

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2741

By: Peters

4
5 AS INTRODUCED

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

1 needs assessment instruments for treatment and
2 service plans; construing certain provision;
3 providing list of rights for disposition hearings;
4 authorizing use of sanctions under certain
5 circumstances; deleting redispotion guidelines;
6 amending 10A O.S. 2011, Section 2-2-701, which
7 relates to contempt of court violations; authorizing
8 issuance of bench warrants; defining terms;
9 describing contempt of court violations; modifying
10 punishment; amending 10A O.S. 2011, Sections 2-6-101,
11 2-6-102 and 2-6-108, which relate to records of
12 juvenile cases; modifying definitions; deleting and
13 modifying exceptions to confidentiality requirements;
14 directing court to seal records of delinquent
15 proceedings; deleting directive to establish certain
16 records system; amending 21 O.S. 2011, Section 1283,
17 which relates to firearm possession prohibitions;
18 modifying certain prohibited act; amending 43A O.S.
19 2011, Section 5-507, which relates to the admission
20 of deprived children; clarifying manner in which
21 minor children in state custody may be admitted to
22 hospital or treatment facilities; repealing 10 O.S.
23 2011, Sections 22 and 24, which relate to personnel
24 of state institutions and the appointment of counsel;
repealing 10 O.S. 2011, Sections 130.1, 130.2, 130.3,
130.4, 130.5, 130.6, 130.7, 130.8 and 130.9, which
relate to detention homes for juveniles; repealing 10
O.S. 2011, Section 1101.1, which relates to placement
of certain children in mental health facilities;
repealing 10A O.S. 2011, Section 2-2-806, which
relates to construction of certain juvenile custody
facility; providing for codification; and providing
an effective date.

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

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

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

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

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

9 ~~2. Give juveniles access to opportunities for personal and~~
10 ~~social growth;~~

11 ~~3. Maintain the integrity of substantive law prohibiting~~
12 ~~certain behavior and developing individual responsibility for lawful~~
13 ~~behavior;~~

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

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

18 ~~6. Remove a juvenile from the custody of parents if the welfare~~
19 ~~and safety of the juvenile or the protection of the public would~~
20 ~~otherwise be endangered;~~

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

1 ~~8. Provide procedures through which the provisions of the law~~
2 ~~are executed and enforced and which will assure the parties fair~~
3 ~~hearings at which their rights as citizens are recognized and~~
4 ~~protected~~ to recognize that children are different from adults.
5 Each child is unique and should be raised in a safe and secure
6 environment, allowing the child to mature and thrive as a successful
7 law-abiding citizen. All Oklahoma citizens and their property
8 should be protected from conduct by a child that would be a crime if
9 committed by an adult. All families and communities should create
10 environments that encourage children to complete an education
11 program, comply with state laws, develop job skills, practice good
12 citizenship, and establish a career. To serve these ends, the most
13 effective way of reducing juvenile delinquency and promoting public
14 safety is through prevention and rehabilitative programs that rely
15 upon individualized treatment and best practices. It is the intent
16 of the Legislature that state and local agencies collaborate and
17 maintain partnerships to meet the needs of children and their
18 families.

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

21 1. Protect the safety of the community through prevention
22 programs and rehabilitation of juvenile delinquents;
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24

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

4 3. Require individual assessments for delinquent children and
5 their families and base individual treatment plans upon those
6 assessments;

7 4. Involve the family in the rehabilitation of a delinquent
8 child and, whenever possible and appropriate, maintain the child in
9 the home of the child;

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

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

15 7. Develop individualized and effective treatment programs in
16 the community in order to provide rehabilitation for all juveniles
17 adjudicated as delinquent;

18 8. Develop a reintegration plan and program for every child
19 that is released back to the community after placement in a secure
20 facility. The reintegration plan and program shall involve the
21 family, the community, and the state so as to ensure that the
22 community is protected and to give the child the tools and resources
23 necessary to succeed;

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

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

6 11. When appropriate, require the offender to make restitution
7 to the victim of the offense;

8 12. Require the involvement of parents or guardians to
9 participate to the best of their ability in the rehabilitation of
10 the juvenile; and

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

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

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

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

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

7 3. "Behavioral health" means mental health, substance abuse or
8 co-occurring mental health and substance abuse diagnoses, and the
9 continuum of mental health, substance abuse, or co-occurring mental
10 health and substance abuse treatment;

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

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

15 6. "Child" or "juvenile" means any person under eighteen (18)
16 years of age, except for any person charged and convicted for any
17 offense specified in the ~~Youthful~~ Serious Juvenile Offender Act or
18 against whom judgment and sentence has been deferred for such
19 offense, or any person who is certified as an adult pursuant to any
20 certification procedure authorized in the Oklahoma Juvenile Code for
21 any offense which results in a conviction or against whom judgment
22 and sentence has been deferred for such offense;

23 7. "Child or juvenile in need of mental health and substance
24 abuse treatment" means a juvenile in need of mental health and

1 substance abuse treatment as defined by the Inpatient Mental Health
2 and Substance Abuse Treatment of Minors Act;

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

5 a. has repeatedly disobeyed reasonable and lawful
6 commands or directives of the parent, legal guardian,
7 or other custodian,

8 b. is willfully and voluntarily absent from his home
9 without the consent of the parent, legal guardian, or
10 other custodian for a substantial length of time or
11 without intent to return,

12 c. is willfully and voluntarily absent from school, as
13 specified in Section 10-106 of Title 70 of the
14 Oklahoma Statutes, if the juvenile is subject to
15 compulsory school attendance, or

16 d. has been served with an ex parte or final protective
17 order pursuant to the Protection from Domestic Abuse
18 Act;

19 9. "Community-based" means a facility, program or service
20 located near the home or family of the juvenile, and programs of
21 community prevention, diversion, supervision and service which
22 maintain community participation in their planning, operation, and
23 evaluation. These programs may include but are not limited to
24 medical, educational, vocational, social, and psychological

1 guidance, training, counseling, alcoholism treatment, drug
2 treatment, prevention and diversion programs, diversion programs for
3 first-time offenders, transitional living, independent living and
4 other rehabilitative services;

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

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

- 14 a. screening, evaluation and assessment which includes a
15 face-to-face screening and evaluation to establish
16 problem identification and to determine the risk level
17 of a child or adolescent and may result in clinical
18 diagnosis or diagnostic impression,
- 19 b. treatment planning which includes preparation of an
20 individualized treatment plan which is usually done as
21 part of the screening, evaluation and assessment,
- 22 c. treatment plan reviewing which includes a
23 comprehensive review and evaluation of the
24 effectiveness of the treatment plan,

- 1 d. individual counseling which includes face-to-face,
2 one-on-one interaction between a counselor and a
3 juvenile to promote emotional or psychological change
4 to alleviate the issues, problems, and difficulties
5 that led to a referral, including ongoing assessment
6 of the status and response of the juvenile to
7 treatment as well as psychoeducational intervention,
8 e. group counseling which includes a method of treating a
9 group of individuals using the interaction between a
10 counselor and two or more juveniles ~~and/or~~ or parents
11 or guardians to promote positive emotional or
12 behavioral change, not including social skills
13 development or daily living skills,
14 f. family counseling which includes a face-to-face
15 interaction between a counselor and the family of the
16 juvenile to facilitate emotional, psychological or
17 behavior changes and promote successful communication
18 and understanding,
19 g. crisis intervention counseling which includes
20 unanticipated, unscheduled face-to-face emergency
21 intervention provided by a licensed level or qualified
22 staff with immediate access to a licensed provider to
23 resolve immediate, overwhelming problems that severely
24

1 impair the ability of the juvenile to function or
2 maintain in the community,

3 h. crisis intervention telephone support which includes
4 supportive telephone assistance provided by a licensed
5 level provider or qualified staff with immediate
6 access to a licensed provider to resolve immediate,
7 overwhelming problems that severely impair the ability
8 of the juvenile to function or maintain in the
9 community,

10 i. case management which includes planned linkage,
11 advocacy and referral assistance provided in
12 partnership with a client to support that client in
13 self-sufficiency and community tenure,

14 j. case management and home-based services which includes
15 that part of case management services dedicated to
16 travel for the purpose of linkage, advocacy and
17 referral assistance and travel to provide counseling
18 and support services to families of children as needed
19 to support specific youth and families in self-
20 sufficiency and community tenure,

21 k. individual rehabilitative treatment which includes
22 face-to-face service provided one-on-one by qualified
23 staff to maintain or develop skills necessary to
24 perform activities of daily living and successful

1 integration into community life, including educational
2 and supportive services regarding independent living,
3 self-care, social skills regarding development,
4 lifestyle changes and recovery principles and
5 practices,

6 1. group rehabilitative treatment which includes face-to-
7 face group services provided by qualified staff to
8 maintain or develop skills necessary to perform
9 activities of daily living and successful integration
10 into community life, including educational and
11 supportive services regarding independent living,
12 self-care, social skills regarding development,
13 lifestyle changes and recovery principles and
14 practices,

