of the ~~youthful~~ serious juvenile offender
16 and the passage of three (3) years after the date of such discharge
17 and dismissal, the court may, in addition, order any law enforcement
18 agency over which the court has jurisdiction to produce all files
19 and records pertaining to the arrest and conviction of the ~~youthful~~
20 serious juvenile offender, and shall order the clerk of the court to
21 destroy the entire file and record of the case, including docket
22 sheets, index entries, court records, summonses, warrants or records
23 in the office of the clerk or which have been produced by a law
24 enforcement agency in which the name of the ~~youthful~~ serious

1 juvenile offender is mentioned. The court may order probation
2 officers and counselors of the Office of Juvenile Affairs to destroy
3 all records, reports, and social and clinical studies relating to
4 the ~~youthful~~ serious juvenile offender that are in the possession of
5 the Office of Juvenile Affairs, except when the documents are
6 necessary to maintain state or federal funding;

7 ~~2.~~ 4. Revoke an order of probation and place the ~~youthful~~
8 serious juvenile offender in the custody of the Office of Juvenile
9 Affairs if such offender is less than eighteen (18) years of age;

10 ~~3.~~ 5. Place the ~~youthful~~ serious juvenile offender on probation
11 under the supervision of the age-appropriate agency;

12 ~~4.~~ 6. Place the ~~youthful~~ serious juvenile offender if less than
13 eighteen (18) years of age in a sanction program operated or
14 contracted for by the Office of Juvenile Affairs community
15 placement, if the ~~youthful~~ serious juvenile offender fails to comply
16 with a ~~written~~ the individualized treatment plan of rehabilitation
17 or fails substantially to achieve reasonable treatment objectives
18 while in community or other nonsecure programs; or

19 ~~5.~~ 7. Transfer or bridge the ~~youthful~~ serious juvenile offender
20 to the custody or supervision of the Department of Corrections if
21 the court finds by clear and convincing evidence that the ~~youthful~~
22 serious juvenile offender has:

23 a. after certification as a ~~youthful~~ serious juvenile
24 offender, seriously injured or endangered the life or

1 health of another person by such person's violent
2 behavior,

3 b. escaped from the facility from which the ~~youthful~~
4 serious juvenile offender is being held,

5 c. committed a felony crime while in the custody or under
6 the supervision of the Office of Juvenile Affairs as
7 shown by a judgment entered following a verdict of
8 guilty, a plea of guilty or nolo contendere, or as
9 shown by clear and convincing evidence,

10 d. committed battery or assault and battery on a state
11 employee or contractor of a juvenile facility while in
12 the custody of such facility,

13 e. caused a serious disruption in the facility, smuggled
14 contraband into the facility, caused contraband to be
15 smuggled into the facility, or engaged in other types
16 of behavior which have endangered the life or health
17 of other residents or staff of the facility, ~~or~~

18 f. established a pattern of disruptive behavior not
19 conducive to the established policies and procedures
20 of the program, or

21 g. willfully, chronically and consistently refused to
22 participate in the treatment program.

23 The court, in its decision to transfer custody of the ~~youthful~~
24 serious juvenile offender to the custody of the Department of

1 Corrections, shall detail findings of fact and conclusions of law
2 addressing the grounds alleged in the motion of the state.

3 C. An order transferring custody of a ~~youthful~~ serious juvenile
4 offender to the Department of Corrections shall be deemed an adult
5 conviction and shall be recorded as such in the court records and
6 criminal history records of the offender. Such order shall be a
7 final order, appealable when entered. In addition to a judgment and
8 sentence for an adult conviction, the court shall provide to the
9 Department of Corrections a detailed memorandum or historical
10 statement of the ~~Youthful~~ Serious Juvenile Offender Act as applied
11 to the offender being transferred to the Department of Corrections,
12 including the date of the offense, the date of the adjudication as a
13 ~~youthful~~ serious juvenile offender, the date of the filing of the
14 motion to transfer custody of the offender to the adult criminal
15 system, and the date of the imposition of the adult sentence.

