

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 679

By: Griffin and Ivester of the
Senate

and

Nelson of the House

11 COMMITTEE SUBSTITUTE

12 [juvenile code - juvenile detention requirements and
13 case transfer procedure - codification - effective
14 date]

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

18 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-4-904, is
19 amended to read as follows:

20 Section 1-4-904. A. A court shall not terminate the rights of
21 a parent to a child unless:

22 1. The child has been adjudicated to be deprived either prior
23 to or concurrently with a proceeding to terminate parental rights;
24 and

1 2. Termination of parental rights is in the best interests of
2 the child.

3 B. The court may terminate the rights of a parent to a child
4 based upon the following legal grounds:

5 1. Upon the duly acknowledged written consent of a parent, who
6 voluntarily agrees to termination of parental rights.

7 a. The voluntary consent for termination of parental
8 rights shall be signed under oath and recorded before
9 a judge of a court of competent jurisdiction and
10 accompanied by the judge's certificate that the terms
11 and consequences of the consent were fully explained
12 in detail in English and were fully understood by the
13 parent or that the consent was translated into a
14 language that the parent understood.

15 b. A voluntary consent for termination of parental rights
16 is effective when it is signed and may not be revoked
17 except upon clear and convincing evidence that the
18 consent was executed by reason of fraud or duress.

19 c. However, notwithstanding the provisions in this
20 paragraph, in any proceeding for a voluntary
21 termination of parental rights to an Indian child, the
22 consent of the parent may be withdrawn for any reason
23 at any time prior to the entry of a final decree of
24 termination. Any consent given prior to, or within

1 ten (10) days after, the birth of an Indian child
2 shall not be valid;

3 2. A finding that a parent who is entitled to custody of the
4 child has abandoned the child;

5 3. A finding that the child is an abandoned infant;

6 4. A finding that the parent of a child:

7 a. has voluntarily placed physical custody of the child
8 with the Department of Human Services or with a child-
9 placing agency for out-of-home placement,

10 b. has not complied with the placement agreement, and

11 c. has not demonstrated during such period a firm
12 intention to resume physical custody of the child or
13 to make permanent legal arrangements for the care of
14 the child;

15 5. A finding that:

16 a. the parent has failed to correct the condition which
17 led to the deprived adjudication of the child, and

18 b. the parent has been given at least three (3) months to
19 correct the condition;

20 6. A finding that:

21 a. the rights of the parent to another child have been
22 terminated, and

23 b. the conditions that led to the prior termination of
24 parental rights have not been corrected;

1 7. A finding that a parent who does not have custody of the
2 child has, for at least six (6) out of the twelve (12) months
3 immediately preceding the filing of the petition for termination of
4 parental rights, willfully failed or refused or has neglected to
5 contribute to the support of the child:

6 a. as specified by an order entered by a court of
7 competent jurisdiction adjudicating the duty, amount
8 and manner of support, or

9 b. where an order of child support does not exist,
10 according to the financial ability of the parent to
11 contribute to the child's support.

12 Incidental or token support shall not be construed or considered in
13 establishing whether a parent has maintained or contributed to the
14 support of the child;

15 8. A finding that the parent has been convicted in a court of
16 competent jurisdiction in any state of any of the following acts:

- 17 a. permitting a child to participate in pornography,
18 b. rape, or rape by instrumentation,
19 c. lewd molestation of a child under sixteen (16) years
20 of age,
21 d. child abuse or neglect,
22 e. enabling child abuse or neglect,

- 1 f. causing the death of a child as a result of the
2 physical or sexual abuse or chronic abuse or chronic
3 neglect of the child,
4 g. causing the death of a sibling of the child as a
5 result of the physical or sexual abuse or chronic
6 abuse or chronic neglect of the child's sibling,
7 h. murder of any child or aiding or abetting, attempting,
8 conspiring, or soliciting to commit murder of any
9 child,
10 i. voluntary manslaughter of any child,
11 j. a felony assault that has resulted in serious bodily
12 injury to the child or another child of the parents,
13 or
14 k. murder or voluntary manslaughter of the child's parent
15 or aiding or abetting, attempting, conspiring, or
16 soliciting to commit murder of the child's parent;

17 9. A finding that the parent has abused or neglected the child
18 or a sibling of the child or failed to protect the child or a
19 sibling of the child from abuse or neglect that is heinous or
20 shocking;

21 10. A finding that the parent has previously abused or
22 neglected the child or a sibling of the child or failed to protect
23 the child or a sibling of the child from abuse or neglect and the
24

1 child or a sibling of the child has been subjected to subsequent
2 abuse;

3 11. A finding that the child was conceived as a result of rape
4 perpetrated by the parent whose rights are sought to be terminated;

5 12. A finding that the parent whose rights are sought to be
6 terminated is incarcerated, and the continuation of parental rights
7 would result in harm to the child based on consideration of the
8 following factors, among others:

9 a. the duration of incarceration and its detrimental
10 effect on the parent/child relationship,

11 b. any previous convictions resulting in involuntary
12 confinement in a secure facility,

13 c. the parent's history of criminal behavior, including
14 crimes against children,

15 d. the age of the child,

16 e. any evidence of abuse or neglect or failure to protect
17 from abuse or neglect of the child or siblings of the
18 child by the parent,

19 f. the current relationship between the parent and the
20 child, and

21 g. the manner in which the parent has exercised parental
22 rights and duties in the past.

23 Provided, that the incarceration of a parent shall not in and of
24 itself be sufficient to deprive a parent of parental rights;

1 13. A finding that all of the following exist:

- 2 a. the parent has a diagnosed cognitive disorder, an
3 extreme physical incapacity, or a medical condition,
4 including behavioral health which renders the parent
5 incapable of adequately and appropriately exercising
6 parental rights, duties, and responsibilities within a
7 reasonable time considering the age of the child, and
8 b. allowing the parent to have custody would cause the
9 child actual harm or harm in the near future.

10 A parent's refusal or pattern of noncompliance with treatment,
11 therapy, medication, or assistance from outside the home can be used
12 as evidence that the parent is incapable of adequately and
13 appropriately exercising parental rights, duties, and
14 responsibilities.

15 A finding that a parent has a diagnosed cognitive disorder, an
16 extreme physical incapacity, or a medical condition, including
17 behavioral health or substance dependency shall not in and of itself
18 deprive the parent of parental rights; ~~and~~

19 14. A finding that:

- 20 a. the condition that led to the deprived adjudication
21 has been the subject of a previous deprived
22 adjudication of this child or a sibling of this child,
23 and
24

1 b. the parent has been given an opportunity to correct
2 the conditions which led to the determination of the
3 initial deprived child; and

4 15. A finding that a child has been placed in foster care by
5 the Department of Human Services for fifteen (15) of the most recent
6 twenty-two (22) months preceding the filing of the petition for
7 termination of parental rights. For purposes of this paragraph, a
8 child shall be considered to have entered foster care on the earlier
9 of:

10 a. the adjudication date, or

11 b. the date that is sixty (60) days after the date on
12 which the child is removed from the home.

13 C. An order directing the termination of parental rights is a
14 final appealable order.

15 D. The provisions of this section shall not apply to adoption
16 proceedings and actions to terminate parental rights which do not
17 involve a petition for deprived status of the child. Such
18 proceedings and actions shall be governed by the Oklahoma Adoption
19 Code.

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

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

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

5 1. Recognize the unique characteristics and needs of juveniles;

6 2. Give juveniles access to opportunities for personal and
7 social growth;

8 3. Maintain the integrity of substantive law prohibiting
9 certain behavior and developing individual responsibility for lawful
10 behavior;

11 4. Provide a system relying upon individualized treatment and
12 best practice for the rehabilitation and reintegration of juvenile
13 delinquents into society;

14 5. Preserve and strengthen family ties whenever possible,
15 including improvement of home environment;

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

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

23 8. Provide procedures through which the provisions of the law
24 are executed and enforced and which will assure the parties fair

1 hearings at which their rights as citizens are recognized and
2 protected.

