

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

5 B. The Legislature recognizes that juveniles who commit certain
6 serious offenses need a greater level of security and treatment to
7 improve the likelihood of success in rehabilitation and
8 reintegration into society. It is the intent of the Legislature to
9 provide a sentencing alternative for courts and, where appropriate,
10 a treatment alternative in dealing with such offenders. It is the
11 purpose of the Serious Juvenile Offender Act to:

12 1. Provide a judicial framework for prosecuting a juvenile as a
13 serious juvenile offender and properly disposing of such cases,
14 including establishing time limitations for prosecution and
15 disposition and ensuring an expedited decision by the court on how
16 the juvenile will be prosecuted;

17 2. Provide that the decision of the court shall be based on the
18 risks and needs assessment of the juvenile, amenability to
19 rehabilitation including a review of the complete social,
20 educational, and certification evaluations of the juvenile as well
21 as the nature of the current charge or charges and past contacts
22 with law enforcement, the juvenile courts, juvenile probation, and
23 any commitments to juvenile institutions;

1 3. Allow the court discretion to continue reviewing the
2 progress of the juvenile in treatment and modify the disposition and
3 individualized treatment plan ordered by the court to ensure the
4 rehabilitation of the juvenile;

5 4. Cognitively and behaviorally redirect the juvenile through
6 the delivery of enhanced and individualized educational, vocational,
7 life, socialization, and independent living skills training,
8 counseling and public service opportunities whenever possible with
9 the goal of equipping the juvenile to effectively participate in
10 society and prepare for a gradual reintegration into the community;

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

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

16 7. Develop individualized and effective treatment programs in
17 the community in order to provide rehabilitation for juveniles
18 adjudicated as serious juvenile offenders;

19 8. Develop an individualized reintegration plan and program for
20 every serious juvenile offender who is released back to the
21 community after placement in a secure facility with an
22 individualized plan and program involving ongoing monitoring,
23 treatment and support;

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

3 10. Authorize the court to require the Office of Juvenile
4 Affairs to evaluate and implement as part of the treatment plan of
5 the serious juvenile offender, if necessary, a treatment plan for
6 the parents or custodian of the juvenile to ensure a safe and
7 healthy environment to which the juvenile can return;

8 11. When appropriate, require the juvenile to make restitution
9 to the victim of the offense;

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

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

15 C. It is the intent of the Legislature that all serious
16 juvenile offenders have access to services provided under the
17 Serious Juvenile Offender Act for a period of time necessary to
18 complete an individualized treatment plan or until the serious
19 juvenile offender reaches the maximum age of twenty-one (21) years,
20 regardless of the age of the serious juvenile offender at the time
21 of sentencing. To deny access to an otherwise eligible older youth
22 without cause is to circumvent the original intent of the
23 Legislature in creating the Serious Juvenile Offender Act.

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

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

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

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

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

13 c. sixteen (16) or seventeen (17) years of age and
14 charged with a crime listed in subsection B of Section
15 2-5-206 of this title,

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

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

18 the imposition of a court order making disposition of a ~~youthful~~
19 serious juvenile offender as provided by Section 2-5-209 of this

20 title which shall constitute an adult criminal sentence if the

21 ~~youthful~~ serious juvenile offender is transferred to the custody or
22 supervision of the Department of Corrections; ~~and~~

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1 3. "Next friend" means an individual or executive of an
2 organization who has assumed a parental role without formal legal
3 proceedings, but to all objective observers is readily identified as
4 custodian or guardian in fact;

5 4. "Certification evaluation" means an assessment of the
6 educational, academic, behavioral, emotional, psychological, family
7 and social aspects of the serious juvenile offender for the purpose
8 of making treatment recommendations which shall be conducted by a
9 qualified licensed mental health professional as evidenced by
10 documented training and experience in the administration, scoring
11 and interpretation of a broad spectrum of recognized psychometric
12 assessments;

13 5. "Individualized treatment plan" means the written
14 comprehensive plan, based on a risk and needs assessment that
15 outlines and defines the course of treatment for a serious juvenile
16 offender. The individualized treatment plan delineates the goals,
17 objectives, resources, services, and participants in the treatment
18 process. Goals indicated in the treatment plan not only address
19 correction of the criminal behavior that resulted in the serious
20 juvenile offender conviction, but also focus on other components in
21 the life of the serious juvenile offender that may negatively
22 influence the outcome. The individualized treatment plan considers
23 the history of the serious juvenile offender, family relationships,