15 m. community-based prevention services which include
16 services delivered in an individual or group setting
17 by a qualified provider designed to meet the services
18 needs of a child or youth and family of the child or
19 youth who has been referred because of identified
20 problems in the family or community. The group
21 prevention planned activities must be focused on
22 reducing the risk that individuals will experience
23 behavioral, substance abuse or delinquency-related
24 problems. Appropriate curriculum-based group

1 activities include, but are not limited to, First
2 Offender groups, prevention and relationship
3 enhancement groups, anger management groups, life
4 skills groups, substance abuse education groups,
5 smoking cessation groups, STD/HIV groups and parenting
6 groups,

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

- 1 o. tutoring which includes a tutor and student working
2 together as a learning team to bring about overall
3 academic success, improved self-esteem and increased
4 independence as a learner for the student,
- 5 p. community relations which include public or community
6 relations activities directed toward the community or
7 public at large or any segment of the public to
8 encourage understanding, accessibility and use of
9 community-based facilities, programs or services,
- 10 q. emergency shelter beds and shelter host homes which
11 include emergency shelter care for juveniles referred
12 to the program needing shelter care within the State
13 of Oklahoma,
- 14 r. transitional living programs which include a
15 structured program to help older homeless youth
16 achieve self-sufficiency and avoid long-term
17 dependence on social services,
- 18 s. community-at-risk services (C.A.R.S.) which include a
19 program provided to juveniles in custody or under the
20 supervision of the Office of Juvenile Affairs or a
21 juvenile bureau to prevent out-of-home placement and
22 to reintegrate juveniles returning from placements.
23 The program shall include, but not be limited to,
24 treatment plan development, counseling, diagnostic and

1 evaluation services, mentoring, tutoring, and
2 supervision of youth in independent living,

3 t. first offender programs which include alternative
4 diversion programs, as defined by Section 2-2-404 of
5 this title, and

6 u. other community-based facilities, programs or services
7 designated by the Board as core community-based
8 facilities, programs or services;

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

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

15 a. has violated any federal or state law or municipal
16 ordinance except a traffic statute or traffic
17 ordinance or any provision of the Oklahoma Wildlife
18 Conservation Code, the Oklahoma Vessel and Motor
19 Regulation Act or the Oklahoma Boating Safety
20 Regulation Act, or has violated any lawful order of
21 the court made pursuant to the provisions of the
22 Oklahoma Juvenile Code, or

23 b. has habitually violated traffic laws, traffic
24 ordinances or boating safety laws or rules;

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

4 15. "Emerging best practice" or "promising practice" means a
5 practice that presents, based on preliminary information, the
6 potential for becoming a research-based practice;

7 16. "Evidence-based" means a program or practice that has had
8 multiple-site random controlled trials across heterogeneous
9 populations demonstrating that the program or practice is effective
10 for the population;

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

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

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

1 ~~18.~~ 20. "Group home" means a residential facility with a
2 program which emphasizes family-style living in a homelike
3 environment. Said group home may also offer a program within the
4 community to meet the specialized treatment needs of its residents.
5 A group home shall not be considered a correctional facility subject
6 to the provisions of Title 57 of the Oklahoma Statutes;

7 ~~19.~~ 21. "Independent living program" means a program designed
8 to assist a juvenile to enhance skills and abilities necessary for
9 successful adult living and may include but shall not be limited to
10 minimal direct staff supervision and supportive services in making
11 the arrangements necessary for an appropriate place of residence,
12 completing an education, vocational training, obtaining employment
13 or other similar services;

14 ~~20.~~ 22. "Institution" means a residential facility offering
15 care and treatment for more than twenty residents. An institution
16 shall not be considered a correctional facility subject to the
17 provisions of Title 57 of the Oklahoma Statutes. Said institution
18 may:

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

23 ~~21.~~ 23. "Juvenile detention facility" means a secure facility
24 which meets the certification standards of the Office and which is

1 entirely separate from any prison, jail, adult lockup, or other
2 adult facility, for the temporary care of children. A juvenile
3 detention facility shall not be considered a correctional facility
4 subject to the provisions of Title 57 of the Oklahoma Statutes;

5 ~~22.~~ 24. "Municipal juvenile facility" means a facility other
6 than a community intervention center that accepts a child under
7 eighteen (18) years of age charged with violating a municipal
8 ordinance and meets the requirements of Section 2-2-102 of this
9 title;

10 ~~23.~~ 25. "Office" means the Office of Juvenile Affairs;

11 ~~24.~~ 26. "Peer Review" means an initial or annual review and
12 report to the Office of Juvenile Affairs of the organization,
13 programs, records and financial condition of a Youth Services Agency
14 by the Oklahoma Association of Youth Services, or another Oklahoma
15 nonprofit corporation whose membership consists solely of Youth
16 Services Agencies and of whom at least a majority of Youth Services
17 Agencies are members. An annual review may consist of a review of
18 one or more major areas of the operation of the Youth Services
19 Agency being reviewed;

20 ~~25.~~ 27. "Person responsible for a juvenile's health or welfare"
21 includes a parent, a legal guardian, custodian, a foster parent, a
22 person eighteen (18) years of age or older with whom the juvenile's
23 parent cohabitates or any other adult residing in the home of the
24 child, an agent or employee of a public or private residential home,

1 institution or facility, or an owner, operator, or employee of a
2 child care facility as defined by Section 402 of Title 10 of the
3 Oklahoma Statutes;

4 ~~26.~~ 28. "Preliminary inquiry" or "intake" means a mandatory,
5 preadjudicatory interview of the juvenile and, if available, the
6 parents, legal guardian, or other custodian of the juvenile, which
7 is performed by a duly authorized individual to determine whether a
8 juvenile comes within the purview of the Oklahoma Juvenile Code,
9 whether nonadjudicatory alternatives are available and appropriate,
10 and if the filing of a petition is necessary;

11 ~~27.~~ 29. "Probation" means a legal status created by court order
12 whereby a delinquent juvenile is permitted to remain outside an
13 Office of Juvenile Affairs facility directly or by contract under
14 prescribed conditions and under supervision by the Office, subject
15 to return to the court for violation of any of the conditions
16 prescribed;

17 ~~28.~~ 30. "Rehabilitative facility" means a facility maintained
18 by the state exclusively for the care, education, training,
19 treatment, and rehabilitation of juveniles in need of supervision;

20 ~~29.~~ 31. "Research-based" means a program or practice that has
21 some research demonstrating effectiveness, but that does not yet
22 meet the standard of evidence-based practices;

23 32. "Responsible adult" means a stepparent, foster parent,
24 person related to the juvenile in any manner who is eighteen (18)

1 years of age or older, or any person having an obligation and
2 authority to care for or safeguard the juvenile in the absence of
3 another person who is eighteen (18) years of age or older;

4 ~~30.~~ 33. "Secure detention" means the temporary care of
5 juveniles who require secure custody in physically restricting
6 facilities:

- 7 a. while under the continuing jurisdiction of the court
- 8 pending court disposition, or
- 9 b. pending placement by the Office of Juvenile Affairs
- 10 after adjudication;

11 ~~31.~~ 34. "Training school" or "secure facility" means a
12 facility, maintained by the state exclusively for the care,
13 education, training, treatment, and rehabilitation of delinquent
14 juveniles or ~~youthful~~ serious juvenile offenders which relies on
15 locked rooms and buildings, and fences for physical restraint in
16 order to control behavior of its residents. A training school or
17 secure facility shall not be considered a correctional facility
18 subject to the provisions of Title 57 of the Oklahoma Statutes;

19 ~~32.~~ 35. "Transitional living program" means a residential
20 program that may be attached to an existing facility or operated
21 solely for the purpose of assisting juveniles to develop the skills
22 and abilities necessary for successful adult living. Said program
23 may include but shall not be limited to reduced staff supervision,
24 vocational training, educational services, employment and employment

1 training, and other appropriate independent living skills training
2 as a part of the transitional living program; and

3 ~~33.~~ 36. "Youth Services Agency" means a nonprofit corporation
4 with a local board of directors, officers and staff that has been
5 designated by the Board as a Youth Services Agency, that is peer
6 reviewed annually, and that provides community-based facilities,
7 programs or services to juveniles and their families in the youth
8 services service area in which it is located.

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

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

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

22 2. By a peace officer or an employee of the court without a
23 court order, if the child ~~is willfully and voluntarily absent~~ has
24 run away from the home ~~of the child~~ without ~~the consent of the~~

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

23 3. Pursuant to an order of the district court issued on the
24 application of the office of the district attorney. The application

1 presented by the district attorney shall be supported by a sworn
2 affidavit which may be based upon information and belief. The
3 application shall state facts sufficient to demonstrate to the court
4 that there is probable cause to believe the child has committed a
5 crime or is in violation of the terms of probation, parole or order
6 of the court;

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

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

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

19 B. Whenever a child is taken into custody as a delinquent child
20 ~~or a child in need of supervision pursuant to subsection A of this~~
21 ~~section~~, the child shall be detained, held temporarily in the
22 custodial care of a peace officer or other person employed by a
23 police department, or be released to the custody of the parent of
24 the child, legal guardian, legal custodian, attorney or other

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

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

17 C. When a child is taken into custody as a child in need of
18 supervision, the child shall be detained and held temporarily in the
19 custodial care of a peace officer or placed within a community
20 intervention center as defined in subsection D of Section 2-7-305 of
21 this title, an emergency shelter, emergency shelter host home, or be
22 released to the custody of the parent of the child, legal guardian,
23 legal custodian, attorney or other responsible adult, upon the
24

1 written promise of such person to bring the child to court at the
2 time fixed if a petition is to be filed.