3 SECTION 3. AMENDATORY 10A O.S. 2011, Section 2-1-103, is
4 amended to read as follows:

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

7 1. "Adjudicatory hearing" means a hearing to determine whether
8 the allegations of a petition filed pursuant to the provisions of
9 Chapter 2 of the Oklahoma Juvenile Code are supported by the
10 evidence and whether a juvenile should be adjudged to be a ward of
11 the court;

12 2. "Alternatives to secure detention" means those services and
13 facilities which are included in the State Plan for the
14 Establishment of Juvenile Detention Services adopted by the Board of
15 Juvenile Affairs and which are used for the temporary detention of
16 juveniles in lieu of secure detention in a juvenile detention
17 facility;

18 3. "Behavioral health" means mental health, substance abuse or
19 co-occurring mental health and substance abuse diagnoses, and the
20 continuum of mental health, substance abuse, or co-occurring mental
21 health and substance abuse treatment;

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

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

2 6. "Child" or "juvenile" means any person under eighteen (18)
3 years of age, except for any person charged and convicted for any
4 offense specified in the Youthful Offender Act or against whom
5 judgment and sentence has been deferred for such offense, or any
6 person who is certified as an adult pursuant to any certification
7 procedure authorized in the Oklahoma Juvenile Code for any offense
8 which results in a conviction or against whom judgment and sentence
9 has been deferred for such offense;

10 7. "Child or juvenile in need of mental health and substance
11 abuse treatment" means a juvenile in need of mental health and
12 substance abuse treatment as defined by the Inpatient Mental Health
13 and Substance Abuse Treatment of Minors Act;

14 8. "Child or juvenile in need of supervision" means a juvenile
15 who:

- 16 a. has repeatedly disobeyed reasonable and lawful
17 commands or directives of the parent, legal guardian,
18 or other custodian,
19 b. is willfully and voluntarily absent from his home
20 without the consent of the parent, legal guardian, or
21 other custodian for a substantial length of time or
22 without intent to return,
23 c. is willfully and voluntarily absent from school, as
24 specified in Section 10-106 of Title 70 of the

1 Oklahoma Statutes, if the juvenile is subject to
2 compulsory school attendance, or

3 d. has been served with an ex parte or final protective
4 order pursuant to the Protection from Domestic Abuse
5 Act;

6 9. "Community-based" means a facility, program or service
7 located near the home or family of the juvenile, and programs of
8 community prevention, diversion, supervision and service which
9 maintain community participation in their planning, operation, and
10 evaluation. These programs may include but are not limited to
11 medical, educational, vocational, social, and psychological
12 guidance, training, counseling, alcoholism treatment, drug
13 treatment, prevention and diversion programs, diversion programs for
14 first-time offenders, transitional living, independent living and
15 other rehabilitative services;

16 10. "Community intervention center" means a facility which
17 serves as a short-term reception facility to receive and hold
18 juveniles for an alleged violation of a municipal ordinance ~~or~~,
19 state law or who are alleged to be in need of supervision, as
20 provided for in subsection D of Section 2-7-305 of this title;

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

- 1 a. screening, evaluation and assessment which includes a
2 face-to-face screening and evaluation to establish
3 problem identification and to determine the risk level
4 of a child or adolescent and may result in clinical
5 diagnosis or diagnostic impression,
- 6 b. treatment planning which includes preparation of an
7 individualized treatment plan which is usually done as
8 part of the screening, evaluation and assessment,
- 9 c. treatment plan reviewing which includes a
10 comprehensive review and evaluation of the
11 effectiveness of the treatment plan,
- 12 d. individual counseling which includes face-to-face,
13 one-on-one interaction between a counselor and a
14 juvenile to promote emotional or psychological change
15 to alleviate the issues, problems, and difficulties
16 that led to a referral, including ongoing assessment
17 of the status and response of the juvenile to
18 treatment as well as psychoeducational intervention,
- 19 e. group counseling which includes a method of treating a
20 group of individuals using the interaction between a
21 counselor and two or more juveniles ~~and/or~~ or parents
22 or guardians to promote positive emotional or
23 behavioral change, not including social skills
24 development or daily living skills,

- 1 f. family counseling which includes a face-to-face
2 interaction between a counselor and the family of the
3 juvenile to facilitate emotional, psychological or
4 behavior changes and promote successful communication
5 and understanding,
- 6 g. crisis intervention counseling which includes
7 unanticipated, unscheduled face-to-face emergency
8 intervention provided by a licensed level or qualified
9 staff with immediate access to a licensed provider to
10 resolve immediate, overwhelming problems that severely
11 impair the ability of the juvenile to function or
12 maintain in the community,
- 13 h. crisis intervention telephone support which includes
14 supportive telephone assistance provided by a licensed
15 level provider or qualified staff with immediate
16 access to a licensed provider to resolve immediate,
17 overwhelming problems that severely impair the ability
18 of the juvenile to function or maintain in the
19 community,
- 20 i. case management which includes planned linkage,
21 advocacy and referral assistance provided in
22 partnership with a client to support that client in
23 self-sufficiency and community tenure,
24

- 1 j. case management and home-based services which includes
2 that part of case management services dedicated to
3 travel for the purpose of linkage, advocacy and
4 referral assistance and travel to provide counseling
5 and support services to families of children as needed
6 to support specific youth and families in self-
7 sufficiency and community tenure,
- 8 k. individual rehabilitative treatment which includes
9 face-to-face service provided one-on-one by qualified
10 staff to maintain or develop skills necessary to
11 perform activities of daily living and successful
12 integration into community life, including educational
13 and supportive services regarding independent living,
14 self-care, social skills regarding development,
15 lifestyle changes and recovery principles and
16 practices,
- 17 l. group rehabilitative treatment which includes face-to-
18 face group services provided by qualified staff to
19 maintain or develop skills necessary to perform
20 activities of daily living and successful integration
21 into community life, including educational and
22 supportive services regarding independent living,
23 self-care, social skills regarding development,
- 24

1 lifestyle changes and recovery principles and
2 practices,

3 m. community-based prevention services which include
4 services delivered in an individual or group setting
5 by a qualified provider designed to meet the services
6 needs of a child or youth and family of the child or
7 youth who has been referred because of identified
8 problems in the family or community. The group
9 prevention planned activities must be focused on
10 reducing the risk that individuals will experience
11 behavioral, substance abuse or delinquency-related
12 problems. Appropriate curriculum-based group
13 activities include, but are not limited to, First
14 Offender groups, prevention and relationship
15 enhancement groups, anger management groups, life
16 skills groups, substance abuse education groups,
17 smoking cessation groups, STD/HIV groups and parenting
18 groups,

19 n. individual paraprofessional services which include
20 services delineated in the treatment plan of the
21 juvenile which are necessary for full integration of
22 the juvenile into the home and community, but do not
23 require a professional level of education and
24 experience. Activities include assisting families

1 with Medicaid applications, assisting with school and
2 General Educational Development (GED) enrollment,
3 assisting youth with independent living arrangements,
4 providing assistance with educational problems and
5 deficiencies, acting as a role model for youth while
6 engaging them in community activities, assisting youth
7 in seeking and obtaining employment, providing
8 transportation for required appointments and
9 activities, participating in recreational activities
10 and accessing other required community support
11 services necessary for full community integration and
12 successful treatment,

13 o. tutoring which includes a tutor and student working
14 together as a learning team to bring about overall
15 academic success, improved self-esteem and increased
16 independence as a learner for the student,

17 p. community relations which include public or community
18 relations activities directed toward the community or
19 public at large or any segment of the public to
20 encourage understanding, accessibility and use of
21 community-based facilities, programs or services,

22 q. emergency ~~shelter beds~~ shelters and shelter host homes
23 which include emergency ~~shelter care~~ living
24 accommodations twenty-four (24) hours a day for a