1 substance abuse and dependence issues, and mental health issues of
2 the serious juvenile offender and the community resources available.
3 Priority is given to goals that address criminogenic needs, which
4 include the offending behavior pattern, peer relationships, criminal
5 thinking and attitudes, and personality factors. The individualized
6 treatment plan includes individualized educational, vocational,
7 socialization, and independent living and life skills that will be
8 acquired by the serious juvenile offender and the services that will
9 assist in achieving the goals set forth in the plan. The
10 individualized treatment plan should be revised periodically as the
11 serious juvenile offender completes treatment and additional needs
12 and resources are identified to be included in the plan or a change
13 of placement occurs;

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

20 Custodial interrogation shall conform to all requirements for the
21 interrogation of adult criminal offenders. The term "custodial
22 interrogation" shall not be deemed to mean questioning of a serious
23 juvenile offender by a public school administrator or teacher, so

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

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

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

15 9. "Motion for imposition of an adult sentence" means a motion
16 filed by the state pursuant to the guidelines set forth in Section
17 2-5-207 of this title asking the court to allow the accused to be
18 prosecuted and sentenced as if the accused were an adult at the time
19 of the alleged offense;

20 10. "Motion to transfer the serious juvenile offender to the
21 Department of Corrections" or "motion to bridge" means a motion of
22 the state asking the court to remove a serious juvenile offender
23 from the custody or supervision of the Office of Juvenile Affairs

1 and sentencing the serious juvenile offender as an adult pursuant to
2 the criteria set forth in subsection B of Section 2-5-209 of this
3 title; and

4 11. "Risk and needs assessment" means an offense-specific
5 evaluation of the treatment needs of an accused which shall include,
6 but not be limited to, the history of delinquent adjudications of
7 the accused, social information, education, employment, substance
8 abuse and mental health issues, as applicable. The evaluation shall
9 also include a violence risk assessment.

10 ~~B. It is the purpose of the Youthful Offender Act to better~~
11 ~~ensure the public safety by holding youths accountable for the~~
12 ~~commission of serious crimes, while affording courts methods of~~
13 ~~rehabilitation for those youths the courts determine, at their~~
14 ~~discretion, may be amenable to such methods. It is the further~~
15 ~~purpose of the Youthful Offender Act to allow those youthful~~
16 ~~offenders whom the courts find to be amenable to rehabilitation by~~
17 ~~the methods prescribed in the Youthful Offender Act to be placed in~~
18 ~~the custody or under the supervision of the Office of Juvenile~~
19 ~~Affairs for the purpose of accessing the rehabilitative programs~~
20 ~~provided by that Office.~~

21 SECTION 3. AMENDATORY 10A O.S. 2011, Section 2-5-203, is
22 amended to read as follows:
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1 Section 2-5-203. A. 1. A child who is charged with having
2 violated any state statute or municipal ordinance other than as
3 provided in Sections 2-5-205 and 2-5-206 of this title shall not be
4 tried in a criminal action as an adult or a ~~youthful~~ serious
5 juvenile offender, but in a juvenile proceeding, unless certified as
6 an adult pursuant to Section 2-2-403 of this title.

7 2. However, when multiple offenses occur within the same course
8 of conduct within the same county and the person is prosecuted for
9 at least one offense as a ~~youthful~~ serious juvenile offender
10 pursuant to Section 2-5-205 or 2-5-206 of this title, then all the
11 charges may be prosecuted under the same action pursuant to the
12 provisions of the ~~Youthful~~ Serious Juvenile Offender Act, if so
13 ordered by the court. The decision to join the cases shall not be
14 appealable as a final order. If the offense listed in Section 2-5-
15 205 or Section 2-5-206 of this title is subsequently dismissed for
16 any reason, then any remaining pending charges shall be transferred
17 to the juvenile court.

