

ENROLLED SENATE
BILL NO. 247

By: David of the Senate
and
Peters of the House

An Act relating to juvenile facilities; amending 10 O.S. 2001, Section 7302-5.3, as last amended by Section 16, Chapter 234, O.S.L. 2009, and as renumbered by Section 173, Chapter 234, O.S.L. 2009 and Section 2, Chapter 167, O.S.L. 2009 (10A O.S. Supp. 2010, Sections 2-7-503 and 2-7-611), which relate to juvenile facilities; modifying provisions related to the placement of certain delinquent children; modifying certain duty of the Office of Juvenile Affairs; and declaring an emergency.

SUBJECT: Office of Juvenile Affairs juvenile facilities

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7302-5.3, as last amended by Section 16, Chapter 234, O.S.L. 2009, and as renumbered by Section 173, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2010, Section 2-7-503), is amended to read as follows:

Section 2-7-503. A. It is the intent of the Legislature of this state to provide for the creation of all reasonable means and methods that can be established by a state for:

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

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

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

1. Place the child in a state training school or ~~other institution or facility maintained~~ secure facility, including a collocated secure facility, or other institution or facility maintained, operated or contracted by the state for delinquent children if the child has:

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

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

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

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

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

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

6. Place the child in any licensed private facility deemed by the Office of Juvenile Affairs to be in the best interest of the child; or

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

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

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

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

SECTION 2. AMENDATORY Section 2, Chapter 167, O.S.L. 2009 (10A O.S. Supp. 2010, Section 2-7-611), is amended to read as follows:

Section 2-7-611. A. For purposes of this section, "electronic communication" means any transfer of signs, signals, writings, images, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, electromagnetic, photo-electronic, or photo-optical system, and includes, but is not limited to, the transfer of that communication through the Internet.

B. 1. The Office of Juvenile Affairs shall certify all secure facilities, including secure facilities collocated with adult facilities or juvenile detention facilities. Such collocated facilities shall meet applicable criteria of the federal Juvenile Justice Delinquency Prevention Act for collocation. To be certified, a secure facility shall be required to meet standards for certification promulgated by the Board of Juvenile Affairs.

2. Any person, including a resident of the facility, who knowingly, willfully and without authority brings into or has in his or her possession in any certified secure facility or certified juvenile detention facility any gun, knife, bomb or other dangerous instrument, any controlled dangerous substance as defined by Section 2-101 et seq. of Title 63 of the Oklahoma Statutes, any intoxicating beverage or low-point beer as defined by Sections 163.1 and 163.2 of Title 37 of the Oklahoma Statutes, any cellular phone or electronic device capable of sending or receiving any electronic communication, money, or financial documents for a person other than the juvenile or youthful offender or relative of the juvenile or youthful offender, shall be guilty of a felony and is subject to imprisonment in the custody of the Department of Corrections for not less than one (1) year or more than five (5) years, or a fine of not less than One Hundred Dollars (\$100.00) or more than One Thousand Dollars (\$1,000.00), or both such fine and imprisonment.

C. Any person, including a resident of the facility, who knowingly, willfully and without authority brings into or has in his or her possession in any certified secure facility or certified juvenile detention facility any cigarettes, cigars, snuff, chewing tobacco, or any other form of tobacco product shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail not to exceed one (1) year, or by a fine not exceeding Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 18th day of May, 2011.

Presiding Officer of the Senate

Passed the House of Representatives the 19th day of May, 2011.

Presiding Officer of the House
of Representatives