1 short term, usually ninety (90) days or less, for
2 juveniles referred to the program needing shelter care
3 within the State of Oklahoma children and youth in a
4 crisis situation such as abandonment, abuse, neglect,
5 runaway, respite, or law enforcement or court
6 involvement. The shelter or shelter host homes may
7 provide care, education, mental health assessment and
8 treatment, counseling, recreational activities,
9 medical care and referrals needed by children and
10 youth to minimize trauma and aid the transition to a
11 permanent placement,

12 r. transitional living programs which include a
13 structured program to help older homeless youth
14 achieve self-sufficiency and avoid long-term
15 dependence on social services,

16 s. community-at-risk services (C.A.R.S.) which include a
17 program provided to juveniles in custody or under the
18 supervision of the Office of Juvenile Affairs or a
19 juvenile bureau to prevent out-of-home placement and
20 to reintegrate juveniles returning from placements.
21 The program shall include, but not be limited to,
22 treatment plan development, counseling, diagnostic and
23 evaluation services, mentoring, tutoring, and
24 supervision of youth in independent living,

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

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

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

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

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

21 b. has habitually violated traffic laws, traffic
22 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. "Executive Director" means the Executive Director of the
5 Office of Juvenile Affairs;

6 16. "Facility" means a place, an institution, a building or
7 part thereof, a set of buildings, or an area whether or not
8 enclosing a building or set of buildings which is used for the
9 lawful custody and treatment of juveniles. A facility shall not be
10 considered a correctional facility subject to the provisions of
11 Title 57 of the Oklahoma Statutes;

12 17. "Graduated sanctions" means a calibrated system of
13 sanctions designed to ensure that juvenile offenders face uniform,
14 immediate, and consistent consequences that correspond to the
15 seriousness of each offender's current offense, prior delinquent
16 history, and compliance with prior interventions;

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

23 19. "Independent living program" means a program designed to
24 assist a juvenile to enhance skills and abilities necessary for

1 successful adult living and may include but shall not be limited to
2 minimal direct staff supervision and supportive services in making
3 the arrangements necessary for an appropriate place of residence,
4 completing an education, vocational training, obtaining employment
5 or other similar services;

6 20. "Institution" means a residential facility offering care
7 and treatment for more than twenty residents. An institution shall
8 not be considered a correctional facility subject to the provisions
9 of Title 57 of the Oklahoma Statutes. Said institution may:

- 10 a. have a program which includes community participation
11 and community-based services, or
- 12 b. be a secure facility with a program exclusively
13 designed for a particular category of resident;

14 21. "Juvenile detention facility" means a secure facility which
15 meets the certification standards of the Office and which is
16 entirely separate from any prison, jail, adult lockup, or other
17 adult facility, for the temporary care of children. A juvenile
18 detention facility shall not be considered a correctional facility
19 subject to the provisions of Title 57 of the Oklahoma Statutes;

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

24 23. "Office" means the Office of Juvenile Affairs;

1 24. "Peer Review" means an initial or annual review and report
2 to the Office of Juvenile Affairs of the organization, programs,
3 records and financial condition of a Youth Services Agency by the
4 Oklahoma Association of Youth Services, or another Oklahoma
5 nonprofit corporation whose membership consists solely of Youth
6 Services Agencies and of whom at least a majority of Youth Services
7 Agencies are members. An annual review may consist of a review of
8 one or more major areas of the operation of the Youth Services
9 Agency being reviewed;

10 25. "Person responsible for a juvenile's health or welfare"
11 includes a parent, a legal guardian, custodian, a foster parent, a
12 person eighteen (18) years of age or older with whom the juvenile's
13 parent cohabitates or any other adult residing in the home of the
14 child, an agent or employee of a public or private residential home,
15 institution or facility, or an owner, operator, or employee of a
16 child care facility as defined by Section 402 of Title 10 of the
17 Oklahoma Statutes;

18 26. "Preliminary inquiry" or "intake" means a mandatory,
19 preadjudicatory interview of the juvenile and, if available, the
20 parents, legal guardian, or other custodian of the juvenile, which
21 is performed by a duly authorized individual to determine whether a
22 juvenile comes within the purview of the Oklahoma Juvenile Code,
23 whether nonadjudicatory alternatives are available and appropriate,
24 and if the filing of a petition is necessary;

1 27. "Probation" means a legal status created by court order
2 whereby a delinquent juvenile is permitted to remain outside an
3 Office of Juvenile Affairs facility directly or by contract under
4 prescribed conditions and under supervision by the Office, subject
5 to return to the court for violation of any of the conditions
6 prescribed;

7 28. "Rehabilitative facility" means a facility maintained by
8 the state exclusively for the care, education, training, treatment,
9 and rehabilitation of juveniles in need of supervision;

10 29. "Responsible adult" means a stepparent, foster parent,
11 person related to the juvenile in any manner who is eighteen (18)
12 years of age or older, or any person having an obligation and
13 authority to care for or safeguard the juvenile in the absence of
14 another person who is eighteen (18) years of age or older;

15 30. "Secure detention" means the temporary care of juveniles who
16 require secure custody in physically restricting facilities:

- 17 a. while under the continuing jurisdiction of the court
18 pending court disposition, or
- 19 b. pending placement by the Office of Juvenile Affairs
20 after adjudication;

21 31. "Training school" or "secure facility" means a facility,
22 maintained by the state exclusively for the care, education,
23 training, treatment, and rehabilitation of delinquent juveniles or
24 youthful offenders which relies on locked rooms and buildings, and

1 fences for physical restraint in order to control behavior of its
2 residents. A training school or secure facility shall not be
3 considered a correctional facility subject to the provisions of
4 Title 57 of the Oklahoma Statutes;

5 32. "Transitional living program" means a residential program
6 that may be attached to an existing facility or operated solely for
7 the purpose of assisting juveniles to develop the skills and
8 abilities necessary for successful adult living. Said program may
9 include but shall not be limited to reduced staff supervision,
10 vocational training, educational services, employment and employment
11 training, and other appropriate independent living skills training
12 as a part of the transitional living program; and

13 33. "Youth Services Agency" means a nonprofit corporation with
14 a local board of directors, officers and staff that has been
15 designated by the Board as a Youth Services Agency, that is peer
16 reviewed annually, and that provides community-based facilities,
17 programs or services to juveniles and their families in the youth
18 services service area in which it is located.

19 SECTION 4. AMENDATORY 10A O.S. 2011, Section 2-2-101, is
20 amended to read as follows:

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

24

1 1. By a peace officer, without a court order for any criminal
2 offense for which the officer is authorized to arrest an adult
3 without a warrant, or if the child is willfully and voluntarily
4 absent from the home of the child without the consent of the parent,
5 legal guardian, legal custodian or other person having custody and
6 control of the child for a substantial length of time or without
7 intent to return, or if the surroundings of the child are such as to
8 endanger the welfare of the child;

9 2. By a peace officer or an employee of the court without a
10 court order, if the child is willfully and voluntarily absent from
11 the home of the child without the consent of the parent, legal
12 guardian, legal custodian or other person having custody and control
13 of the child ~~for a substantial length of time or without intent to~~
14 ~~return,~~ ~~or~~ if the surroundings of the child are such as to endanger
15 the welfare of the child or, in the reasonable belief of the
16 employee of the court or peace officer, the child appears to have
17 run away from home without just cause. For purposes of this
18 section, a peace officer may reasonably believe that a child has run
19 away from home when the child refuses to give his or her name or the
20 name and address of a parent or other person legally responsible for
21 the care of the child or when the peace officer has reason to doubt
22 that the name and address given by the child are the actual name and
23 address of the parent or other person legally responsible for the
24 care of the child. A peace officer or court employee is authorized