3 1. A child who is alleged or adjudicated to be in need of
4 supervision shall not be detained in any jail, lockup, or other
5 place used for adults convicted of a crime or under arrest and
6 charged with a crime.

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

16 D. When any child is taken into custody pursuant to this title
17 and it reasonably appears to the peace officer, employee of the
18 court or person acting pursuant to court order that the child is in
19 need of medical treatment to preserve the health of the child, any
20 peace officer, any employee of the court or person acting pursuant
21 to court order shall have the authority to authorize medical
22 examination and medical treatment for any child found to be in need
23 of medical treatment as diagnosed by a competent medical authority
24 in the absence of the parent of the child, legal guardian, legal

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

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

1 court order authorizing such treatment in accordance with the
2 provisions of this section for any child found in need of such
3 behavioral health evaluation or treatment shall have any liability,
4 civil or criminal, for giving such authorization.

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

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

1 filing of the application the court shall schedule a full hearing on
2 the application, regardless of whether an emergency ex parte order
3 had been issued or denied.

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

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

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

1 b. No peace officer, any employee of the court or person
2 acting pursuant to court order authorizing such
3 treatment in accordance with the provisions of this
4 subsection for any child found in need of such medical
5 treatment shall have any liability, civil or criminal.

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

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

12 a. resides,

13 b. is found, or

14 c. is alleged to be or is found to be in need of
15 supervision.

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

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

1 4. For the convenience of the parties and in the interest of
2 justice, a proceeding under the Oklahoma Juvenile Code, Article 2 of
3 this title, may be transferred to the district court in any other
4 county. However, prior to transferring a case to a different
5 county, the court shall contact the judge in the other county to
6 confirm that the judge will accept the transfer.

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

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

20 3. The juvenile proceeding may be filed before the child
21 becomes eighteen (18) years of age; within one (1) year after the
22 date of the eighteenth birthday of the child if the underlying act
23 would constitute a felony if committed by an adult; or within six
24 (6) months after the date of the eighteenth birthday if the

1 underlying act would constitute a misdemeanor if committed by an
2 adult.

3 C. The district court in which a petition is filed or the
4 district court in which custody has been assumed pursuant to the
5 provisions of Section 2-2-101 of this title may retain jurisdiction
6 of a delinquent child in such proceeding notwithstanding the fact
7 that the child is subject to the jurisdiction of another district
8 court within the state. Any adjudication and disposition made by
9 the court in which said petition is filed shall control over prior
10 orders in regard to the child.

11 D. Except as otherwise provided in the Oklahoma Juvenile Code,
12 a child who is charged with having violated any state statute or
13 municipal ordinance, other than those enumerated in Section 2-5-101,
14 2-5-205 or 2-5-206 of this title, shall not be tried in a criminal
15 action but in a juvenile proceeding.

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

24

1 itself, or release the child to the custody of a suitable person to
2 be brought before the juvenile division.

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

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

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

20 B. In the course of the preliminary inquiry, the intake worker
21 may:

22 1. Hold conferences with the child and the parents, guardian or
23 custodian of the child for the purpose of discussing the disposition
24 of the referral made. No statements, admissions or confessions made

1 by a child or incriminating information obtained from a child in the
2 course of a conference with the child shall be admitted into
3 evidence against the child on the issue of whether the child
4 committed the delinquent act or on the issue of guilt in any
5 criminal proceeding;

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

9 3. Check existing records of any district court or tribal
10 court, law enforcement agencies, Office of Juvenile Affairs, and
11 Oklahoma Department of Human Services;

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

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

22 C. The district attorney shall determine whether the complaint
23 made is legally sufficient for the filing of the petition. A
24 complaint shall be deemed legally sufficient for the filing of a

1 petition if the facts as alleged are sufficient to establish the
2 jurisdiction of the court and probable cause to believe that the
3 child has committed the delinquent act. If it is determined that
4 the complaint is legally sufficient to support the filing of a
5 petition the district attorney, in consultation with the intake
6 worker, shall determine whether the interests of the child and the
7 public will be best served by the dismissal of the complaint, the
8 information adjustment of the complaint, or the filing of the
9 petition.

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

- 19 1. Be voluntarily entered into by all parties;
- 20 2. Be revocable by the child at any time by a written
21 revocation;
- 22 3. Be revocable by the intake worker in the event there is
23 reasonable cause to believe the child has failed to carry out the
24

1 terms of the informal adjustment or has committed a subsequent
2 offense;

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

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

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

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

11 1. Participation in or referral to counseling, a period of
12 community service, drug or alcohol education or treatment,
13 vocational training or any other legal activity which in the opinion
14 of the intake officer would be beneficial to the child and family of
15 the child;

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

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

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

1 If the intake worker has reasonable cause to believe that the child
2 has failed to carry out the terms of the adjustment agreement or has
3 committed a subsequent offense, in lieu of revoking the agreement,
4 the intake worker may modify the terms of the agreement and extend
5 the period of the agreement for an additional six (6) months from
6 the date on which the modification was made with the consent of the
7 child or counsel of the child, if any.

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

24

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

4 A. Diversion services shall be offered to children who are at
5 risk of being the subject of a child-in-need-of-supervision
6 petition. Diversion services shall be designed to provide an
7 immediate response to families in crisis and to divert children from
8 court proceedings. Diversion services may be provided by outside
9 agencies as designated by the district courts, juvenile bureaus,
10 court employees, or a combination thereof.

11 B. Diversion services shall clearly document diligent attempts
12 to provide appropriate services to the child and the family of the
13 child unless it is determined that there is no substantial
14 likelihood that the child and family of the child will benefit from
15 further diversion attempts.

16 C. Where the primary issue is truancy, steps taken by the
17 school district to improve the attendance or conduct of the child in
18 school shall be reviewed and attempts to engage the school district
19 in further diversion attempts shall be made if it appears that such
20 attempts will be beneficial to the child.

21 D. Efforts to prevent the filing of the petition may extend
22 until it is determined that there is no substantial likelihood that
23 the child and family of the child will benefit from further
24 attempts. Efforts at diversion may continue after the filing of the

1 petition where it is determined that the child and family of the
2 child will benefit therefrom.

3 E. A child-in-need-of-supervision petition shall not be filed
4 during the period that the designated agency, juvenile bureau, or
5 court employee is providing the diversion services. A finding that
6 the case has been successfully diverted shall constitute presumptive
7 evidence that the underlying allegations have been successfully
8 resolved.

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

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

21 Section 2-2-107. A. After a petition shall have been filed,
22 unless the parties provided for in this section shall voluntarily
23 appear, a summons shall be issued which shall recite briefly the
24 nature of the proceeding with the phrase "as described more fully in

1 the attached petition" and requiring the person or persons who have
2 the custody or control of the child to appear personally and bring
3 the child before the court at a time and place stated. The summons
4 shall state the relief requested, and shall set forth the right of
5 the child, parents and other interested parties to have an attorney
6 present at the hearing on the petition.

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

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

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

22 D. Service of summons shall be made as provided for service in
23 civil actions.

24

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

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

8 E. If after a petition has been filed, it appears that the
9 child is in such condition or surroundings that the welfare of the
10 child requires that custody be immediately assumed by the court, the
11 judge may immediately issue a detention order or warrant authorizing
12 the taking of said child into emergency custody. Any such child
13 shall not be considered to be in the custody of the Office of
14 Juvenile Affairs.

15 F. In a delinquency proceeding, whenever a warrant for the
16 arrest of a child shall issue, it shall state the offense the child
17 is being charged with having committed; in a child in need of
18 supervision proceeding, whenever a warrant for detention of a child
19 shall issue, it shall state the reason for detention. Warrants for
20 the arrest or detention of a child shall comport with all other
21 requirements of issuance of arrest warrants for adult criminal
22 offenders.

23 G. In case the summons cannot be served, or the parties served
24 fail to obey the same, or in any case when it shall be made to

1 appear to the judge that the service will be ineffectual or that the
2 welfare of the child requires that the child should be brought into
3 the custody of the court, a warrant may be issued against the parent
4 or guardian or against the child. Nothing in this section shall be
5 construed to authorize placement of a child in secure detention who
6 is not eligible for secure detention pursuant to Section 2-3-101 of
7 this title.