18 B. If, during the pendency of a criminal or quasi-criminal
19 charge against any person, it shall be ascertained that the person
20 was a child at the time of committing the alleged offense, the
21 district court or municipal court shall transfer the case, together
22 with all the papers, documents and testimony connected therewith, to
23 the juvenile division of the district court. The division making
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1 such transfer shall order the child to be taken forthwith to the
2 place of detention designated by the juvenile division, to that
3 division itself, or release such child to the custody of some
4 suitable person to be brought before the juvenile division.

5 C. Nothing in this section shall be construed to prevent the
6 exercise of concurrent jurisdiction by another division of the
7 district court or by municipal courts in cases involving children
8 wherein the child is charged with the violation of a state or
9 municipal traffic law or ordinance.

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

12 Section 2-5-204. A. A child who is arrested for an offense
13 pursuant to subsection A or B of Section 2-5-206 of this title, or
14 who is certified as a ~~youthful~~ serious juvenile offender pursuant to
15 Section 2-5-205 of this title, shall be charged by information in
16 the same manner as provided for adults, unless the district attorney
17 files a petition alleging the child is a juvenile delinquent.

18 B. No information gained by a custodial interrogation of a
19 serious juvenile offender under eighteen (18) years of age nor any
20 evidence subsequently obtained as a result of such interrogation
21 shall be admissible into evidence against the serious juvenile
22 offender unless the custodial interrogation about any alleged
23 offense by any law enforcement officer, officer of an investigative

1 agency, employee of the court, or employee of the Office of Juvenile
2 Affairs is done in the presence of the parents, guardian, attorney,
3 adult relative, adult caretaker, or legal custodian of the serious
4 juvenile offender. No such custodial interrogation shall commence
5 until the serious juvenile offender and the parents, guardian,
6 attorney, adult relative, adult caretaker, or legal custodian of the
7 serious juvenile offender have been fully advised of the
8 constitutional and legal rights of the serious juvenile offender,
9 including the right to be represented by counsel at every stage of
10 the proceedings and the right to have counsel appointed by the court
11 if the parties are without sufficient financial means.

12 C. If the child is not otherwise represented by counsel and
13 requests an attorney prior to or during interrogation, or whenever
14 charged by information, as provided in subsection A of this section,
15 the court shall appoint an attorney, who shall not be a district
16 attorney, for the child regardless of any attempted waiver by the
17 parent, legal guardian, or other legal custodian of the child of the
18 right of the child to be represented by counsel. Counsel shall be
19 appointed by the court only upon determination by the court that the
20 parent, legal guardian or legal custodian is found to be indigent.
21 If indigency is established, the Oklahoma Indigent Defense System
22 shall represent the serious juvenile offender in accordance with
23 Section 1355.6 of Title 22 of the Oklahoma Statutes or the

1 applicable Office of the Public Defender shall represent the serious
2 juvenile offender in accordance with Section 138.5 of Title 19 of
3 the Oklahoma Statutes.

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

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

20 ~~E.~~ F. Upon arrest and detention of a person subject to the
21 provisions of Section 2-5-205 or 2-5-206 of this title, the person
22 has the same right to be released on bail as would an adult in the
23 same circumstances and, if detained, may be detained in a county

1 jail if separated by sight and sound from the adult population as
2 otherwise authorized by law. If no such county jail is available,
3 then such person may be detained at a juvenile detention facility.
4 The sheriff, chief of police, or juvenile or adult detention
5 facility operator shall forthwith notify the Office of Juvenile
6 Affairs of any such arrest and detention.

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

14 G. H. A child or ~~youthful~~ serious juvenile offender shall be
15 tried as an adult in all subsequent criminal prosecutions, and shall
16 not be subject to the jurisdiction of the juvenile court as a
17 juvenile delinquent or ~~youthful~~ serious juvenile offender processes
18 in any further proceedings if:

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

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1 2. The ~~youthful~~ serious juvenile offender has been certified
2 for the imposition of an adult sentence as provided by Section 2-5-
3 208 of this title and is subsequently convicted of the alleged
4 offense or against whom the imposition of judgment and sentencing
5 has been deferred.