1 by the court to take a child who has run away from home or who, in
2 the reasonable belief of the peace officer, appears to have run away
3 from home, to a facility designated by administrative order of the
4 court for such purposes if the peace officer or court employee is
5 unable to or has determined that it is unsafe to return the child to
6 the home of the child or to the custody of his or her parent or
7 other person legally responsible for the care of the child. Any
8 such facility receiving a child shall inform a parent or other
9 person responsible for the care of the child;

10 3. Pursuant to an order of the district court issued on the
11 application of the office of the district attorney. The application
12 presented by the district attorney shall be supported by a sworn
13 affidavit which may be based upon information and belief. The
14 application shall state facts sufficient to demonstrate to the court
15 that there is probable cause to believe the child has committed a
16 crime or is in violation of the terms of probation, parole or order
17 of the court;

18 4. By order of the district court pursuant to subsection ~~E~~ F of
19 this section when the child is in need of medical or behavioral
20 health treatment or other action in order to protect the health or
21 welfare of the child and the parent, legal guardian, legal custodian
22 or other person having custody or control of the child is unwilling
23 or unavailable to consent to such medical or behavioral health
24 treatment or other action; and

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

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

6 B. Whenever a child is taken into custody as a delinquent child
7 or a child in need of supervision pursuant to subsection A of this
8 section, the child shall be detained, held temporarily in the
9 custodial care of a peace officer or other person employed by a
10 police department, or be released to the custody of the parent of
11 the child, legal guardian, legal custodian, attorney or other
12 responsible adult, upon the written promise of such person to bring
13 the child to the court at the time fixed if a petition is to be
14 filed and to assume responsibility for costs for damages caused by
15 the child if the child commits any delinquent acts after being
16 released regardless of whether or not a petition is to be filed. It
17 shall be a misdemeanor for any person to sign the written promise
18 and then fail to comply with the terms of the promise. Any person
19 convicted of violating the terms of the written promise shall be
20 subject to imprisonment in the county jail for not more than six (6)
21 months or a fine of not more than Five Hundred Dollars (\$500.00), or
22 by both such fine and imprisonment. In addition, if a parent, legal
23 guardian, legal custodian, attorney or other responsible adult is
24 notified that the child has been taken into custody, it shall be a

1 misdemeanor for such person to refuse to assume custody of the child
2 within a timely manner. If detained, the child shall be taken
3 immediately before a judge of the district court in the county in
4 which the child is sought to be detained, or to the place of
5 detention or shelter designated by the court. If no judge be
6 available locally, the person having the child in custody shall
7 immediately report the detention of the child to the presiding judge
8 of the judicial administrative district, provided that the child
9 shall not be detained in custody beyond the next judicial day or for
10 good cause shown due to problems of arranging for and transporting
11 the child to and from a secure juvenile detention center, beyond the
12 second judicial day unless the court shall so order after a
13 detention hearing to determine if there exists probable cause to
14 detain the child. The child shall be present at the detention
15 hearing or the image of the child may be broadcast to the judge by
16 closed-circuit television or any other electronic means that
17 provides for a two-way communication of image and sound between the
18 child and the judge. If the latter judge cannot be reached, such
19 detention shall be reported immediately to any judge regularly
20 serving within the judicial administrative district. If detained, a
21 reasonable bond for release shall be set. Pending further
22 disposition of the case, a child whose custody has been assumed by
23 the court may be released to the custody of a parent, legal
24 guardian, legal custodian, or other responsible adult or to any

1 other person appointed by the court, or be detained pursuant to
2 Chapter 3 of the Oklahoma Juvenile Code in such place as shall be
3 designated by the court, subject to further order.

4 C. When a child is taken into custody as a child in need of
5 supervision, the child shall be detained and held temporarily in the
6 custodial care of a peace officer or placed within a community
7 intervention center as defined in subsection D of Section 2-7-305 of
8 this title, an emergency shelter, emergency shelter host home, or be
9 released to the custody of the parent of the child, legal guardian,
10 legal custodian, attorney or other responsible adult, upon the
11 written promise of such person to bring the child to court at the
12 time fixed if a petition is to be filed. A child who is alleged or
13 adjudicated to be in need of supervision shall not be detained in
14 any jail, lockup, or other place used for adults convicted of a
15 crime or under arrest and charged with a crime.

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 5. 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~~ over any parent,
17 legal custodian, legal guardian, stepparent of the child, or any
18 adult 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 and who appears in court or
21 has been properly served with a summons pursuant to Section 2-2-107
22 of this title.

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

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

10 B. 1. Upon the filing of a petition alleging the child to be
11 delinquent or upon the assumption of custody pursuant to Section 2-
12 2-101 of this title, the district court of the county where the
13 delinquent act occurred shall have jurisdiction of the child and ~~of~~
14 ~~the~~ over any parent, legal custodian, legal guardian, stepparent of
15 the child or any adult person living in the home of the child
16 regardless of where the parent, legal custodian, legal guardian,
17 stepparent, or adult person living in the home of the child is found
18 and who appears in court or has been properly served with a summons
19 pursuant to Section 2-2-107 of this title.

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

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

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

16 D. Except as otherwise provided in the Oklahoma Juvenile Code,
17 a child who is charged with having violated any state statute or
18 municipal ordinance, other than those enumerated in Section 2-5-101,
19 2-5-205 or 2-5-206 of this title, shall not be tried in a criminal
20 action but in a juvenile proceeding.

21 E. If, during the pendency of a criminal charge against any
22 person, it shall be ascertained that the person was a child at the
23 time of committing the alleged offense, the district court or
24 municipal court shall transfer the case, together with all the

1 papers, documents and testimony connected therewith, to the juvenile
2 division of the district court. The division making the transfer
3 shall order the child to be taken forthwith to the place of
4 detention designated by the juvenile division, to that division
5 itself, or release the child to the custody of a suitable person to
6 be brought before the juvenile division.

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

12 SECTION 6. AMENDATORY 10A O.S. 2011, Section 2-2-104, is
13 amended to read as follows:

14 Section 2-2-104. A. A preliminary inquiry shall be conducted
15 to determine whether the interests of the public or of the child who
16 is within the purview of the Oklahoma Juvenile Code require that
17 further court action be taken. If it is determined by the
18 preliminary inquiry that no further action be taken and if agreed to
19 by the district attorney, the intake worker may make such informal
20 adjustment without a petition.

21 B. In the course of the preliminary inquiry, the intake worker
22 shall:

23
24

1 1. Hold conferences with the child and the parents, guardian or
2 custodian of the child for the purpose of discussing the disposition
3 of the referral made;

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

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

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

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

20 C. Upon review of any information presented in the preliminary
21 inquiry, the district attorney may consult with the intake worker to
22 determine whether the interests of the child and the public will be
23 best served by the dismissal of the complaint, the informal
24 adjustment of the complaint, or the filing of a petition.

1 D. Informal adjustment may be provided to the child by the
2 intake worker only where the facts reasonably appear to establish
3 prima facie jurisdiction and are admitted and where consent is
4 obtained from the district attorney, the parent of the child, legal
5 guardian, legal custodian, or legal counsel, if any, and the child.
6 The informal adjustment is an agreement whereby the child agrees to
7 fulfill certain conditions in exchange for not having a petition
8 filed against the child. The informal adjustment shall be completed
9 within a period of time not to exceed six (6) months and shall:

10 1. Be voluntarily entered into by all parties;

11 2. Be revocable by the child at any time by a written
12 revocation;

13 3. Be revocable by the intake worker in the event there is
14 reasonable cause to believe the child has failed to carry out the
15 terms of the informal adjustment or has committed a subsequent
16 offense;

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

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

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

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

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

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

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

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

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

22 ~~D.~~ F. If an informal adjustment is agreed to pursuant to
23 subsection ~~B~~ D of this section, the informal adjustment agreement
24 may require the child to pay a fee equal to no more than what the

1 court costs would have been had a petition been filed. The child
2 shall remit the fee directly to the agency responsible for the
3 monitoring and supervision of the child. If the supervising agency
4 is a juvenile bureau, then the fee shall be remitted to a revolving
5 fund of the county in which the juvenile bureau is located to be
6 designated the "Juvenile Deferral Fee Revolving Fund" and shall be
7 used by the juvenile bureau to defray costs for the operation of the
8 juvenile bureau. In those counties without juvenile bureaus and in
9 which the Office of Juvenile Affairs or one of their contracting
10 agencies provides the monitoring and supervision of the juvenile,
11 the fee shall be paid directly to the Office of Juvenile Affairs and
12 shall be used to defray the costs for the operation of the Office of
13 Juvenile Affairs.

