HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

HOUSE BILL 2992 By: Perryman of the House

and

Sparks of the Senate

AS INTRODUCED

An Act relating to children and juvenile code; amending 10A O.S. 2011, Section 2-2-103, which relates to municipal jurisdiction of children; deleting obsolete language; and providing an effective date.

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

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

Section 2-2-103. A. 1. A municipality with a population of at least twenty-five thousand (25,000) may, by written resolution filed with the district court, assume jurisdiction of cases involving children under eighteen (18) years of age charged with violating any municipal ordinance identified in the resolution.

2. Any other municipality may enter into an interlocal agreement with the district court pursuant to the Interlocal

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Cooperation Act, to assume jurisdiction of cases involving children under eighteen (18) years of age charged with violating any municipal ordinance as agreed by the district court, the district attorney and the municipality.

3. The chief juvenile judge of the district court ~~judicial district~~, or if there is no chief juvenile judge then the presiding judge of the ~~judicial administrative~~ district court, is hereby authorized to enter into the interlocal agreement as provided for in this section for and on behalf of said ~~judicial~~ district court if the judge determines that the agreement is constitutional and complies with state and federal law.

B. 1. A child under eighteen (18) years of age who is taken into custody for the alleged violation of a municipal ordinance relating to truancy may be held pursuant to Section 10-109 of Title 70 of the Oklahoma Statutes.

2. A child under eighteen (18) years of age who is taken into custody for the alleged violation of a municipal ordinance relating to curfews may be held temporarily under the care of a peace officer or other person employed by a police department only until the parent of the child, legal guardian, legal custodian, attorney or other responsible adult assumes custody or, if such a person cannot be located within a reasonable time of the taking of the child into custody or if such a person refuses to assume custody, until temporary shelter is found for the child. The temporary custody

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provided for by this paragraph shall be utilized as a means of returning the child to the home of the child or other place of shelter.

3. In no event shall the child be placed in a jail, lockup or adult detention facility. In no event shall the child be placed in a juvenile detention facility for more than twenty-four (24) hours, excluding weekends and holidays, prior to an initial court appearance and for an additional twenty-four (24) hours excluding weekends and holidays, immediately following an initial court appearance; provided, however, this provision shall not restrict or prohibit placing a child in a community intervention center pursuant to Section ~~9~~ 2-7-305 of this ~~act~~ title.

4. Notwithstanding any other provision of this Code, a child less than eighteen (18) years of age, who is taken into custody for the alleged violation of a municipal ordinance, and who can be prosecuted in municipal court for such offense pursuant to jurisdiction assumed by the municipal court pursuant to the provisions of paragraph 1 of this subsection, may be temporarily detained by the municipality in a municipal juvenile facility, as defined by this section, but only pursuant to the following conditions:

a. the municipality shall immediately take all reasonable steps to attempt to locate the parent of the child, legal guardian, legal custodian, attorney or another

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responsible adult and determine if the parent, legal guardian, legal custodian, attorney or other responsible adult is willing to appear at the municipal juvenile facility and assume personal custody of the child upon the release of the child from such facility,

b. the child shall be released to the personal custody of the parent of the child, legal guardian, legal custodian, attorney or other responsible adult as soon as practicable and upon the written promise of such person to return the child to municipal court to answer the municipal charges on the date and at the time set by the municipal court and to assume responsibility for costs for damages by the child if the child causes damages while committing any acts in violation of municipal ordinances. Municipalities may enact ordinances providing penalties for failure to comply with the written promise and for refusal to assume custody of a child in a timely manner,

c. the child shall be detained in the municipal juvenile facility for no longer than twenty-four (24) hours; provided, if the parent of the child, legal guardian, legal custodian, attorney or other responsible adult fails to appear at the municipal juvenile facility and

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assume personal custody of the child within said twenty-four-hour period, then custody or release of the child shall be determined pursuant to the provisions of Section ~~40~~ 2-2-101 of this ~~act~~ title,

d. the child shall be provided with adequate fresh drinking water,

e. the child shall be provided with adequate food not less than three times in a twenty-four-hour period,

f. the child shall be provided with adequate bathroom facilities and bedding, and

g. the child shall be provided with any necessary medical care and treatment.

C. For the purposes of this section, a "municipal juvenile facility" shall mean a secure facility which is entirely separate from any jail, adult lockup, or other adult facility, or is spatially separate if contained inside any jail, adult lockup, or other adult facility which is certified by the Office of Juvenile Affairs for the temporary detention of juveniles as authorized by the provisions of this section.