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

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

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

17 Section 2-5-205. A. Any person thirteen (13) or fourteen (14)
18 years of age who is charged with murder in the first degree shall be
19 held accountable for the act as if the person were an adult;
20 provided, the person may be certified as a ~~youthful~~ serious juvenile
21 offender or a juvenile as provided by this section, unless the
22 person is subject to the provisions of subsection ~~G~~ H of Section 2-
23 5-204 of this title.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

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

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

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1 3. At the conclusion of the state's case at the criminal
2 preliminary hearing, the state and the accused person may offer
3 evidence to support or oppose the motions for certification as a
4 ~~youthful~~ serious juvenile offender or an alleged juvenile
5 delinquent. At the hearing on the motion for certification as a
6 juvenile, the burden of proof shall be on the accused to show by a
7 preponderance of the evidence that the child should be certified as
8 a juvenile.

9 E. The court shall rule on any motions for certification as a
10 ~~youthful~~ serious juvenile offender or an alleged juvenile delinquent
11 before ruling on whether to bind the accused over for trial. When
12 ruling on a motion for certification as a ~~youthful~~ serious juvenile
13 offender or juvenile, the court shall give consideration to the
14 following guidelines with greatest weight to be given to paragraphs
15 1, 2 ~~and~~, 3 and 6:

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

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

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

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1 4. The sophistication and maturity of the accused person and
2 the capability of distinguishing right from wrong as determined by
3 consideration of the ~~person's psychological~~ certification evaluation
4 of the person, home, environmental situation, emotional attitude and
5 pattern of living;

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

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

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

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

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

3 G. ~~An~~ Except on remand from the Court of Criminal Appeals, an
4 order certifying the accused person as a youthful serious juvenile
5 offender or an alleged juvenile delinquent shall not be reviewable
6 by the trial court.

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

15 I. If a person who is charged with murder in the first degree
16 is not convicted of that offense but is convicted of a different
17 offense, the court may on its own motion or at the request of the
18 district attorney continue the hearing for a sufficient period of
19 time to conduct an investigation and further hearing to determine if
20 the child should be held accountable for acts of the child as if the
21 child were an adult pursuant to the considerations of Section 2-2-
22 403 of this title. Provided, the preliminary hearing to determine

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1 whether or not there is prosecutive merit to the complaint would not
2 be required.

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

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

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

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

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1 1. Burglary in the first degree or attempted burglary in the
2 first degree;

3 2. Battery or assault and battery on a state employee or
4 contractor while in the custody or supervision of the Office of
5 Juvenile Affairs;

6 3. Aggravated assault and battery of a police officer;

7 4. Intimidating a witness;

8 5. Trafficking in or manufacturing illegal drugs;

9 6. Assault or assault and battery with a deadly weapon;

10 7. Maiming;

11 8. Residential burglary in the second degree after two or more
12 adjudications that are separated in time for delinquency for
13 committing burglary in the first degree or residential burglary in
14 the second degree;

15 9. Rape in the second degree; or

16 10. Use of a firearm while in commission of a felony,
17 shall be held accountable for such acts, upon conviction, as a
18 ~~youthful~~ serious juvenile offender.

19 C. The district attorney may file a petition alleging the
20 person to be a delinquent or may file an information against the
21 accused person charging the person as a ~~youthful~~ serious juvenile
22 offender. The district attorney shall notify the Office of Juvenile
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1 Affairs upon the filing of ~~youthful~~ serious juvenile offender
2 charges.

3 D. 1. Upon the filing of the information against such alleged
4 ~~youthful~~ serious juvenile offender, a warrant shall be issued which
5 shall set forth the rights of the accused person, and the rights of
6 the parents, guardian or next friend of the accused person to be
7 present at the preliminary hearing, ~~and~~ to have an attorney present,
8 and to make application for certification of such accused person as
9 a juvenile delinquent. The information and all contents of the
10 court file shall remain confidential unless and until such time that
11 the person is sentenced as an adult for the offense.