14 SECTION 7. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2-2-104.1 of Title 10A, unless
16 there is created a duplication in numbering, reads as follows:

17 A. Diversion services shall be offered to children who are at
18 risk of being the subject of a child-in-need-of-supervision
19 petition. Diversion services shall be designed to provide an
20 immediate response to families in crisis and to divert children from
21 court proceedings. Diversion services may be provided by outside
22 agencies as designated by the district courts, juvenile bureaus,
23 court employees, or a combination thereof.

24

1 B. Diversion services shall clearly document diligent attempts
2 to provide appropriate services to the child and the family of the
3 child unless it is determined that there is no substantial
4 likelihood that the child and family of the child will benefit from
5 further diversion attempts.

6 C. Where the primary issue is truancy, steps taken by the
7 school district to improve the attendance or conduct of the child in
8 school shall be reviewed and attempts to engage the school district
9 in further diversion attempts shall be made if it appears that such
10 attempts will be beneficial to the child.

11 D. Efforts to prevent the filing of the petition may extend
12 until it is determined that there is no substantial likelihood that
13 the child and family of the child will benefit from further
14 attempts. Efforts at diversion may continue after the filing of the
15 petition where it is determined that the child and family of the
16 child will benefit therefrom.

17 E. A child-in-need-of-supervision petition shall not be filed
18 during the period that the designated agency, juvenile bureau, or
19 court employee is providing the diversion services. A finding that
20 the case has been successfully diverted shall constitute presumptive
21 evidence that the underlying allegations have been successfully
22 resolved.

23 F. The designated agency, juvenile bureau, or court employee
24 shall promptly give written notice to the child and family of the

1 child whenever attempts to prevent the filing of the petition have
2 terminated and shall indicate in the notice whether the efforts were
3 successful or whether a child-in-need-of-supervision petition should
4 be filed with the court. A petition may or may not be filed where
5 diversion services have been terminated because the parent or other
6 person legally responsible for the child failed to consent to the
7 diversion plan or failed to actively participate in the services
8 provided.

9 SECTION 8. AMENDATORY 10A O.S. 2011, Section 2-2-107, is
10 amended to read as follows:

11 Section 2-2-107. A. After a petition shall have been filed,
12 unless the parties provided for in this section shall voluntarily
13 appear, a summons shall be issued which shall recite briefly the
14 nature of the proceeding with the phrase "as described more fully in
15 the attached petition" and requiring the person or persons who have
16 the custody or control of the child to appear personally and bring
17 the child before the court at a time and place stated. The summons
18 shall state the relief requested, and shall set forth the right of
19 the child, parents and other interested parties to have an attorney
20 present at the hearing on the petition.

21 B. The summons shall be served on the person who has actual
22 custody of the child, and if the child has reached the age of twelve
23 (12) years, a copy shall be served on the child. If the person who
24 has actual custody of the child shall be other than a parent or

1 guardian of the child, a copy of the summons shall be served on the
2 parent or guardian, or both. A copy of the summons shall be served
3 on a custodial parent, guardian or next friend. If no parent or
4 guardian can be found, a summons shall be served on such other
5 person or persons as the court shall designate.

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

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

12 D. Service of summons shall be made as provided for service in
13 civil actions.

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

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

21 E. If after a petition has been filed, it appears that the
22 child is in such condition or surroundings that the welfare of the
23 child requires that custody be immediately assumed by the court, the
24 judge may immediately issue a detention order or warrant authorizing

1 the taking of said child into emergency custody. Any such child
2 shall not be considered to be in the custody of the Office of
3 Juvenile Affairs.

4 F. In a delinquency proceeding, whenever a warrant for the
5 arrest of a child shall issue, it shall state the offense the child
6 is being charged with having committed; ~~in a child in need of~~
7 ~~supervision proceeding, whenever a warrant for detention of a child~~
8 ~~shall issue, it shall state the reason for detention.~~ Warrants for
9 the arrest or detention of a child shall comport with all other
10 requirements of issuance of arrest warrants for adult criminal
11 offenders.

12 G. In case the summons cannot be served, or the parties served
13 fail to obey the same, or in any case when it shall be made to
14 appear to the judge that the service will be ineffectual or that the
15 welfare of the child requires that the child should be brought into
16 the custody of the court, a warrant may be issued against the parent
17 or guardian or against the child. Nothing in this section shall be
18 construed to authorize placement of a child in secure detention who
19 is not eligible for secure detention pursuant to Section 2-3-101 of
20 this title.

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

23 Section 2-2-301. A. No information gained by a custodial
24 interrogation of a youthful offender under sixteen (16) years of age

1 or a child nor any evidence subsequently obtained as a result of
2 such interrogation shall be admissible into evidence against the
3 youthful offender or child unless the custodial interrogation about
4 any alleged offense by any law enforcement officer or investigative
5 agency, or employee of the court, or employee of the Office of
6 Juvenile Affairs is done in the presence of the parents, guardian,
7 attorney, adult relative, adult caretaker, or legal custodian of the
8 youthful offender or child. No such custodial interrogation shall
9 commence until the youthful offender or child and the parents,
10 guardian, attorney, adult relative, adult caretaker, or legal
11 custodian of the youthful offender or child have been fully advised
12 of the constitutional and legal rights of the youthful offender or
13 child, including the right to be represented by counsel at every
14 stage of the proceedings, and the right to have counsel appointed by
15 the court if the parties are without sufficient financial means;
16 provided, however, that no legal aid or other public or charitable
17 legal service shall make claim for compensation as contemplated
18 herein. It is further provided that where private counsel is
19 appointed in such cases, the court shall set reasonable compensation
20 and order the payment out of the court fund. As used in this
21 section, "custodial interrogation" means questioning of a youthful
22 offender under sixteen (16) years of age or child while that
23 youthful offender or child is in law enforcement custody or while
24 that youthful offender or child is being deprived of freedom of

1 action in any significant way by a law enforcement officer, employee
2 of the court, or employee of the Office. Custodial interrogation
3 shall conform with all requirements for interrogation of adult
4 criminal offenders. The term "custodial interrogation" shall not be
5 deemed to mean questioning of a youthful offender or child by a
6 public school administrator or teacher, so long as such questioning
7 is not being conducted on behalf of a law enforcement officer, an
8 employee of the court or an employee of the Office. Any information
9 gained from noncustodial questioning of a child or youthful offender
10 by a public school administrator or teacher concerning a wrongful
11 act committed on public school property shall be admissible into
12 evidence against the youthful offender or child.

13 B. A custodial interrogation of a youthful offender over
14 sixteen (16) years of age shall conform with all the requirements
15 for the interrogation of an adult.

16 C. If the youthful offender or child is not otherwise
17 represented by counsel, whenever a petition is filed pursuant to the
18 provisions of Section 2-2-104 of this title, the court shall appoint
19 an attorney, who shall not be a district attorney, for the youthful
20 offender or child regardless of any attempted waiver by the parent
21 or other legal custodian of the youthful offender or child of the
22 right of the youthful offender or child to be represented by
23 counsel. Counsel shall be appointed by the court only upon
24 determination by the court that the parent, legal guardian or legal

1 custodian is found to be indigent. If indigency is established, the
2 Oklahoma Indigent Defense System shall represent the child in
3 accordance with Section 1355.6 of Title 22 of the Oklahoma Statutes
4 or the applicable office of the county indigent defender shall
5 represent the child in accordance with Section 138.5 of Title 19 of
6 the Oklahoma Statutes. Provided, if the parent or legal guardian of
7 a child is not indigent but refuses to employ counsel, the court
8 shall appoint counsel to represent the child at detention hearings
9 until counsel is provided. Costs of representation shall be imposed
10 on the parent or other legal custodian as provided by Section 138.10
11 of Title 19 of the Oklahoma Statutes. Thereafter, the court shall
12 not appoint counsel for a child with a nonindigent parent or legal
13 custodian and shall order the parent or legal custodian to obtain
14 counsel. A parent or legal custodian of an indigent child who has
15 been ordered to obtain counsel for the child and who willfully fails
16 to follow the court order shall be found in indirect contempt of
17 court.