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

10 Section 2-2-301. A. No information gained by a custodial
11 interrogation of a ~~youthful offender under sixteen (16) years of age~~
12 ~~or a child~~ nor any evidence subsequently obtained as a result of
13 such interrogation shall be admissible into evidence against the
14 ~~youthful offender or child~~ unless the custodial interrogation about
15 any alleged offense by any law enforcement officer or investigative
16 agency, or employee of the court, or employee of the Office of
17 Juvenile Affairs is done in the presence of the parents, guardian,
18 attorney, adult relative, adult caretaker, or legal custodian of the
19 ~~youthful offender or child~~. No such custodial interrogation shall
20 commence until the ~~youthful offender or child~~ and the parents,
21 guardian, attorney, adult relative, adult caretaker, or legal
22 custodian of the ~~youthful offender or child~~ have been fully advised
23 of the constitutional and legal rights of the ~~youthful offender or~~
24 child, including the right to be represented by counsel ~~at every~~

1 ~~stage of the proceedings,~~ and the right to have counsel appointed by
2 the court if the parties are without sufficient financial means;
3 provided, however, that no legal aid or other public or charitable
4 legal service shall make claim for compensation as contemplated
5 herein. ~~It is further provided that where private counsel is~~
6 ~~appointed in such cases, the court shall set reasonable compensation~~
7 ~~and order the payment out of the court fund.~~ As used in this
8 section, "custodial interrogation" means questioning of a youthful
9 ~~offender under sixteen (16) years of age or child while that~~
10 ~~youthful offender or~~ child is in law enforcement custody or while
11 that ~~youthful offender or~~ child is being deprived of freedom of
12 action in any significant way by a law enforcement officer, employee
13 of the court, or employee of the Office. Custodial interrogation
14 shall conform with all requirements for interrogation of adult
15 criminal offenders. The term "custodial interrogation" shall not be
16 deemed to mean questioning of a ~~youthful offender or~~ child by a
17 public school administrator or teacher, so long as such questioning
18 is not being conducted on behalf of a law enforcement officer, an
19 employee of the court or an employee of the Office. Any information
20 gained from noncustodial questioning of a child ~~or youthful offender~~
21 by a public school administrator or teacher concerning a wrongful
22 act committed on public school property shall be admissible into
23 evidence against the ~~youthful offender or~~ child.

24

1 B. ~~A custodial interrogation of a youthful offender over~~
2 ~~sixteen (16) years of age shall conform with all the requirements~~
3 ~~for the interrogation of an adult~~ No statements, admissions,
4 confessions, or incriminating information obtained from a child in
5 the course of a screening, intake or assessment that is undertaken
6 in conjunction with any proceedings under this chapter including,
7 but not limited to, that which is court ordered, shall be admitted
8 into evidence against the child on the issue of whether the child
9 committed a delinquent act or on the issue of guilt in any criminal
10 proceeding.

11 C. If the ~~youthful offender or~~ child is not otherwise
12 represented by counsel, whenever a petition is filed pursuant to the
13 provisions of Section 2-2-104 of this title, the court shall appoint
14 an attorney, who shall not be a district attorney, for the ~~youthful~~
15 ~~offender or~~ child regardless of any attempted waiver by the parent
16 or other legal custodian of the ~~youthful offender or~~ child of the
17 right of the ~~youthful offender or~~ child to be represented by
18 counsel. Counsel shall be appointed by the court only upon
19 determination by the court that the parent, legal guardian or legal
20 custodian is found to be indigent. If indigency is established, the
21 Oklahoma Indigent Defense System shall represent the child in
22 accordance with Section 1355.6 of Title 22 of the Oklahoma Statutes
23 or the applicable office of the county indigent defender shall
24 represent the child in accordance with Section 138.5 of Title 19 of

1 the Oklahoma Statutes. Provided, if the parent or legal guardian of
2 a child is not indigent but refuses to employ counsel, the court
3 shall appoint counsel to represent the child at detention hearings
4 until counsel is provided. Costs of representation shall be imposed
5 on the parent or other legal custodian as provided by Section 138.10
6 of Title 19 of the Oklahoma Statutes. Thereafter, the court shall
7 not appoint counsel for a child with a nonindigent parent or legal
8 custodian and shall order the parent or legal custodian to obtain
9 private counsel. A parent or legal custodian of an indigent child
10 who has been ordered to obtain private counsel for the child and who
11 willfully fails to follow the court order shall be subject to
12 indirect contempt of court.

13 D. In all cases of juvenile delinquency proceedings and
14 appeals, adult certification proceedings and appeals, reverse
15 certification proceedings and appeals, serious juvenile offender
16 proceedings and appeals, and any other proceedings and appeals
17 pursuant to the Oklahoma Juvenile Code, except mental health
18 proceedings and appeals and in-need-of-supervision proceedings and
19 appeals, other than in counties where the office of the county
20 indigent defender is appointed, the court shall, where counsel is
21 appointed and assigned, allow and direct to be paid by the Oklahoma
22 Indigent Defense System, a reasonable and just compensation to the
23 attorney or attorneys for such services as they may render. In all
24 other cases pursuant to this title and in juvenile mental health

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

12 E. ~~Whenever a petition is filed alleging that a child is a~~
13 ~~delinquent child or a child in need of supervision, the court may~~
14 ~~appoint a guardian ad litem for the child at any time subsequent to~~
15 ~~the filing of the petition and shall appoint a guardian ad litem~~
16 ~~upon the request of the child or the attorney of the child. The~~
17 ~~guardian ad litem shall not be a district attorney, an employee of~~
18 ~~the office of the district attorney, an employee of the court, an~~
19 ~~employee of a juvenile bureau, or an employee of any public agency~~
20 ~~having duties or responsibilities towards the child~~ Counsel for the
21 child shall advise the child and advocate the expressed wishes of
22 the child, as much as reasonably possible, under the same ethical
23 obligations as if the client were an adult. Upon motion by the

24

1 state, the child, the attorney for the child, or a parent or legal
2 custodian of the child, the court shall appoint a guardian ad litem.

3 E. F. The guardian ad litem shall not be a district attorney,
4 an employee of the office of the district attorney, an employee of
5 the court, an employee of a juvenile bureau, or an employee of any
6 public agency having duties or responsibilities towards the child.

7 The guardian ad litem shall be given access to the court file and
8 access to all records and reports relevant to the case and to any
9 records and reports of examination of the child's parent or other
10 custodian, made pursuant to this section or Section ~~846~~ 1-2-101 of
11 ~~Title 21 of the Oklahoma Statutes~~ this title. Provided, nothing in
12 this subsection shall obligate counsel for the child to breach
13 attorney-client confidentiality with the child.

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

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

20 1. Except as provided by paragraph 2 of this subsection, the
21 hearings shall be private ~~unless specifically ordered by the judge~~
22 ~~to be conducted in public, and;~~ however, all persons having a direct
23 interest in the case as provided in this paragraph shall be
24 admitted. Any victim, relative, legal guardian of a victim, or a

1 person designated by the victim who is not subject to the rule of
2 sequestration as a witness of a delinquent act shall be considered
3 to have a direct interest in the case ~~and,~~ shall be notified of all
4 court hearings involving that particular delinquent act ~~as provided~~
5 ~~by Section 215.33 of Title 19 of the Oklahoma Statutes,~~ and shall be
6 admitted to the proceedings. The court shall, however, remove all
7 persons having a direct interest in the case that are not the
8 parents or legal guardian of the child from any hearing where
9 evidence of the medical or behavioral health condition of the child
10 or specific instances of deprivation are being presented.

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

14 2. ~~Hearings related to the second or subsequent delinquency~~
15 ~~adjudication of a child shall be public proceedings. The~~
16 ~~adjudications relied upon to determine whether a hearing is a public~~
17 ~~proceeding pursuant to this paragraph shall not have arisen out of~~
18 ~~the same transaction or occurrence or series of events closely~~
19 ~~related in time and location. Upon its own motion or the motion of~~
20 ~~any of the parties to the hearing and for good cause shown, the~~
21 ~~court may order specific testimony or evidence to be heard in~~
22 ~~private; provided, the court shall not exclude any relative, legal~~
23 ~~guardian of a victim, or a person designated by the victim who is~~
24 ~~not subject to the rule of sequestration as a witness from the~~

1 ~~hearing during testimony of the victim. For the purposes of this~~
2 ~~paragraph, "good cause" shall mean a showing that it would be~~
3 ~~substantially harmful to the mental or physical well-being of the~~
4 ~~child if such testimony or evidence were presented at a public~~
5 ~~hearing~~ The judge may, for good cause shown, open the court hearings
6 to educate members of the public about juvenile justice issues;
7 however, the identities of the juvenile respondents shall not be
8 published in any reports or articles of general circulation.

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

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

24

1 stipulation and if the child understands the consequences of
2 stipulating the facts.

3 D. If the court finds that the allegations of a petition
4 alleging a child to be delinquent or in need of supervision are
5 supported by the evidence, the court shall sustain the petition, and
6 shall make an order of adjudication setting forth whether the child
7 is delinquent or in need of supervision and shall adjudge the child
8 as a ward of the court.