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

16 3. When personal service of a custodial parent, guardian or
17 next friend of the alleged ~~youthful~~ serious juvenile offender cannot
18 be effected, service may be made by certified mail to the last-known
19 address of the person, requesting a return receipt from the
20 addressee only. If delivery is refused, notice may be given by
21 mailing the warrant and a copy of the information on the accused
22 person by regular first-class mail to the address where the person
23 to be notified refused delivery of the notice sent by certified

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1 mail. Where the address of a custodial parent, guardian or next
2 friend is not known, or if the mailed warrant and copy of the
3 information on the accused person is returned for any reason other
4 than refusal of the addressee to accept delivery, after a distinct
5 and meaningful search of all reasonably available sources to
6 ascertain the whereabouts of a custodial parent, guardian or next
7 friend has been conducted, the court may order that notice of the
8 hearing be given by publication one time in a newspaper of general
9 circulation in the county. In addition, the court may order other
10 means of service of notice that the court deems advisable or in the
11 interests of justice.

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

16 E. The court shall commence a preliminary hearing within ninety
17 (90) days of the filing of the information pursuant to Section 258
18 of Title 22 of the Oklahoma Statutes, to determine whether the crime
19 was committed and whether there is probable cause to believe the
20 accused person committed the crime. If the preliminary hearing is
21 not commenced within ninety (90) days, the state shall be prohibited
22 from seeking an adult sentence unless the ninety-day requirement is
23 waived by the defendant. If the whereabouts of the accused are

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

19 F. 1. The accused person may file a motion for certification
20 to the juvenile justice system before the start of the criminal
21 preliminary hearing:
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1 a. upon the filing of such motion, the complete juvenile
2 record of the accused shall be made available to the
3 district attorney and the accused person,

4 b. at the conclusion of the state's case at the criminal
5 preliminary hearing, the accused person may offer
6 evidence to support the motion for certification as a
7 child.

8 2. If no motion to certify the accused person to the juvenile
9 justice system has been filed, at the conclusion of the criminal
10 preliminary hearing the court may on its own motion hold a hearing
11 on the matter of the certification of the accused ~~youthful~~ serious
12 juvenile offender to the juvenile system.

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

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

20 b. whether the offense was against persons, and if
21 personal injury resulted, the degree of personal
22 injury,

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

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

8 5. An order certifying a person or denying such certification
9 to the juvenile justice system shall be a final order, appealable
10 when entered.

11 G. Upon conviction, sentence may be imposed as a sentence for a
12 ~~youthful~~ serious juvenile offender as provided by Section 2-5-209 of
13 this title. If the ~~youthful~~ serious juvenile offender sentence is
14 imposed as an adult sentence as provided by Section 2-5-208 of this
15 title, the convicted person may be incarcerated with the adult
16 population.

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

19 Section 2-5-207. It is the intent of the Legislature to fully
20 utilize the ~~Youthful~~ Serious Juvenile Offender Act as a means to
21 protect the public while rehabilitating and holding youth
22 accountable for serious crimes. The Legislature finds that eligible
23 seventeen-year-olds should have the opportunity to be processed as

1 ~~youthful~~ serious juvenile offenders as provided by law and held
2 accountable through the various provisions of the ~~Youthful~~ Serious
3 Juvenile Offender Act for custody, institutional placement,
4 supervision, extended jurisdiction within the Office of Juvenile
5 Affairs, and the ability to transfer ~~youthful~~ serious juvenile
6 offenders to the Department of Corrections when incarceration or
7 additional supervision is required beyond the maximum age allowed in
8 the Office of Juvenile Affairs. No older youth should be deemed
9 ineligible or denied consideration as a ~~youthful~~ serious juvenile
10 offender who is otherwise lawfully eligible based upon the age of
11 the youth being seventeen (17) years, but it is the intent of the
12 Legislature that such ~~youthful~~ serious juvenile offender shall not
13 remain in the custody or under the supervision of the Office of
14 Juvenile Affairs beyond the ~~youthful~~ serious juvenile offender's
15 maximum age of ~~eighteen (18)~~ twenty-one (21) years and ~~five (5)~~
16 ~~months~~. To deny access to an otherwise eligible older youth without
17 cause is to circumvent the original intent of the Legislature in
18 creating the ~~Youthful~~ Serious Juvenile Offender Act.

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

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

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

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

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

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

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

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

9 b. whether the offense was against persons and, if
10 personal injury resulted, the degree of 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 capability of distinguishing right from wrong
18 as determined by consideration of the ~~psychological~~
19 certification evaluation, home, environmental
20 situation, emotional attitude and pattern of living of
21 the accused person,

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 person 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 on escape status from an institution
10 for ~~youthful~~ serious juvenile offenders or delinquent
11 children.