1. A municipal juvenile facility shall be certified by the Office of Juvenile Affairs pursuant to the applicable certification standards. The Office of Juvenile Affairs is directed to and shall establish standards for certification of municipal juvenile facilities to include but not be limited to the conditions set forth

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in subparagraphs a through g of paragraph 4 of subsection B of this section.

2. Each member of the staff of the municipal juvenile facility shall have satisfactorily completed a training program provided or approved by the Office of Juvenile Affairs. The Office of Juvenile Affairs is directed to and shall provide or approve an appropriate training program for staff members of such facilities.

3. A municipality may contract with an independent public or private facility properly certified by the Office of Juvenile Affairs for performance of the detention services authorized by the provisions of this section.

4. The provisions of this section shall not restrict or limit the use of municipal juvenile facilities for detention of juveniles who are detained pursuant to other provisions of law.

5. In no event shall a juvenile be held in an adult facility that does not meet the definition of a municipal juvenile facility.

D. 1. A child less than eighteen (18) years of age may be charged, prosecuted and, if convicted, fined for violating a municipal ordinance; provided, that the maximum fine which may be imposed shall not exceed the maximum fine authorized by law.

2. When assessing punishment, the court also may require appropriate community service work, not to exceed ninety (90) hours, in lieu of or in addition to a fine if the product of multiplying the number of hours of community service work by the prevailing

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minimum wage plus any fine imposed does not result in a number which exceeds the maximum fine authorized by law, or restitution, or both community service work and restitution. The court may also impose costs as authorized by law.

3. If the child fails to complete the community service, a parent or guardian of the child who knew or should have known that the child failed to complete the community service may be fined an amount equal to the number of community service hours that are not completed by the child multiplied by the hourly minimum wage amount.

4. In addition, during any calendar year that any child:

a. fails to appear for a court date on more than one occasion,

b. is convicted of two or more of the municipal offenses, which offenses occurred on different days, or

c. fails to pay any fine or cost properly assessed by a municipal court,

and after the expiration of ninety (90) days, the court clerk shall mail notice of such occurrence to the Department of Public Safety, which Department shall thereafter suspend or deny driving privileges for such child for six (6) months. The suspension may be modified as provided in Section 6-107.2 of Title 47 of the Oklahoma Statutes. In addition, the court may require the child to receive counseling or other community-based services, as necessary.

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E. If a child is prosecuted for an offense in a municipal court, the child shall not be prosecuted for the offense in the district court.

F. Any fines and costs properly assessed against any child and which remain unpaid after three (3) months may be assessed by the municipal judge against the parent of the child, parents, legal guardian or legal custodian and collected and paid as provided for in Articles XXVII and XXVIII of Title 11 of the Oklahoma Statutes. Provided however, prior to such latter assessment, the court clerk shall give the parent of the child, parents, legal guardian or legal custodian notice by certified mail to their place of residence or personal service of such action proposed to be taken.

G. All municipal arrest records, prosecution records, court records, and court proceedings for cases involving children less than eighteen (18) years of age charged with violating municipal ordinances shall be kept confidential and shall not be open to public inspection except by order of the municipal court or as otherwise provided by Chapter 6 of this Code and Section 620.6 of Title 10 of the Oklahoma Statutes. Municipal conviction records involving children less than eighteen (18) years of age convicted of violating municipal ordinances shall be open to public inspection.

H. Funds generated from fines paid pursuant to an interlocal agreement between a municipality and the district court shall be

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earmarked and used by the municipality only for the following purposes:

1. To fund local programs which address problems of juvenile crime;

2. To fund the costs of prosecutions authorized pursuant to the provisions of this section;

3. To fund the costs of detention authorized pursuant to the provisions of this section;

4. To fund administrative costs related to local programs that address problems of juvenile crime or related to the prosecution, detention, or punishment authorized pursuant to the provisions of this section; and

5. To fund the costs of community intervention centers authorized pursuant to Section ~~9~~ 2-7-305 of this ~~act~~ title.

Such earmarked funds shall not be used by the municipality for any purpose other than the purposes set forth in paragraphs 1 through 5 of this subsection.

SECTION 2. This act shall become effective November 1, 2014.

COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 02/12/2014 - DO PASS, As Coauthored.

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