9 E. If the court finds that the allegations of the petition are
10 not supported by the evidence, the court shall order the petition
11 dismissed and shall order the child discharged from any detention or
12 restriction previously ordered. The parents, legal guardian or
13 other legal custodian of the child shall also be discharged from any
14 restriction or other previous temporary order.

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

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

20 1. Is alleged to have committed or attempted to commit a
21 delinquent offense ~~that if committed by an adult would be a~~
22 ~~misdemeanor or that if committed by an adult would be grand larceny~~
23 ~~of property valued at One Hundred Dollars (\$100.00) or less;~~
24

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

6 3. Has not been previously adjudicated a delinquent.

7 B. During such period of deferral, the court may require the
8 following:

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

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

16 3. Restitution providing for monetary payment by the parents or
17 child, or both, to the victim who was physically injured or who
18 suffered loss of or damage to property as a result of the conduct
19 alleged;

20 4. An alternative diversion program; or

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

23 C. The court shall dismiss the case with prejudice at the
24 conclusion of the deferral period if the child presents satisfactory

1 evidence that the requirements of the court have been successfully
2 completed.

3 D. As used in this section, "alternative diversion program"
4 means a program for juveniles who have been identified by law
5 enforcement personnel, the district attorney, or the court as having
6 committed acts which are not serious enough to warrant adjudication
7 through the juvenile court process, but which do indicate a need for
8 intervention to prevent further development toward juvenile
9 delinquency. The program shall be administered, pursuant to
10 contract with the Office of Juvenile Affairs, by organizations
11 designated as youth services agencies by law.

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

14 Section 2-2-502. A. An individual treatment and service plan
15 shall be ~~filed with~~ provided to the court and counsel for the
16 parties within the thirty (30) days after any child has been
17 adjudicated to be delinquent or in need of supervision. Said plan
18 shall be ~~filed~~ prepared by the person, department or agency
19 responsible for the supervision of the case or by the legal
20 custodian if the child has been removed from the custody of its
21 lawful parent or parents. The treatment and service plan shall be
22 based on a comprehensive assessment and evaluation process of the
23 child and family ~~and~~ that identifies the priority needs of the child
24 for rehabilitation and treatment and identifies any needs of the

1 parent or legal guardian of the child for services that would
2 enhance their ability to provide adequate support, guidance, and
3 supervision of the child. This process should take into account the
4 detention risk assessment decision, the intake preliminary
5 assessment, any comprehensive assessment for substance abuse
6 treatment services, behavioral health services, intellectual
7 disabilities, literary services, and other educational and treatment
8 services as components. The completed assessment process shall
9 result in an individual treatment and service plan which shall
10 include, but not be limited to:

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

13 2. The eligibility of the child for disposition of probation,
14 placement in community residential treatment, commitment with the
15 Office of Juvenile Affairs and, if appropriate, assignment of a
16 residential commitment level;

17 3. Identification of the specific services available to the
18 child to remediate or alleviate the conditions that led to the
19 adjudication, including but not limited to educational, vocational-
20 educational, medical, drug or alcohol abuse treatment or counseling
21 or other treatment services;

22 ~~3.~~ 4. Identification of the services to be provided to the
23 parent, legal guardian, legal custodian, stepparent, other adult
24 person living in the home or other family members, to remediate or

1 alleviate the conditions that led to the adjudication, including
2 services needed to assist the family to provide proper care and
3 supervision of the child;

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

7 ~~5.~~ 6. A projected date for the completion of the treatment and
8 service plan; and

9 ~~6.~~ 7. The name and business address of the attorney
10 representing the child, if any.

11 B. The Office of Juvenile Affairs shall identify the
12 appropriate risk and needs assessment instruments used to develop
13 the recommendations of the individualized treatment and service
14 plan. The juvenile probation counselor shall be responsible for
15 making informed decisions and recommendations to other agencies, the
16 district attorney, and the courts so that the child and family of
17 the child may receive the least intrusive service alternative
18 throughout the court process.

19 C. The individual treatment and service plan shall be amended
20 as necessary and appropriate to reflect the disposition of the
21 court. The amended plan shall be filed with the court within thirty
22 (30) days of the order of disposition removing the child from the
23 home and shall state:

24

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

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

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

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

12 ~~C.~~ D. Whenever a child who is subject to the provisions of this
13 section is committed for inpatient mental health or substance abuse
14 treatment pursuant to the Inpatient Mental Health and Substance
15 Abuse Treatment of Minors Act, the individual treatment and service
16 plan shall be amended as necessary and appropriate, including but
17 not limited to identification of the treatment and services to be
18 provided to the child and his family upon discharge of the child
19 from inpatient mental health or substance abuse treatment.

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

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

1 1. The court may place the child on probation with or without
2 supervision in the home of the child, or in the custody of a
3 suitable person, upon such conditions as the court shall determine.
4 If the child is placed on probation, the court may impose a
5 probation fee of not more than Twenty-five Dollars (\$25.00) per
6 month, if the court finds that the child or parent or legal guardian
7 of the child has the ability to pay the fee. In counties having a
8 juvenile bureau, the fee shall be paid to the juvenile bureau; in
9 all other counties, the fee shall be paid to the Office of Juvenile
10 Affairs-;

11 2. If it is consistent with the welfare of the child, the child
12 shall be placed with the parent or legal guardian of the child, but
13 if it appears to the court that the conduct of such parent,
14 guardian, legal guardian, stepparent or other adult person living in
15 the home has contributed to the child becoming delinquent or in need
16 of supervision, the court may issue a written order specifying
17 conduct to be followed by such parent, guardian, legal custodian,
18 stepparent or other adult person living in the home with respect to
19 such child. The conduct specified shall be such as would reasonably
20 prevent the child from continuing to be delinquent or in need of
21 supervision.

22 a. If it is consistent with the welfare of the child, in
23 cases where the child has been adjudicated to be in
24 need of supervision due to repeated absence from

1 school, the court may order counseling and treatment
2 for the child and the parents of the child to be
3 provided by the local school district, the county, the
4 Office or a private individual or entity. Prior to
5 final disposition, the court shall require that it be
6 shown by the appropriate school district that a child
7 found to be truant has been evaluated for learning
8 disabilities, hearing and visual impairments and other
9 impediments which could constitute an educational
10 handicap or has been evaluated to determine whether
11 the child has a disability if it is suspected that the
12 child may require special education services in
13 accordance with the Individuals with Disabilities
14 Education Act (IDEA). The results of such tests shall
15 be made available to the court for use by the court in
16 determining the disposition of the case.

17 b. In issuing orders to a parent, guardian, legal
18 guardian, stepparent or other adult person living in
19 the home of a child adjudicated to be a delinquent
20 child or in making other disposition of said
21 delinquent child, the court may consider the testimony
22 of said parent, guardian, legal guardian, stepparent
23 or other adult person concerning the behavior of the
24

1 juvenile and the ability of such person to exercise
2 parental control over the behavior of the juvenile.

3 c. In any dispositional order involving a child age
4 sixteen (16) or older, the court shall make a
5 determination, where appropriate, of the services
6 needed to assist the child to make the transition to
7 independent living.

8 d. No child who has been adjudicated in need of
9 supervision only upon the basis of truancy or
10 noncompliance with the mandatory school attendance law
11 shall be placed in a public or private institutional
12 facility or be removed from the custody of the lawful
13 parent, guardian or custodian of the child.

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

18 3. The court may commit the child to the custody of a private
19 institution or agency, including any institution established and
20 operated by the county, authorized to care for children or to place
21 them in family homes. In committing a child to a private
22 institution or agency, the court shall select one that is licensed
23 by any state department supervising or licensing private
24 institutions and agencies; or, if such institution or agency is in

1 another state, by the analogous department of that state. Whenever
2 the court shall commit a child to any institution or agency, it
3 shall transmit with the order of commitment a summary of its
4 information concerning the child, and such institution or agency
5 shall give to the court such information concerning the child as the
6 court may at any time require-; i

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

9 5. The court may commit the child to the custody of the Office
10 of Juvenile Affairs. Any order adjudicating the child to be
11 delinquent and committing the child to the Office of Juvenile
12 Affairs shall be for an indeterminate period of time-; i

13 6. If the child has been placed outside the home, and it
14 appears to the court that the parent, guardian, legal custodian, or
15 stepparent, or other adult person living in the home has contributed
16 to the child becoming delinquent or in need of supervision, the
17 court may order that the parent, guardian, legal custodian,
18 stepparent, or other adult living in the home be made subject to any
19 treatment or placement plan prescribed by the Office or other person
20 or agency receiving custody of the child-; i

21 7. With respect to a child adjudicated a delinquent child, the
22 court may:

23 a. for acts involving criminally injurious conduct as
24 defined in Section 142.3 of Title 21 of the Oklahoma

1 Statutes, order the child to pay a victim compensation
2 assessment in an amount not to exceed that amount
3 specified in Section 142.18 of Title 21 of the
4 Oklahoma Statutes. The court shall forward a copy of
5 the adjudication order to the Crime Victims
6 Compensation Board for purposes of Section 142.11 of
7 Title 21 of the Oklahoma Statutes. Except as
8 otherwise provided by law, such adjudication order
9 shall be kept confidential by the Board,

10 b. order the child to engage in a term of community
11 service without compensation. The state or any
12 political subdivision shall not be liable if a loss or
13 claim results from any acts or omission of a child
14 ordered to engage in a term of community service
15 pursuant to the provisions of this paragraph,

16 c. order the child, the parent or parents of the child,
17 legal guardian of the child, or both the child and the
18 parent or parents of the child or legal guardian at
19 the time of the delinquent act of the child to make
20 full or partial restitution to the victim of the
21 offense which resulted in property damage or personal
22 injury.