12 D. After the hearing and consideration of the report of the
13 investigation, the court shall certify the person as eligible for
14 the imposition of an adult sentence only if it finds that the state
15 has proven by clear and convincing evidence that there is good cause
16 to believe that the accused person would not reasonably complete a
17 plan of rehabilitation or that the public would not be adequately
18 protected if the person were to be sentenced as a ~~youthful~~ serious
19 juvenile offender.

20 In its decision on the motion of the state for imposition of an
21 adult sentence, the court shall detail findings of fact and
22 conclusions of law to each of the considerations in subsection C of
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1 this section and shall state that the court has considered each of
2 its guidelines in reaching its decision.

3 E. An order certifying or denying certification for imposition
4 of an adult sentence shall be a final order, appealable when
5 entered.

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

17 G. Upon a verdict of guilty or a plea of guilty or nolo
18 contendere, the court may order the person to pay a fee to the
19 Office of Juvenile Affairs of not less than Twenty-five Dollars
20 (\$25.00), nor more than Five Hundred Dollars (\$500.00), for the
21 ~~presentence investigation~~ certification evaluation. In hardship
22 cases, the court may waive the fee or set the amount of the fee and
23 establish a payment schedule.

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

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

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

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

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

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

14 a. whether the ~~youthful~~ serious juvenile offender shall
15 be returned to the Office of Juvenile Affairs to
16 complete a treatment program, provided that the
17 treatment program shall not exceed the ~~youthful~~
18 serious juvenile offender's attainment of ~~eighteen~~
19 ~~(18)~~ twenty-one (21) years of age ~~and five (5) months~~.
20 At the conclusion of the treatment program, the
21 individual shall be returned to the sentencing court
22 for a determination under subparagraph b, c or d of
23 this paragraph,

1 b. whether the ~~youthful~~ serious juvenile offender shall
2 be placed in the custody of the Department of
3 Corrections,

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

8 d. whether the ~~youthful~~ serious juvenile offender shall
9 be discharged from custody.

10 2. The sentence imposed shall not exceed the maximum sentence
11 already imposed in the originating sentence.

12 3. If a ~~youthful~~ serious juvenile offender has attained
13 eighteen (18) years of age but less than ~~eighteen (18)~~ twenty-one
14 (21) years of age and ~~five (5) months~~ prior to sentencing, that
15 individual shall be returned to the sentencing court upon attaining
16 ~~the age of eighteen (18)~~ twenty-one (21) years and five (5) months
17 of age if that individual has been sentenced to a period of
18 placement or treatment with the Office of Juvenile Affairs and has
19 remained in the custody of the Office of Juvenile Affairs following
20 the annual review hearings required pursuant to Section 2-5-210 of
21 this title. The court shall have the same dispositional options as
22 provided in subparagraphs b, c and d of paragraph 1 of this
23 subsection.

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

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

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

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

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

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

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

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

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

1 Juvenile Affairs. The ~~rehabilitation~~ individualized treatment plan
2 shall include, but not be limited to:

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

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

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

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

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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

1 necessary, amend the individualized treatment plan to ensure the
2 plan is meeting the treatment needs and goals of the serious
3 juvenile offender;

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

1 in the office of the clerk or which have been produced by a law
2 enforcement agency in which the name of the ~~youthful~~ serious
3 juvenile offender is mentioned. The court may order probation
4 officers and counselors of the Office of Juvenile Affairs to destroy
5 all records, reports, and social and clinical studies relating to
6 the ~~youthful~~ serious juvenile offender that are in the possession of
7 the Office of Juvenile Affairs, except when the documents are
8 necessary to maintain state or federal funding;

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

12 ~~3.~~ 5. Place the ~~youthful~~ serious juvenile offender on probation
13 under the supervision of the age-appropriate agency;