16 D. The court shall grant time-served credits against the adult
17 sentence imposed for any ~~youthful~~ serious juvenile offender
18 transferred to the Department of Corrections. For the purpose of
19 calculating time served to be applied toward any sentence imposed
20 upon a ~~youthful~~ serious juvenile offender, in the event a ~~youthful~~
21 serious juvenile offender has been placed in the custody or under
22 the supervision of the Office of Juvenile Affairs, the offender
23 shall receive day-for-day credit for the time spent in the custody
24 or under the supervision of the Office of Juvenile Affairs. Upon

1 commitment to the Department of Corrections, a ~~youthful~~ serious
2 juvenile offender shall also receive other credits as provided by
3 law for an adult inmate.

4 E. If authorized by the court, review hearings, other than
5 those scheduled for determinations as provided in paragraphs 1
6 through ~~5~~ 7 of subsection B of this section, may be conducted via
7 teleconference communications; provided, the attorney representing
8 the ~~youthful~~ serious juvenile offender shall be present at the
9 hearing. For purposes of this subsection, "teleconference
10 communication" means participation by the ~~youthful~~ serious juvenile
11 offender and facility staff in the hearing by interactive
12 telecommunication devices which permit both visual and auditory
13 communication among the necessary participants, the court, and the
14 ~~youthful~~ serious juvenile offender.

15 SECTION 11. AMENDATORY 10A O.S. 2011, Section 2-5-211,
16 is amended to read as follows:

17 Section 2-5-211. When committing a person who is, or has been,
18 certified as a ~~youthful~~ serious juvenile offender and is certified
19 eligible for the imposition ~~as~~ of an adult sentence pursuant to
20 Section 2-5-208 of this title, or certified as a ~~youthful~~ serious
21 juvenile offender and is being transferred to the Department of
22 Corrections for custody or supervision pursuant to Section 2-5-210
23 of this title, or sentenced as an adult after previously being
24 certified as a ~~youthful~~ serious juvenile offender, the judgment and

1 sentence shall clearly identify such person as a ~~youthful~~ serious
2 juvenile offender, or previous ~~youthful~~ serious juvenile offender,
3 and detail the history of the applications of the ~~Youthful Serious~~
4 Juvenile Offender Act to such person that resulted in the current
5 commitment to the Department of Corrections.

6 SECTION 12. AMENDATORY 10A O.S. 2011, Section 2-5-212,
7 is amended to read as follows:

8 Section 2-5-212. A. Whenever a ~~youthful~~ serious juvenile
9 offender is committed to the custody of the Office of Juvenile
10 Affairs, the Office of Juvenile Affairs may:

11 1. Place the ~~youthful~~ serious juvenile offender in a state
12 training school or other institution or facility maintained by the
13 state for delinquents or ~~youthful~~ serious juvenile offenders;

14 2. Place the ~~youthful~~ serious juvenile offender in a group home
15 or community residential facility for delinquents or ~~youthful~~
16 serious juvenile offenders;

17 3. Place the ~~youthful~~ serious juvenile offender under community
18 supervision prior to or after a period of placement in one or more
19 of the facilities referred to in paragraphs 1 and 2 of this
20 subsection. The Office of Juvenile Affairs may place a ~~youthful~~
21 serious juvenile offender in his or her own home, or an independent
22 living or other similar living arrangement within the community of
23 the residence of the ~~youthful~~ serious juvenile offender only upon
24 the approval of the court; provided, the court shall not prohibit

1 the reintegration of the ~~youthful~~ serious juvenile offender into the
2 community except upon finding that the ~~youthful~~ serious juvenile
3 offender has not reasonably completed the ~~rehabilitation~~
4 individualized treatment plan objectives established as
5 preconditions for reintegration into the community or that the
6 public would not be adequately protected if the ~~youthful~~ serious
7 juvenile offender is reintegrated into the community; or

8 4. Place the ~~youthful~~ serious juvenile offender in a sanction
9 program if the ~~youthful~~ serious juvenile offender fails to comply
10 with a written individualized treatment plan ~~of rehabilitation~~ or
11 fails substantially to achieve reasonable treatment objectives while
12 in community or other nonsecure programs.