23 (1) The court shall notify the victim of the
24 dispositional hearing. The court may consider a

1 verified statement from the victim concerning
2 damages for injury or loss of property and actual
3 expenses of medical treatment for personal
4 injury, excluding pain and suffering. If
5 contested, a restitution hearing to determine the
6 liability of the child, the parent or parents of
7 the child, or legal guardian shall be held not
8 later than thirty (30) days after the disposition
9 hearing and may be extended by the court for good
10 cause. The parent or parents of the child or
11 legal guardian may be represented by an attorney
12 in the matter of the order for remittance of the
13 restitution by the parent or parents of the child
14 or legal guardian. The burden of proving that
15 the amount indicated on the verified statement is
16 not fair and reasonable shall be on the person
17 challenging the fairness and reasonableness of
18 the amount.

19 (2) Restitution may consist of monetary reimbursement
20 for the damage or injury in the form of a lump
21 sum or installment payments after the
22 consideration of the court of the nature of the
23 offense, the age, physical and mental condition
24 of the child, the earning capacity of the child,

1 the parent or parents of the child, or legal
2 guardian, or the ability to pay, as the case may
3 be. The payments shall be made to such official
4 designated by the court for distribution to the
5 victim. The court may also consider any other
6 hardship on the child, the parent or parents of
7 the child, or legal guardian and, if consistent
8 with the welfare of the child, require community
9 service in lieu of restitution or require both
10 community service and full or partial restitution
11 for the acts of delinquency by the child.

12 (3) A child who is required to pay restitution and
13 who is not in willful default of the payment of
14 restitution may at any time request the court to
15 modify the method of payment. If the court
16 determines that payment under the order will
17 impose a manifest hardship on the child, the
18 parent or parents of the child, or legal
19 guardian, the court may modify the method of
20 payment.

21 (4) If the restitution is not being paid as ordered,
22 the official designated by the court to collect
23 and disburse the restitution ordered shall file a
24 written report of the violation with the court.

1 The report shall include a statement of the
2 amount of the arrearage and any reasons for the
3 arrearage that are known by the official. A copy
4 of the report shall be provided to all parties
5 and the court shall promptly take any action
6 necessary to compel compliance.

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

1 to be a criminal penalty for the purposes of a
2 federal bankruptcy involving the child,

3 d. order the child to pay the fine which would have been
4 imposed had such child been convicted of such crime as
5 an adult. Any such fine collected pursuant to this
6 paragraph shall be deposited in a special Work
7 Restitution Fund to be established by the court to
8 allow children otherwise unable to pay restitution to
9 work in community service projects in the private or
10 public sector to earn money to compensate their
11 victims,

12 e. order the cancellation or denial of driving privileges
13 as provided by Sections 6-107.1 and 6-107.2 of Title
14 47 of the Oklahoma Statutes,

15 f. sanction detention in the residence of the child or
16 facility designated by the Department of Juvenile
17 Justice or the juvenile bureau for such purpose for up
18 to five (5) days, order weekend detention in a place
19 other than a juvenile detention facility or shelter,
20 tracking, or house arrest with electronic monitoring,
21 and

22 g. impose ~~sanctions~~ consequences, including detention as
23 provided for in subparagraph f of this paragraph, for
24

1 ~~the violation of preadjudicatory or~~ postadjudicatory
2 violations of probation~~;~~;

3 8. The court may order the child to participate in the Juvenile
4 Drug Court Program~~;~~;

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

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

17 B. Prior to adjudication or as directed by a law enforcement
18 subpoena or court order, a school district may disclose educational
19 records to the court or juvenile justice system for purposes of
20 determining the ability of the juvenile justice system to
21 effectively serve a child. Any disclosure of educational records
22 shall be in accordance with the requirements of the Family
23 Educational Rights and Privacy Act of 1974 (FERPA). If the parent,
24 guardian, or custodian of a child adjudicated a delinquent child

1 asserts that the child has approval not to attend school pursuant to
2 Section 10-105 of Title 70 of the Oklahoma Statutes, the court or
3 the Office of Juvenile Affairs may require the parent to provide a
4 copy of the written, joint agreement to that effect between the
5 school administrator of the school district where the child attends
6 school and the parent, guardian, or custodian of the child.

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

14 D. ~~No~~ A child who has been adjudicated in need of supervision
15 and has not been adjudicated a delinquent child may not be placed in
16 a secure facility.

17 E. No child charged in a state or municipal court with a
18 violation of state or municipal traffic laws or ordinances, or
19 convicted therefor, may be incarcerated in jail for the violation
20 unless the charge for which the arrest was made would constitute a
21 felony if the child were an adult. Nothing contained in this
22 subsection shall prohibit the detention of a juvenile for traffic-
23 related offenses prior to the filing of a petition in the district
24 court alleging delinquency as a result of the acts and nothing

1 contained in this section shall prohibit detaining a juvenile
2 pursuant to Section 2-2-102 of this title.

3 F. The court may revoke or modify a disposition order and may
4 order redispotion. The child whose disposition is being
5 considered for revocation or modification at said hearing shall ~~have~~
6 ~~the right to be represented by counsel, to present evidence on~~
7 ~~behalf of the child and to be confronted by witnesses against the~~
8 ~~child. Any revocation, modification or redispotion of the court~~
9 ~~in whole or in part shall be subject to review on appeal, as in~~
10 ~~other appeals of criminal cases. Bail may be allowed pending~~
11 ~~appeal.~~

12 ~~G. Any arrest or detention under the Oklahoma Juvenile Code or~~
13 ~~any adjudication in a juvenile proceeding shall not be considered an~~
14 ~~arrest, detention or conviction for purposes of employment, civil~~
15 ~~rights, or any statute, regulation, license, questionnaire,~~
16 ~~application, or any other public or private purposes, unless~~
17 ~~otherwise provided by law~~ be afforded the following rights:

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

22 2. The proceedings shall be heard without a jury and shall
23 require establishment of the facts alleged by a preponderance of the
24 evidence;

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

4 4. Any modification or redistribution of the court in whole or
5 in part shall be subject to review on appeal, as in other appeals of
6 delinquent cases;

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

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

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

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

15 c. allowing the child to remain in the home is contrary
16 to the welfare of the child,

17 d. immediate placement of the child is in the best
18 interests of the child, and

19 e. reasonable efforts have been made to maintain the
20 family unit and prevent the unnecessary removal of the
21 child from the home of the child or that an emergency
22 exists which threatens the safety of the child.

23 The court shall state the basis of each finding in writing.
24

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

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

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

8 3. The child is advised of the right to challenge and dispute
9 the allegations or the sanction by demanding a hearing pursuant to
10 subsection F of this section and elects to waive this right in
11 writing.

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

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

23 B. In any proceeding under the Oklahoma Juvenile Code, the
24 court shall enter an order specifically requiring a parent, legal

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

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

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

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

19 a. has employment obligations that would result in the
20 loss of said employment,

21 b. does not have physical custody of the child and
22 resides outside the county of residence of the child,
23 and

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

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

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

14 1. Report any probation, parole or conditional release
15 violations; or

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

18 Any person placed under an order to report any probation, parole
19 or conditional release violations or aid in enforcing terms and
20 conditions of probation, parole or conditional release or other
21 orders of the court and who fails to do as ordered may be proceeded
22 against for indirect contempt of court and shall be punishable as
23 such. Punishment for any such act of contempt shall not exceed a
24 fine of Three Hundred Dollars (\$300.00), or imprisonment for not

1 more than thirty (30) days in the county jail if the violator is an
2 adult, ~~or placement in a juvenile detention center for not more than~~
3 ~~ten (10) days if the violator is a juvenile,~~ or both such fine and
4 imprisonment ~~or detention~~. The pursuit and prosecution of an
5 indirect contempt of court judgment shall be initiated and
6 prosecuted by the district attorney.