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

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

- 3 a. after certification as a ~~youthful~~ serious juvenile
4 offender, seriously injured or endangered the life or
5 health of another person by such person's violent
6 behavior,
- 7 b. escaped from the facility from which the ~~youthful~~
8 serious juvenile offender is being held,
- 9 c. committed a felony crime while in the custody or under
10 the supervision of the Office of Juvenile Affairs as
11 shown by a judgment entered following a verdict of
12 guilty, a plea of guilty or nolo contendere, or as
13 shown by clear and convincing evidence,
- 14 d. committed battery or assault and battery on a state
15 employee or contractor of a juvenile facility while in
16 the custody of such facility,
- 17 e. caused a serious disruption in the facility, smuggled
18 contraband into the facility, caused contraband to be
19 smuggled into the facility, or engaged in other types
20 of behavior which have endangered the life or health
21 of other residents or staff of the facility, ~~or~~

1 f. established a pattern of disruptive behavior not
2 conducive to the established policies and procedures
3 of the program, or

4 g. willfully, chronically and consistently refused to
5 participate in the treatment program.

6 The court, in its decision to transfer custody of the ~~youthful~~
7 serious juvenile offender to the custody of the Department of
8 Corrections, shall detail findings of fact and conclusions of law
9 addressing the grounds alleged in the motion of the state.

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

1 D. The court shall grant time-served credits against the adult
2 sentence imposed for any ~~youthful~~ serious juvenile offender
3 transferred to the Department of Corrections. For the purpose of
4 calculating time served to be applied toward any sentence imposed
5 upon a ~~youthful~~ serious juvenile offender, in the event a ~~youthful~~
6 serious juvenile offender has been placed in the custody or under
7 the supervision of the Office of Juvenile Affairs, the offender
8 shall receive day-for-day credit for the time spent in the custody
9 or under the supervision of the Office of Juvenile Affairs. Upon
10 commitment to the Department of Corrections, a ~~youthful~~ serious
11 juvenile offender shall also receive other credits as provided by
12 law for an adult inmate.

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

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

3 Section 2-5-211. When committing a person who is, or has been,
4 certified as a ~~youthful~~ serious juvenile offender and is certified
5 eligible for the imposition ~~as~~ of an adult sentence pursuant to
6 Section 2-5-208 of this title, or certified as a ~~youthful~~ serious
7 juvenile offender and is being transferred to the Department of
8 Corrections for custody or supervision pursuant to Section 2-5-210
9 of this title, or sentenced as an adult after previously being
10 certified as a ~~youthful~~ serious juvenile offender, the judgment and
11 sentence shall clearly identify such person as a ~~youthful~~ serious
12 juvenile offender, or previous ~~youthful~~ serious juvenile offender,
13 and detail the history of the applications of the ~~Youthful Serious~~
14 Juvenile Offender Act to such person that resulted in the current
15 commitment to the Department of Corrections.

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

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

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

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

4 3. Place the ~~youthful~~ serious juvenile offender under community
5 supervision prior to or after a period of placement in one or more
6 of the facilities referred to in paragraphs 1 and 2 of this
7 subsection. The Office of Juvenile Affairs may place a ~~youthful~~
8 serious juvenile offender in his or her own home, or an independent
9 living or other similar living arrangement within the community of
10 the residence of the ~~youthful~~ serious juvenile offender only upon
11 the approval of the court; provided, the court shall not prohibit
12 the reintegration of the ~~youthful~~ serious juvenile offender into the
13 community except upon finding that the ~~youthful~~ serious juvenile
14 offender has not reasonably completed the ~~rehabilitation~~
15 individualized treatment plan objectives established as
16 preconditions for reintegration into the community or that the
17 public would not be adequately protected if the ~~youthful~~ serious
18 juvenile offender is reintegrated into the community; or

19 4. Place the ~~youthful~~ serious juvenile offender in a sanction
20 program if the ~~youthful~~ serious juvenile offender fails to comply
21 with a written individualized treatment plan ~~of rehabilitation~~ or
22 fails substantially to achieve reasonable treatment objectives while
23 in community or other nonsecure programs.