13 B. Placement of the ~~youthful~~ serious juvenile offender pursuant
14 to this section or any other provision of law shall be the
15 responsibility of the Office of Juvenile Affairs and shall occur as
16 soon as reasonably possible but not more than forty-five (45) days
17 following the filing and adoption of the written ~~rehabilitation~~
18 individualized treatment plan as provided in Section 2-5-210 of this
19 title. This placement time period may be extended upon the
20 declaration of an emergency by the Board of Juvenile Affairs. For
21 the purposes of this section, "emergency" means any situation that
22 places the health, safety and well-being of the residents or staff
23 in imminent peril. The court shall not have authority to require
24 specific placement of a ~~youthful~~ serious juvenile offender in a time

1 frame which would require the removal of any other juvenile or
2 ~~youthful~~ serious juvenile offender from such placement.

3 C. The Office of Juvenile Affairs shall be responsible for the
4 care and control of a ~~youthful~~ serious juvenile offender placed in
5 the custody of the Office of Juvenile Affairs, and shall have the
6 duty and the authority to provide food, clothing, shelter, ordinary
7 medical care, education, discipline and in an emergency to authorize
8 surgery or other extraordinary care. The medical care, surgery and
9 extraordinary care shall be charged to the appropriate agency where
10 the ~~youthful~~ serious juvenile offender qualifies for the care under
11 law, rule, regulation or administrative order or decision. Nothing
12 in this section shall abrogate the right of a ~~youthful~~ serious
13 juvenile offender to any benefits provided through public funds nor
14 the parent's statutory duty or responsibility to provide said
15 necessities; further, no person, agency or institution shall be
16 liable in a civil suit for damages for authorizing or not
17 authorizing surgery or extraordinary care in an emergency, as
18 determined by competent medical authority. A ~~youthful~~ serious
19 juvenile offender placed in the custody of the Office of Juvenile
20 Affairs who has attained eighteen (18) years of age or older may
21 authorize and consent to the medical care sought on behalf of the
22 ~~youthful~~ serious juvenile offender by the Office of Juvenile Affairs
23 and to be provided to the ~~youthful~~ serious juvenile offender by a
24 qualified health care professional. No state employee shall be

1 liable for the costs of any medical care or behavioral health
2 services provided to any child in the custody of the Office of
3 Juvenile Affairs.

4 D. A ~~youthful~~ serious juvenile offender in the custody of the
5 Office of Juvenile Affairs shall:

6 1. Be entitled to the rights afforded juvenile delinquents
7 pertaining to any due process afforded delinquents in regard to
8 movement from a nonsecure to a secure placement; ~~and~~

9 2. As appropriate to the age and circumstances of the ~~youthful~~
10 serious juvenile offender, be provided education, employment, and
11 employment skills and vocational and technical or higher education
12 services, apprenticeship programs and similar opportunities; and

13 3. Be provided an individualized treatment plan based on the
14 findings of a risk and needs assessment, not solely upon the nature
15 of the offense committed by the serious juvenile offender.

16 SECTION 13. AMENDATORY 10A O.S. 2011, Section 2-5-213,
17 is amended to read as follows:

18 Section 2-5-213. A. Upon the motion of a person who has been
19 convicted and sentenced as a ~~youthful~~ serious juvenile offender and
20 who has been subsequently transferred to the adult system pursuant
21 to Section 2-5-210 of this title, with the recommendation of the
22 sentencing court, the Governor may grant a full and complete pardon
23 and restore citizenship to any person who has been convicted and
24

1 sentenced as a ~~youthful~~ serious juvenile offender and who has
2 completed the sentence or been discharged from parole.

3 B. Upon the motion of a person convicted as a ~~youthful~~ serious
4 juvenile offender, and three (3) years after the expiration of the
5 sentence of the ~~youthful~~ serious juvenile offender, the court may
6 set aside the conviction if:

7 1. The court has previously found that the person has
8 reasonably complied with the rehabilitation plan and objectives;

9 2. The person was discharged from supervision by the Office of
10 Juvenile Affairs, or was granted early discharge from such
11 supervision by the court; or

12 3. The person has completed the sentence imposed as a result of
13 his first conviction as a ~~youthful~~ serious juvenile offender and has
14 no subsequent convictions.