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

12 SECTION 14. AMENDATORY 10A O.S. 2011, Section 2-6-101,
13 is amended to read as follows:

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

18 B. As used in the Oklahoma Juvenile Code:

19 1. "Records" or "record" shall include but not be limited to
20 written or printed documents, papers, logs, reports, files, case
21 notes, films, photographs, psychological evaluations, certification
22 studies, presentence investigations, audio or visual tape recordings
23 pertaining to a juvenile proceeding or a child, and shall include
24

1 information entered into and maintained in an automated or
2 computerized information system;

3 2. "Juvenile court record" means legal and social records other
4 than adoption records, including but not limited to agency, law
5 enforcement and district attorney's records, filed with the court
6 that are related to a child who is the subject of a court proceeding
7 pursuant to the Oklahoma Juvenile Code, including the Serious
8 Juvenile Offender Act;

9 3. "Agency record" means records prepared, obtained or
10 maintained by a public or private agency with regard to a child who
11 is or has been under its care, custody or supervision or with regard
12 to a family member or other person living in the home of such child
13 and shall include but not be limited to:

14 a. any study, plan, recommendation, assessment or report
15 made or authorized to be made by such agency for the
16 purpose of determining or describing the history,
17 diagnosis, custody, condition, care or treatment of
18 such child, or

19 b. any records made in the course of any investigation or
20 inquiry conducted by an agency to determine whether a
21 child is a delinquent child or a child in need of
22 supervision;

23 4. "District attorney's records" means any records prepared or
24 obtained by an office of a district attorney relating to a juvenile

1 case and any records prepared or obtained for the prosecution of
2 crimes against children that constitute a legal or social record of
3 a child;

4 5. "Law enforcement records" means any contact, incident or
5 similar reports, arrest records, disposition records, detention
6 records, fingerprints, or photographs related to a child and shall
7 include but not be limited to reports of investigations or inquiries
8 conducted by a law enforcement agency to determine whether a child
9 is or may be subject to the provisions of this chapter as a
10 delinquent child or a child in need of supervision. Law enforcement
11 records pertaining to juveniles shall be maintained separately from
12 records pertaining to adults;

13 6. "Nondirectory education records" means any records
14 maintained by a public or private school, including a technology
15 center school, regarding a child who is or has been a student at the
16 school which are categorized as private or confidential records
17 pursuant to the federal Family Educational Rights and Privacy Act of
18 1974 and any rules promulgated pursuant to the act;

19 7. "Legal record" means any petition, docket, motion, finding,
20 order, judgment, pleading, paper or other document, other than
21 social records, filed with the court;

22 8. "Social record" means family social histories, medical
23 reports, psychological and psychiatric evaluations or assessments,
24 clinical or other treatment reports, educational records, or home

1 studies, even if attached to court reports prepared by the agency;
2 and

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

10 SECTION 15. AMENDATORY 10A O.S. 2011, Section 2-6-102,
11 is amended to read as follows:

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

- 16 1. Juvenile court records;
- 17 2. Agency records;
- 18 3. District attorney's records;
- 19 4. Law enforcement records;
- 20 5. Nondirectory education records; and
- 21 6. Social records.

22 B. The confidentiality limitation of subsection A of this
23 section shall not apply to statistical information or information of
24

1 a general nature obtained pursuant to the provisions of the Oklahoma
2 Juvenile Code.

3 C. The confidentiality requirements of subsection A of this
4 section for juvenile court records and law enforcement records shall
5 not apply:

6 1. Upon the ~~charging or~~ certification or sentencing of a
7 juvenile or serious juvenile offender as an adult ~~or youthful~~
8 ~~offender;~~

9 2. ~~Upon the charging of an individual pursuant to Section 2-5-~~
10 ~~101 of this title;~~

11 ~~3.~~ To a violation of any traffic regulation or motor vehicle
12 regulation of Title 47 of the Oklahoma Statutes, or to a violation
13 of any city ordinance or county resolution which relates to the
14 regulation of traffic on the roads, highways or streets, or to the
15 operation of self-propelled or nonself-propelled vehicles of any
16 kind in this state;

17 4. ~~To a juvenile who is fourteen (14) years of age or older and~~
18 ~~who has been adjudicated delinquent and who subsequently comes~~
19 ~~before the juvenile court on a new delinquency matter after July 1,~~
20 ~~1995;~~

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

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

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

5 ~~8. 3. Whenever a juvenile is accepted for placement or~~
6 ~~treatment in a facility or private treatment facility within this~~
7 ~~state as a result of or following a conviction or adjudication for~~
8 ~~an out-of-state offense that would qualify the juvenile as a~~
9 ~~youthful offender, as defined in Section 2-5-202 of this title, had~~
10 ~~the crime occurred within this state. The facility shall provide~~
11 ~~any law enforcement agency or peace officer all prior criminal~~
12 ~~offense, conviction, and adjudication information. If or when a~~
13 ~~juvenile flees or is otherwise absent from the facility without~~
14 ~~permission, the. The facility shall provide any law enforcement~~
15 ~~agency or peace officer all prior criminal offense, conviction, and~~
16 ~~adjudication information. Any law enforcement agency or peace~~
17 ~~officer shall have the authority to review or copy any records~~
18 ~~concerning the juvenile, including prior criminal offense,~~
19 ~~conviction, or adjudication information; or~~

20 ~~D. Following the first adjudication as a delinquent, the court~~
21 ~~having jurisdiction shall note on the juvenile court record of the~~
22 ~~person that any subsequent juvenile court records shall not be~~
23 ~~confidential; provided, the child is at least fourteen (14) years of~~
24 ~~age or older. Any juvenile court record which becomes an open~~

1 ~~juvenile record as provided in this subsection may be expunged as~~
2 ~~provided in Section 7307-1.8 of this title.~~

3 ~~The provisions of this subsection shall only apply to the~~
4 ~~juvenile court records and law enforcement records of juvenile~~
5 ~~offenders certified, charged or adjudicated on and after July 1,~~
6 ~~1995.~~

7 ~~E. 4.~~ When a delinquent child has escaped or run away from a
8 training school or other institutional placement for delinquents,
9 ~~the.~~ The name and description of the child may be released to the
10 public by the agency having custody of the child as necessary and
11 appropriate for the protection of the public and the apprehension of
12 the delinquent child ~~whether or not the juvenile record is~~
13 ~~confidential or open.~~

14 ~~F. D.~~ Except as otherwise required by state or federal law, the
15 confidential records listed in subsection A of this section may only
16 be inspected, released, disclosed, corrected or expunged pursuant to
17 an order of the court. Except as otherwise provided in Section
18 601.6 of Title 10 of the Oklahoma Statutes or any provision of this
19 chapter, no subpoena or subpoena duces tecum purporting to compel
20 disclosure of confidential information or any confidential juvenile
21 record shall be valid.

22 ~~G. E.~~ An order of the court authorizing the inspection,
23 release, disclosure, correction or expungement of confidential
24 records shall be entered by the court only after a review of the

1 records by the court and a determination by the court, with due
2 regard for the confidentiality of the records and the privacy of
3 persons identified in the records, that a compelling reason exists
4 and such inspection, release or disclosure is necessary for the
5 protection of a legitimate public or private interest.

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

10 ~~H.~~ F. Upon receiving a written request for inspection, release,
11 disclosure, or correction of a juvenile record, the court shall
12 determine whether the record of a juvenile falls under one of the
13 exceptions listed in subsection C of this section. If the record
14 falls under one of the exceptions in subsection C of this section,
15 the court shall issue an order authorizing inspection, release,
16 disclosure or correction of the juvenile record. If the release of
17 a juvenile record is authorized by the court, the Office of Juvenile
18 Affairs shall provide information to the requestor regarding the
19 location of the juvenile record to be released.

20 ~~H.~~ G. Any agency or person may seek an order from the juvenile
21 court prohibiting the release of confidential information subject to
22 disclosure without an order of the court pursuant to Section 620.6
23 of Title 10 of the Oklahoma Statutes or any provision of this
24 chapter. The court may, for good cause shown, prohibit the release

1 of such information or authorize release of the information upon
2 such conditions as the court deems necessary and appropriate.

3 ~~J.~~ H. In accordance with the provisions of the Juvenile
4 Offender Tracking Program and Section 620.6 of Title 10 of the
5 Oklahoma Statutes:

6 1. Information included in the records listed in subsection A
7 of this section may be entered in and maintained in the Juvenile
8 Justice Information System and other automated information systems
9 related to services to children and youth whether or not the record
10 is confidential or open; and

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

13 ~~K.~~ I. The court may authorize a designated person to review
14 juvenile court confidential reports and records and collect
15 statistical information and other abstract information for research
16 purposes. Such authorization shall be in writing and shall state
17 specifically the type of information which may be reviewed and
18 reported.

19 Each person granted permission to inspect confidential reports
20 and records for research purposes shall present a notarized
21 statement to the court stating that the names of juveniles, parents
22 and other persons as may be required by the court to be confidential
23 will remain confidential.