18 ~~D. Whenever a petition is filed alleging that a child is a~~
19 ~~delinquent child or a child in need of supervision, the court may~~
20 ~~appoint a guardian ad litem for the child at any time subsequent to~~
21 ~~the filing of the petition and shall appoint a guardian ad litem~~
22 ~~upon the request of the child or the attorney of the child. The~~
23 ~~guardian ad litem shall not be a district attorney, an employee of~~
24 ~~the office of the district attorney, an employee of the court, an~~

1 ~~employee of a juvenile bureau, or an employee of any public agency~~
2 ~~having duties or responsibilities towards the child~~ In all cases of
3 juvenile delinquency, adult certification, reverse certification, or
4 youthful offender proceedings and appeals, or any other proceedings
5 and appeals pursuant to the Oklahoma Juvenile Code, except mental
6 health or in-need-of-supervision proceedings and appeals, and any
7 other juvenile proceedings that are civil in nature, and other than
8 in counties where the office of the county indigent defender is
9 appointed, the Oklahoma Indigent Defense System shall be appointed
10 to represent indigent juveniles as provided for in the Indigent
11 Defense Act. In all other cases pursuant to this title, including
12 juvenile proceedings that are civil in nature, juvenile mental
13 health or in-need-of-supervision proceedings and appeals, with the
14 exception of proceedings in counties where the office of the county
15 indigent defender is appointed, the court shall, if counsel is
16 appointed and assigned, allow and direct to be paid from the local
17 court fund a reasonable and just compensation to the attorney or
18 attorneys for such services as they may render; provided, that any
19 attorney appointed pursuant to this subsection shall not be paid a
20 sum in excess of One Hundred Dollars (\$100.00) for services rendered
21 in preliminary proceedings, Five Hundred Dollars (\$500.00) for
22 services rendered during trial, and One Hundred Dollars (\$100.00)
23 for services rendered at each subsequent post-disposition hearing.
24

1 E. Counsel for the child shall advise the child and advocate
2 the expressed wishes of the child, as much as reasonably possible,
3 under the same ethical obligations as if the client were an adult.
4 Upon motion by the state, the child, the attorney for the child, or
5 a parent or legal custodian of the child, the court shall appoint a
6 guardian ad litem.

7 F. The guardian ad litem shall not be a district attorney, an
8 employee of the office of the district attorney, an employee of the
9 court, an employee of a juvenile bureau, or an employee of any
10 public agency having duties or responsibilities towards the child.

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

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

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

24

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

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

19 2. ~~Hearings related to the second or subsequent delinquency~~
20 ~~adjudication of a child shall be public proceedings. The~~
21 ~~adjudications relied upon to determine whether a hearing is a public~~
22 ~~proceeding pursuant to this paragraph shall not have arisen out of~~
23 ~~the same transaction or occurrence or series of events closely~~
24 ~~related in time and location. Upon its own motion or the motion of~~

1 ~~any of the parties to the hearing and for good cause shown, the~~
2 ~~court may order specific testimony or evidence to be heard in~~
3 ~~private; provided, the court shall not exclude any relative, legal~~
4 ~~guardian of a victim, or a person designated by the victim who is~~
5 ~~not subject to the rule of sequestration as a witness from the~~
6 ~~hearing during testimony of the victim. For the purposes of this~~
7 ~~paragraph, "good cause" shall mean a showing that it would be~~
8 ~~substantially harmful to the mental or physical well-being of the~~
9 ~~child if such testimony or evidence were presented at a public~~
10 ~~hearing~~ The judge may, for good cause shown, open the court hearings
11 to educate members of the public about juvenile justice issues;
12 however, the identities of the juvenile respondents shall not be
13 published in any reports or articles of general circulation.

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

17 C. A decision determining a child to come within the purview of
18 the Oklahoma Juvenile Code shall be based on sworn testimony and the
19 child shall have the opportunity for cross-examination unless the
20 facts are stipulated or unless the child enters into a stipulation
21 that the allegations of the petition are true or that sufficient
22 evidence exists to meet the burden of proof required for the court
23 to sustain the allegations of the petition. In proceedings pursuant
24 to the Oklahoma Juvenile Code, the court may allow mileage as in

1 civil actions to witnesses and reimbursement for expert witnesses
2 but such shall not be tendered in advance of the hearing. If a
3 child is alleged to be delinquent and the facts are stipulated, the
4 judge shall ascertain from the child if the child agrees with the
5 stipulation and if the child understands the consequences of
6 stipulating the facts.

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

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

19 SECTION 11. AMENDATORY 10A O.S. 2011, Section 2-2-404,
20 is amended to read as follows:

21 Section 2-2-404. A. A court may defer delinquency adjudication
22 proceedings ~~or proceedings to determine if a child is in need of~~
23 ~~supervision~~ for one hundred eighty (180) days if the child:
24

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

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

10 3. Has not been previously adjudicated a delinquent; and

11 4. Is alleged to have committed or attempted to commit a
12 delinquent offense that if committed by an adult would be a felony,
13 upon agreement of the district attorney.

14 B. During such period of deferral, the court may require the
15 following:

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

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

23 3. Restitution providing for monetary payment by the parents or
24 child, or both, to the victim who was physically injured or who

1 suffered loss of or damage to property as a result of the conduct
2 alleged;

3 4. An alternative diversion program; or

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

6 C. The court shall dismiss the case with prejudice at the
7 conclusion of the deferral period if the child presents satisfactory
8 evidence that the requirements of the court have been successfully
9 completed.

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

19 SECTION 12. AMENDATORY 10A O.S. 2011, Section 2-2-501,
20 is amended to read as follows:

21 Section 2-2-501. A. ~~After~~ No later than forty (40) days after
22 making an order of adjudication, the court shall hold a
23 dispositional hearing, at which all evidence helpful in determining
24 the proper disposition best serving the interest of the child and

1 the public, including but not limited to oral and written reports,
2 may be admitted and may be relied upon to the extent of its
3 probative value, even though not competent for the purposes of the
4 adjudicatory hearing.

5 B. Before making an order of disposition, the court shall
6 advise the district attorney, the parents, guardian, custodian or
7 responsible relative, and their counsel, of the factual contents and
8 the conclusion of reports prepared for the use of the court and
9 considered by it, and afford fair opportunity, if requested, to
10 controvert them. An order of disposition shall include a specific
11 finding and order of the court relative to the liability and
12 accountability of the parents for the care and maintenance of the
13 child as authorized by Section ~~2-2-706~~ 2-2-703 of this title, unless
14 custody is placed with the parent or parents of the child.

15 C. On its own motion or that of the district attorney, or of
16 the parent, guardian, custodian, responsible relative or counsel,
17 the court may adjourn the hearing for a reasonable period to receive
18 reports or other evidence and, in such event, shall make an
19 appropriate order for detention of the child, or release of the
20 child from detention subject to supervision by the court, during the
21 period of the continuance.

22 D. In scheduling investigations and hearings, the court shall
23 give priority to proceedings in which a child is in detention, or
24

1 has otherwise been removed from his home, before an order of
2 disposition has been made.