15 If a conviction is set aside pursuant to this subsection, the
16 ~~youthful~~ serious juvenile offender shall thereafter be released from
17 all penalties and disabilities resulting from the offense for which
18 such person was convicted, including but not limited to, any
19 disqualification for any employment or occupational license, or
20 both, created by any other provision of law. The court may in
21 addition order any law enforcement agency over whom the court has
22 jurisdiction to produce all files and records pertaining to said
23 arrest and conviction of the ~~youthful~~ serious juvenile offender and
24 shall order the clerk of the court to destroy the entire file and

1 record of the case, including docket sheets, index entries, court
2 records, summons, warrants or records in the office of the clerk or
3 which have been produced by a law enforcement agency in which the
4 name of the ~~youthful~~ serious juvenile offender is mentioned. The
5 court may order probation officers and counselors to destroy all
6 records, reports, and social and clinical studies relating to said
7 ~~youthful~~ serious juvenile offender that are in their possession
8 except when said documents are necessary to maintain state or
9 federal funding.

10 SECTION 14. AMENDATORY 10A O.S. 2011, Section 2-5-301,
11 is amended to read as follows:

12 Section 2-5-301. Any child under eighteen (18) years of age who
13 is a legal resident or the child of legal residents of the State of
14 Oklahoma who is detained, held or arrested for any offense pursuant
15 to any provision of the Juvenile Code or Criminal Code of this
16 state, including such persons subject to adult prosecution, ~~youthful~~
17 serious juvenile offender proceedings, certification as an adult,
18 reverse certification or juvenile proceedings, shall be identified
19 within seventy-two (72) hours of such detention or arrest for
20 educational needs and shall be afforded such educational
21 opportunities by the State Department of Education, local technology
22 center school districts or local school districts without delay
23 while in such facility or jail, including city, county and state
24 jails, holding facilities and juvenile or correctional institutions.

1 SECTION 15. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2-5-302 of Title 10A, unless
3 there is created a duplication in numbering, reads as follows:

4 A. For purposes of commitment of a person eighteen (18) years
5 of age or older, serious juvenile offender or delinquent to a state
6 mental health facility, a psychiatric hospital, or a private mental
7 health facility pursuant to the inpatient commitment procedures
8 provided in Section 5-101 of Title 43A of the Oklahoma Statutes, no
9 confinement of such person in a secure facility of the Office of
10 Juvenile Affairs shall be considered confinement in a jail or
11 correctional facility nor shall such person be considered to have
12 criminal charges pending against him or her. A person who has
13 reached eighteen (18) years of age shall not be disqualified for
14 inpatient commitment pursuant to the provisions of Section 5-101 of
15 Title 43A of the Oklahoma Statutes due to any serious juvenile
16 offender or juvenile delinquent adjudication or by reason of any
17 court order granting custody of or supervision by the Office of
18 Juvenile Affairs. Provided, a facility or hospital shall be
19 authorized to take reasonable steps as necessary to assure
20 protection of the public, the residents of the facility or hospital,
21 and the person including, but not limited to, segregating the person
22 or utilizing private facilities.

23 B. No order placing a serious juvenile offender or delinquent
24 youth who has reached the age of eighteen (18) years in the custody

1 or under the supervision of the Office of Juvenile Affairs shall
2 disqualify such person from eligibility for any insurance program
3 provided or approved by the State of Oklahoma.

4 C. When a serious juvenile offender or juvenile delinquent
5 reaches the age of eighteen (18) years, such person may be placed in
6 a secure facility separated from the population that is under
7 eighteen (18) years of age where such population management and
8 control may be the same as that applicable to the adult population
9 in correctional facilities. Placements of such youth in secure
10 facilities shall be in accordance with rules promulgated by the
11 Board of Juvenile Affairs. When such person is released from a
12 secure facility, the person may be placed in a community-based
13 residential setting or transitional living center where population
14 management and control may be the same as that provided in adult
15 community placements operated or contracted by the Department of
16 Corrections, and such placement shall be exempt from the licensure
17 requirements of the Child Care Facilities Licensing Act.

18 SECTION 16. REPEALER 10A O.S. 2011, Section 2-5-101, is
19 hereby repealed.

20 SECTION 17. This act shall become effective November 1, 2012.
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