

## BILL SUMMARY

2nd Session of the 53rd Legislature

<b>Bill No.:</b>	<b>HB2740</b>
<b>Version:</b>	<b>Introduced</b>
<b>Request Number:</b>	<b>8619</b>
<b>Author:</b>	<b>Representative Peters</b>
<b>Date:</b>	<b>2/17/2012</b>
<b>Impact:</b>	<b>\$5,000,000 cost annually</b>

### Research Analysis

HB 2740 amends the Youthful Offender Act by renaming it the Serious Juvenile Offender Act and replacing references to *youthful offender* with *serious juvenile offender* (JO). The measure deletes the existing purpose of the act and adds legislative intent that provides for increased levels of treatment and supervision. It extends the Office of Juvenile Affairs' jurisdiction over youth up to the age of 21 from 18 years and five months. It also requires local technology centers or local school districts to provide educational opportunities for the serious and authorizes OJA to place serious JOs or juvenile delinquents over 18 in an adult correctional facility for population management and control purposes.

It extends to 60 days the time OJA has to file a proposed individualized treatment plan (ITP), previously referred to as a rehabilitation plan, and requires the court to hold a dispositional hearing to review and approve the plan within 10 days of the filing unless good cause is shown to delay. The treatment plan is required to address the serious JO's individual treatment needs as determined by a diagnostic evaluation and assessment of his or her psychological, emotional, developmental, social and education needs. It also will include a comprehensive risk and needs assessment and measurable objectives for the serious JO. It requires the court to hold a review hearing upon a motion filed by the DA, OJA or the serious JO to review the ITP and the serious JO's progress. The measure also authorizes the court to transfer the serious JO to DOC custody for willfully, chronically and consistently refusing to participate in the treatment program.

For purposes of commitment of a person under 18 to a mental health facility, confinement of a serious JO or delinquent in OJA custody is not considered confinement in a jail or correctional facility nor is the person considered to have criminal charges pending. The measure prohibits an 18-year-old from being disqualified for inpatient commitment due to juvenile adjudication or supervision by OJA and prohibits the state insurance program from disqualifying offenders over the age of 18 who are under the supervision of OJA.

The measure authorizes the DA to file a petition alleging that a child arrested for certain crimes is a juvenile delinquent instead of a serious JO. It prohibits information gained by custodial interrogation of a serious JO under 18 from being admissible as evidence unless it is done in the presence of certain relatives or guardians or the attorney who, with the serious JO, must first be advised of their rights. It requires the Oklahoma Indigent Defense System or the public defender to represent those for whom indigency has been established. It requires that the serious JO's court records and file remain confidential unless the person is sentenced as an adult for the offense and requires the court to commence trial within 180 days of filing unless the accused waives his or her rights or fails to cooperate with providing information. The measure provides that at the hearing on the motion for certification as a juvenile, the burden of proof is on the accused to show that the child should be certified as a juvenile. It also provides that if a child charged with

murder in the first degree is not convicted of that offense but of a different one, the court may continue the hearing to determine if the child should be held accountable as an adult.

It repeals 10A O.S. 2011, Section 2-5-101 and adds several new definitions, including for *individualized treatment plan, certification evaluation, custodial interrogation, motion for certification as a juvenile, motion for certification as a serious JO, motion for imposition of an adult sentence, motion to transfer the serious juvenile offender to DOC, and risk and needs assessment.*

Prepared By: Robin McAlister

### **Fiscal Analysis**

According to Office of Juvenile Affairs personnel, the annual cost to lease and operate an appropriate facility for an estimated population of 50 youth would be at a cost of \$5,000,000 annually. The measure provides for the age of youth who remain in OJA custody to be raised and increases the security environment.

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### **Other Considerations**

None