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

5 Section 2-2-502. A. ~~An individual treatment and service plan~~
6 ~~shall be filed with the court within the~~ Within thirty (30) days
7 ~~after any child has been adjudicated to be delinquent or in need of~~
8 ~~supervision. Said plan shall be filed by~~ adjudication, the person,
9 department or agency responsible for the supervision of the case ~~or~~
10 ~~by the legal custodian if the child has been removed from the~~
11 ~~custody of its lawful parent or parents. The treatment and service~~
12 ~~plan shall be based on a comprehensive assessment and evaluation of~~
13 ~~the child and family and include but not be limited to:~~ shall
14 provide a recommendation, based upon the comprehensive assessment
15 and evaluation process, for disposition to the court and counsel.
16 The recommendation shall include, but not be limited to, the child's
17 eligibility for probation, placement in community residential
18 treatment, or commitment with the Office of Juvenile Affairs.

19 B. If the recommendation is for probation, an individual
20 treatment and service plan shall be provided to the court and
21 counsel for the parties at the same time as the recommendation
22 provided for in subsection A of this section. If the recommendation
23 is for custody with the Office of Juvenile Affairs or is court-
24 ordered placement in other residential treatment, the individual

1 treatment and service plan shall be provided to the court and
2 counsel for the parties within thirty (30) days after disposition.
3 The plan shall be prepared by the person, department or agency
4 responsible for the supervision of the case or by the legal
5 custodian if the child has been removed from the custody of his or
6 her lawful parent or parents. The treatment and service plan shall
7 be based on a comprehensive assessment and evaluation of the child
8 and family that identifies the priority needs of the child for
9 rehabilitation and treatment and identifies any needs of the parent
10 or legal guardian of the child for services that would improve their
11 ability to provide adequate support, guidance, and supervision of
12 the child. This process should take into account the detention risk
13 assessment decision, the intake preliminary assessment, any
14 comprehensive assessment for substance abuse treatment services,
15 behavioral health services, intellectual disabilities, literary
16 services, and other educational and treatment services as
17 components. The completed assessment process shall result in an
18 individual treatment and service plan which shall include, but not
19 be limited to:

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

22 2. The eligibility of the child for disposition of probation,
23 placement in community residential treatment, commitment with the
24

1 Office of Juvenile Affairs and, if appropriate, assignment of a
2 residential commitment level;

3 3. Identification of the specific services available to the
4 child to remediate or alleviate the conditions that led to the
5 adjudication, including but not limited to educational, vocational-
6 educational, medical, drug or alcohol abuse treatment or counseling
7 or other treatment services;

8 ~~3.~~ 4. Identification of the services to be provided to the
9 parent, legal guardian, legal custodian, stepparent, other adult
10 person living in the home or other family members, to remediate or
11 alleviate the conditions that led to the adjudication, including
12 services needed to assist the family to provide proper care and
13 supervision of the child;

14 ~~4.~~ 5. Performance criteria that will measure the progress of
15 the child and family toward completion of the treatment and service
16 plan;

17 ~~5.~~ 6. A projected date for the completion of the treatment and
18 service plan; and

19 ~~6.~~ 7. The name and business address of the attorney
20 representing the child, if any.

21 ~~B.~~ C. The Office of Juvenile Affairs shall identify the
22 appropriate risk and needs assessment instruments used to develop
23 the recommendations of the individualized treatment and service
24 plan. The juvenile probation counselor shall be responsible for

1 making informed decisions and recommendations to other agencies, the
2 district attorney, and the courts so that the child and family of
3 the child may receive the least restrictive service alternative
4 throughout the court process.

5 D. The individual treatment and service plan shall be amended
6 as necessary and appropriate to reflect the disposition of the
7 court. The amended plan shall be filed with the court within thirty
8 (30) days of the order of disposition removing the child from the
9 home and shall state:

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

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

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

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

21 ~~C.~~ E. Whenever a child who is subject to the provisions of this
22 section is committed for inpatient mental health or substance abuse
23 treatment pursuant to the Inpatient Mental Health and Substance
24 Abuse Treatment of Minors Act, the individual treatment and service

1 plan shall be amended as necessary and appropriate, including but
2 not limited to identification of the treatment and services to be
3 provided to the child and his family upon discharge of the child
4 from inpatient mental health or substance abuse treatment.

5 SECTION 14. AMENDATORY 10A O.S. 2011, Section 2-2-503,
6 is amended to read as follows:

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

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

20 2. If it is consistent with the welfare of the child, the child
21 shall be placed with the parent or legal guardian of the child, but
22 if it appears to the court that the conduct of such parent,
23 guardian, legal guardian, stepparent or other adult person living in
24 the home has contributed to the child becoming delinquent or in need

1 of supervision, the court may issue a written order specifying
2 conduct to be followed by such parent, guardian, legal custodian,
3 stepparent or other adult person living in the home with respect to
4 such child. The conduct specified shall be such as would reasonably
5 prevent the child from continuing to be delinquent or in need of
6 supervision.

7 a. If it is consistent with the welfare of the child, in
8 cases where the child has been adjudicated to be in
9 need of supervision due to repeated absence from
10 school, the court may order counseling and treatment
11 for the child and the parents of the child to be
12 provided by the local school district, the county, the
13 Office or a private individual or entity. Prior to
14 final disposition, the court shall require that it be
15 shown by the appropriate school district that a child
16 found to be truant has been evaluated for learning
17 disabilities, hearing and visual impairments and other
18 impediments which could constitute an educational
19 handicap or has been evaluated to determine whether
20 the child has a disability if it is suspected that the
21 child may require special education services in
22 accordance with the Individuals with Disabilities
23 Education Act (IDEA). The results of such tests shall
24

1 be made available to the court for use by the court in
2 determining the disposition of the case.

3 b. In issuing orders to a parent, guardian, legal
4 guardian, stepparent or other adult person living in
5 the home of a child adjudicated to be a delinquent
6 child or in making other disposition of said
7 delinquent child, the court may consider the testimony
8 of said parent, guardian, legal guardian, stepparent
9 or other adult person concerning the behavior of the
10 juvenile and the ability of such person to exercise
11 parental control over the behavior of the juvenile.

12 c. In any dispositional order involving a child age
13 sixteen (16) or older, the court shall make a
14 determination, where appropriate, of the services
15 needed to assist the child to make the transition to
16 independent living.

17 d. No child who has been adjudicated in need of
18 supervision only upon the basis of truancy or
19 noncompliance with the mandatory school attendance law
20 shall be placed in a public or private institutional
21 facility or be removed from the custody of the lawful
22 parent, guardian or custodian of the child.

23 e. Nothing in the Oklahoma Juvenile Code or the Oklahoma
24 Children's Code may be construed to prevent a child

1 from being adjudicated both deprived and delinquent if
2 there exists a factual basis for such a finding;

3 3. The court may commit the child to the custody of a private
4 institution or agency, including any institution established and
5 operated by the county, authorized to care for children or to place
6 them in family homes. In committing a child to a private
7 institution or agency, the court shall select one that is licensed
8 by any state department supervising or licensing private
9 institutions and agencies; or, if such institution or agency is in
10 another state, by the analogous department of that state. Whenever
11 the court shall commit a child to any institution or agency, it
12 shall transmit with the order of commitment a summary of its
13 information concerning the child, and such institution or agency
14 shall give to the court such information concerning the child as the
15 court may at any time require-;

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

18 5. The court may commit the child to the custody of the Office
19 of Juvenile Affairs. Any order adjudicating the child to be
20 delinquent and committing the child to the Office of Juvenile
21 Affairs shall be for an indeterminate period of time-;

22 6. If the child has been placed outside the home, and it
23 appears to the court that the parent, guardian, legal custodian, or
24 stepparent, or other adult person living in the home has contributed

1 to the child becoming delinquent or in need of supervision, the
2 court may order that the parent, guardian, legal custodian,
3 stepparent, or other adult living in the home be made subject to any
4 treatment or placement plan prescribed by the Office or other person
5 or agency receiving custody of the child-;

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

- 8 a. for acts involving criminally injurious conduct as
9 defined in Section 142.3 of Title 21 of the Oklahoma
10 Statutes, order the child to pay a victim compensation
11 assessment in an amount not to exceed that amount
12 specified in Section 142.18 of Title 21 of the
13 Oklahoma Statutes. The court shall forward a copy of
14 the adjudication order to the Crime Victims
15 Compensation Board for purposes of Section 142.11 of
16 Title 21 of the Oklahoma Statutes. Except as
17 otherwise provided by law, such adjudication order
18 shall be kept confidential by the Board,
- 19 b. order the child to engage in a term of community
20 service without compensation. The state or any
21 political subdivision shall not be liable if a loss or
22 claim results from any acts or omission of a child
23 ordered to engage in a term of community service
24 pursuant to the provisions of this paragraph,

1 c. order the child, the parent or parents of the child,
2 legal guardian of the child, or both the child and the
3 parent or parents of the child or legal guardian at
4 the time of the delinquent act of the child to make
5 full or partial restitution to the victim of the
6 offense which resulted in property damage or personal
7 injury.