1 B. Placement of the ~~youthful~~ serious juvenile offender pursuant
2 to this section or any other provision of law shall be the
3 responsibility of the Office of Juvenile Affairs and shall occur as
4 soon as reasonably possible but not more than forty-five (45) days
5 following the filing and adoption of the written ~~rehabilitation~~
6 individualized treatment plan as provided in Section 2-5-210 of this
7 title. This placement time period may be extended upon the
8 declaration of an emergency by the Board of Juvenile Affairs. For
9 the purposes of this section, "emergency" means any situation that
10 places the health, safety and well-being of the residents or staff
11 in imminent peril. The court shall not have authority to require
12 specific placement of a ~~youthful~~ serious juvenile offender in a time
13 frame which would require the removal of any other juvenile or
14 ~~youthful~~ serious juvenile offender from such placement.

15 C. The Office of Juvenile Affairs shall be responsible for the
16 care and control of a ~~youthful~~ serious juvenile offender placed in
17 the custody of the Office of Juvenile Affairs, and shall have the
18 duty and the authority to provide food, clothing, shelter, ordinary
19 medical care, education, discipline and in an emergency to authorize
20 surgery or other extraordinary care. The medical care, surgery and
21 extraordinary care shall be charged to the appropriate agency where
22 the ~~youthful~~ serious juvenile offender qualifies for the care under
23 law, rule, regulation or administrative order or decision. Nothing

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1 in this section shall abrogate the right of a ~~youthful~~ serious
2 juvenile offender to any benefits provided through public funds nor
3 the parent's statutory duty or responsibility to provide said
4 necessities; further, no person, agency or institution shall be
5 liable in a civil suit for damages for authorizing or not
6 authorizing surgery or extraordinary care in an emergency, as
7 determined by competent medical authority. A ~~youthful~~ serious
8 juvenile offender placed in the custody of the Office of Juvenile
9 Affairs who has attained eighteen (18) years of age or older may
10 authorize and consent to the medical care sought on behalf of the
11 ~~youthful~~ serious juvenile offender by the Office of Juvenile Affairs
12 and to be provided to the ~~youthful~~ serious juvenile offender by a
13 qualified health care professional. No state employee shall be
14 liable for the costs of any medical care or behavioral health
15 services provided to any child in the custody of the Office of
16 Juvenile Affairs.

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

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

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

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

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

8 Section 2-5-213. A. Upon the motion of a person who has been
9 convicted and sentenced as a ~~youthful~~ serious juvenile offender and
10 who has been subsequently transferred to the adult system pursuant
11 to Section 2-5-210 of this title, with the recommendation of the
12 sentencing court, the Governor may grant a full and complete pardon
13 and restore citizenship to any person who has been convicted and
14 sentenced as a ~~youthful~~ serious juvenile offender and who has
15 completed the sentence or been discharged from parole.

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

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

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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

7 If a conviction is set aside pursuant to this subsection, the
8 ~~youthful~~ serious juvenile offender shall thereafter be released from
9 all penalties and disabilities resulting from the offense for which
10 such person was convicted, including but not limited to, any
11 disqualification for any employment or occupational license, or
12 both, created by any other provision of law. The court may in
13 addition order any law enforcement agency over whom the court has
14 jurisdiction to produce all files and records pertaining to said
15 arrest and conviction of the ~~youthful~~ serious juvenile offender and
16 shall order the clerk of the court to destroy the entire file and
17 record of the case, including docket sheets, index entries, court
18 records, summons, warrants or records in the office of the clerk or
19 which have been produced by a law enforcement agency in which the
20 name of the ~~youthful~~ serious juvenile offender is mentioned. The
21 court may order probation officers and counselors to destroy all
22 records, reports, and social and clinical studies relating to said
23 ~~youthful~~ serious juvenile offender that are in their possession

1 except when said documents are necessary to maintain state or
2 federal funding.

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

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

18
19 SECTION 15. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 2-5-302 of Title 10A, unless
21 there is created a duplication in numbering, reads as follows:

22 A. For purposes of commitment of a person eighteen (18) years
23 of age or older, serious juvenile offender or delinquent to a state

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

18 B. No order placing a serious juvenile offender or delinquent
19 youth who has reached the age of eighteen (18) years in the custody
20 or under the supervision of the Office of Juvenile Affairs shall
21 disqualify such person from eligibility for any insurance program
22 provided or approved by the State of Oklahoma.

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

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

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

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19 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
20 03/01/2012 - DO PASS, As Amended and Coauthored.

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