24

1 ~~H.~~ J. Nothing contained in the provisions of Section 620.6 of
2 Title 10 of the Oklahoma Statutes or any provision of this chapter
3 shall be construed as:

4 1. Authorizing the inspection of records or the disclosure of
5 information contained in records relating to the provision of
6 benefits or services funded, in whole or in part, with federal
7 funds, except in accord with federal statutes and regulations
8 governing the receipt or use of such funds;

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

14 3. Abrogating any privilege, including the attorney-client
15 privilege, or affecting any limitation on such privilege found in
16 any other statutes;

17 4. Limiting or otherwise affecting access of parties to a
18 juvenile proceeding to any records filed with or submitted to the
19 court;

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

24

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

4 7. Prohibiting the person or agency conducting a preliminary
5 inquiry relating to an alleged delinquent act from providing
6 information, as to the disposition of the matter by the district
7 attorney, to the person or agency which referred the matter,
8 including but not limited to whether a petition was filed or an
9 alternative action taken, and the basis for such action and the
10 terms of any agreement entered into by the child for payment of
11 restitution, and including but not limited to provisions for
12 community services.

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

1 confidential. The use of any information shall be limited to the
2 purposes for which disclosure is authorized.

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

6 SECTION 16. AMENDATORY 10A O.S. 2011, Section 2-6-108,
7 is amended to read as follows:

8 Section 2-6-108. A. No adjudication by the court upon the
9 status of a child in a juvenile proceeding shall operate to impose
10 any of the civil disabilities ordinarily resulting from conviction
11 of a crime, nor shall a child be deemed a criminal by reason of a
12 juvenile adjudication.

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

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

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

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

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

19 Affairs or a juvenile bureau of final discharge

20 of such person from the supervision of the Office

21 of Juvenile Affairs or juvenile bureau, and

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

23 the commission of a subsequent criminal offense in

24 either a juvenile or adult proceeding, and

1 c. no juvenile or adult proceeding for a criminal offense
2 is pending;

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

4 a. the case has been dismissed, or

5 b. no petition has been filed pending fulfillment of
6 conditions of a voluntary probation, or

7 c. a petition has been filed but no adjudication has
8 occurred pending the fulfillment of conditions of a
9 preadjudicatory probation;

10 3. When a juvenile participates in a court-approved alternative
11 diversion program for first-time offenders and:

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

15 b. the court dismisses the case at the conclusion of the
16 deferral period; or

17 4. When a juvenile participates in a court-approved military
18 mentor program and:

19 a. the juvenile presents satisfactory evidence to the
20 court that the juvenile has successfully completed the
21 program, and

22 b. the court dismisses the case at the conclusion of the
23 deferral period.
24

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

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

10 ~~D.~~ Upon the sealing of any record of a person alleged to be
11 delinquent pursuant to this title, the record and official actions
12 subject to the order shall be deemed never to have occurred, and the
13 person who is the subject of the record and all juvenile justice
14 agencies may properly reply upon any inquiry in the matter that no
15 such action ever occurred and no such record exists with respect to
16 such person.

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

22 2. When notified by the court clerk of a court order sealing a
23 juvenile court record, the law enforcement agency having records
24

1 pertaining to the person shall seal the records as ordered, except
2 basic identification information shall be maintained.

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

6 ~~F.~~ E. Members of the judiciary, district attorneys, the
7 defendant, the defendant's counsel and employees of juvenile
8 bureaus, the Office of Juvenile Affairs assigned juvenile court
9 intake responsibilities, and the Department of Corrections may
10 access records that have been sealed pursuant to this section
11 without a court order for the purpose of determining whether to
12 dismiss an action, seek a voluntary probation, file a petition, or
13 for purposes of sentencing or placement in a case where the person
14 who is the subject of the sealed record is alleged to have committed
15 a subsequent juvenile delinquent act or any adult criminal offense.
16 Provided, any record sealed pursuant to this section may be used in
17 a subsequent juvenile delinquent or adult prosecution only after the
18 issuance of a court order unsealing the record.

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

21 1. In subsequent cases against the same child pursuant to this
22 title;

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

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

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

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

9 6. For the purpose of a criminal investigation; or

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

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

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

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

6 Section 1283. A. Except as provided in subsection B of this
7 section, it shall be unlawful for any person convicted of any felony
8 in any court of this state or of another state or of the United
9 States to have in his or her possession or under his or her
10 immediate control, or in any vehicle which the person is operating,
11 or in which the person is riding as a passenger, or at the residence
12 where the convicted person resides, any pistol, imitation or
13 homemade pistol, altered air or toy pistol, machine gun, sawed-off
14 shotgun or rifle, or any other dangerous or deadly firearm.

15 B. Any person who has previously been convicted of a nonviolent
16 felony in any court of this state or of another state or of the
17 United States, and who has received a full and complete pardon from
18 the proper authority and has not been convicted of any other felony
19 offense which has not been pardoned, shall have restored the right
20 to possess any firearm or other weapon prohibited by subsection A of
21 this section, the right to apply for and carry a concealed handgun
22 pursuant to the Oklahoma Self-Defense Act and the right to perform
23 the duties of a peace officer, gunsmith, or for firearms repair.

24

1 C. It shall be unlawful for any person supervised by the
2 Department of Corrections or any division thereof to have in his or
3 her possession or under his or her immediate control, or at his or
4 her residence, or in any passenger vehicle which the supervised
5 person is operating or is riding as a passenger, any pistol, shotgun
6 or rifle, including any imitation or homemade pistol, altered air or
7 toy pistol, shotgun or rifle, while such person is subject to
8 supervision, probation, parole or inmate status.

9 D. It shall be unlawful for any person previously adjudicated
10 as a delinquent child ~~or a youthful offender~~ for the commission of
11 an offense, ~~which would have constituted a felony offense if~~
12 ~~committed by an adult~~, in violation of Section 645, 650, 650.2, 652,
13 681 or 798 of this title or as a serious juvenile offender for the
14 commission of any felony offense to have in the person's possession
15 or under the person's immediate control, or have in any vehicle
16 which he or she is driving or in which the person is riding as a
17 passenger, or at the person's residence, any pistol, imitation or
18 homemade pistol, altered air or toy pistol, machine gun, sawed-off
19 shotgun or rifle, or any other dangerous or deadly firearm within
20 ten (10) years after such adjudication; provided, that nothing in
21 this subsection shall be construed to prohibit the placement of the
22 person in a home with a full-time duly appointed peace officer who
23 is certified by the Council on Law Enforcement Education and
24

1 Training (CLEET) pursuant to the provisions of Section 3311 of Title
2 70 of the Oklahoma Statutes.

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

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

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

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

23 I. For purposes of this section, "altered air pistol" shall
24 mean any air pistol manufactured to propel projectiles by air

1 pressure which has been altered from its original manufactured
2 state.

3 SECTION 18. AMENDATORY 43A O.S. 2011, Section 5-507, is
4 amended to read as follows:

5 Section 5-507. A. No minor who is ~~taken~~ placed into emergency,
6 temporary or permanent custody of a state agency pursuant to ~~Section~~
7 ~~1-4-201~~ of Title 10A of the Oklahoma Statutes ~~as an alleged deprived~~
8 ~~child, or who has been adjudicated a ward of the court~~ shall be
9 admitted to a hospital or mental health or substance abuse treatment
10 facility:

- 11 1. On an emergency basis except as provided by this section;
- 12 2. For inpatient treatment except upon a commitment order of
13 the court pursuant to the provisions of subsection D of this section
14 and after a finding that the minor requires such services as
15 provided by Section 5-512 of this title.

16 B. After an initial assessment and a determination that a minor
17 is a minor in need of treatment, the minor may be admitted to a
18 hospital or mental health or substance abuse treatment facility on
19 an emergency basis for a period not to exceed five (5) days from the
20 time of admission, excluding weekends and holidays. On the next
21 business day following admission, notice of such admission shall be
22 given by the person responsible for the supervision of the case, as
23 applicable, to the minor's attorney, Court Appointed Special
24

1 Advocate (CASA) or guardian ad litem, the court and district
2 attorney.

3 C. A minor admitted on an emergency basis pursuant to this
4 section shall be evaluated and the mental health evaluation
5 submitted to the district attorney within forty-eight (48) hours of
6 admission, excluding weekends and holidays. The mental health
7 evaluation shall be performed by a licensed mental health
8 professional at the facility.

9 D. If after an inpatient or outpatient mental health evaluation
10 it appears that the minor may require inpatient treatment, the
11 district attorney shall file a petition as provided by Section 5-509
12 of this title within three (3) days after receiving the mental
13 health evaluation requesting an order committing the minor to a
14 facility for inpatient treatment. After the filing of a petition
15 and upon issuance of a prehearing detention order, the minor may be
16 detained in the facility for no longer than necessary for a hearing
17 on the petition as provided by Section 5-510 of this title or
18 further order of the court.

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

24

1 SECTION 19. REPEALER 10 O.S. 2011, Sections 22 and 24,
2 are hereby repealed.

3 SECTION 20. REPEALER 10 O.S. 2011, Sections 130.1,
4 130.2, 130.3, 130.4, 130.5, 130.6, 130.7, 130.8 and 130.9, are
5 hereby repealed.

6 SECTION 21. REPEALER 10 O.S. 2011, Section 1101.1, is
7 hereby repealed.

8 SECTION 22. REPEALER 10A O.S. 2011, Section 2-2-806, is
9 hereby repealed.

10 SECTION 23. This act shall become effective November 1, 2012.

11

12 53-2-8621 GRS 01/18/12

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