8 (1) The court shall notify the victim of the
9 dispositional hearing. The court may consider a
10 verified statement from the victim concerning
11 damages for injury or loss of property and actual
12 expenses of medical treatment for personal
13 injury, excluding pain and suffering. If
14 contested, a restitution hearing to determine the
15 liability of the child, the parent or parents of
16 the child, or legal guardian shall be held not
17 later than thirty (30) days after the disposition
18 hearing and may be extended by the court for good
19 cause. The parent or parents of the child or
20 legal guardian may be represented by an attorney
21 in the matter of the order for remittance of the
22 restitution by the parent or parents of the child
23 or legal guardian. The burden of proving that
24 the amount indicated on the verified statement is

1 not fair and reasonable shall be on the person
2 challenging the fairness and reasonableness of
3 the amount.

4 (2) Restitution may consist of monetary reimbursement
5 for the damage or injury in the form of a lump
6 sum or installment payments after the
7 consideration of the court of the nature of the
8 offense, the age, physical and mental condition
9 of the child, the earning capacity of the child,
10 the parent or parents of the child, or legal
11 guardian, or the ability to pay, as the case may
12 be. The payments shall be made to such official
13 designated by the court for distribution to the
14 victim. The court may also consider any other
15 hardship on the child, the parent or parents of
16 the child, or legal guardian and, if consistent
17 with the welfare of the child, require community
18 service in lieu of restitution or require both
19 community service and full or partial restitution
20 for the acts of delinquency by the child.

21 (3) A child who is required to pay restitution and
22 who is not in willful default of the payment of
23 restitution may at any time request the court to
24 modify the method of payment. If the court

1 determines that payment under the order will
2 impose a manifest hardship on the child, the
3 parent or parents of the child, or legal
4 guardian, the court may modify the method of
5 payment.

6 (4) If the restitution is not being paid as ordered,
7 the official designated by the court to collect
8 and disburse the restitution ordered shall file a
9 written report of the violation with the court.
10 The report shall include a statement of the
11 amount of the arrearage and any reasons for the
12 arrearage that are known by the official. A copy
13 of the report shall be provided to all parties
14 and the court shall promptly take any action
15 necessary to compel compliance.

16 (5) Upon the juvenile attaining eighteen (18) years
17 of age, the court shall determine whether the
18 restitution order has been satisfied. If the
19 restitution order has not been satisfied, the
20 court shall enter a judgment of restitution in
21 favor of each person entitled to restitution for
22 the unpaid balance of any restitution ordered
23 pursuant to this subparagraph. The clerk of the
24 court shall send a copy of the judgment of

1 restitution to each person who is entitled to
2 restitution. The judgment shall be a lien
3 against all property of the individual or
4 individuals ordered to pay restitution and may be
5 enforced by the victim or any other person or
6 entity named in the judgment to receive
7 restitution in the same manner as enforcing
8 monetary judgments. The restitution judgment
9 does not expire until paid in full and is deemed
10 to be a criminal penalty for the purposes of a
11 federal bankruptcy involving the child,

12 d. order the child to pay the fine which would have been
13 imposed had such child been convicted of such crime as
14 an adult. Any such fine collected pursuant to this
15 paragraph shall be deposited in a special Work
16 Restitution Fund to be established by the court to
17 allow children otherwise unable to pay restitution to
18 work in community service projects in the private or
19 public sector to earn money to compensate their
20 victims,

21 e. order the cancellation or denial of driving privileges
22 as provided by Sections 6-107.1 and 6-107.2 of Title
23 47 of the Oklahoma Statutes,

1 f. sanction detention in the residence of the child or
2 facility designated by the ~~Department~~ Office of
3 Juvenile ~~Justice~~ Affairs or the juvenile bureau for
4 such purpose for up to five (5) days, order weekend
5 detention in a place other than a juvenile detention
6 facility or shelter, tracking, or house arrest with
7 electronic monitoring, and

8 g. impose ~~sanctions~~ consequences, including detention as
9 provided for in subparagraph f of this paragraph, for
10 ~~the violation of preadjudicatory or postadjudicatory~~
11 ~~violations of probation.~~;

12 8. The court may order the child to participate in the Juvenile
13 Drug Court Program.

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

16 10. In any dispositional order removing a child from the home
17 of the child, the court shall, in addition to the findings required
18 by ~~subsection A of Section 2-2-105 of this title~~, make a
19 determination that, in accordance with the best interests of the
20 child and the protection of the public, reasonable efforts have been
21 made to provide for the return of the child to the home of the
22 child, or that efforts to reunite the family are not required as
23 provided in ~~subsection A of Section 2-2-105 of this title~~, and

1 reasonable efforts are being made to finalize an alternate permanent
2 placement for the child.

3 B. Prior to adjudication or as directed by a law enforcement
4 subpoena or court order, a school district may disclose educational
5 records to the court or juvenile justice system for purposes of
6 determining the ability of the juvenile justice system to
7 effectively serve a child. Any disclosure of educational records
8 shall be in accordance with the requirements of the Family
9 Educational Rights and Privacy Act of 1974 (FERPA). If the parent,
10 guardian, or custodian of a child adjudicated a delinquent child
11 asserts that the child has approval not to attend school pursuant to
12 Section 10-105 of Title 70 of the Oklahoma Statutes, the court or
13 the Office of Juvenile Affairs may require the parent to provide a
14 copy of the written, joint agreement to that effect between the
15 school administrator of the school district where the child attends
16 school and the parent, guardian, or custodian of the child.

17 C. With respect to a child adjudicated a delinquent child for a
18 violent offense, within thirty (30) days of the date of the
19 adjudication either the juvenile bureau in counties which have a
20 juvenile bureau or the Office of Juvenile Affairs in all other
21 counties shall notify the superintendent of the school district in
22 which the child is enrolled or intends to enroll of the delinquency
23 adjudication and the offense for which the child was adjudicated.

24

1 D. ~~No~~ A child who has been adjudicated in need of supervision
2 and has willfully violated a valid court order may be placed in a
3 secure facility.

4 E. No child charged in a state or municipal court with a
5 violation of state or municipal traffic laws or ordinances, or
6 convicted therefor, may be incarcerated in jail for the violation
7 unless the charge for which the arrest was made would constitute a
8 felony if the child were an adult. Nothing contained in this
9 subsection shall prohibit the detention of a juvenile for traffic-
10 related offenses prior to the filing of a petition in the district
11 court alleging delinquency as a result of the acts and nothing
12 contained in this section shall prohibit detaining a juvenile
13 pursuant to Section 2-2-102 of this title.

14 F. The court may revoke or modify a disposition order and may
15 order redispotion. The child whose disposition is being
16 considered for revocation or modification at said hearing shall ~~have~~
17 ~~the right to be represented by counsel, to present evidence on~~
18 ~~behalf of the child and to be confronted by witnesses against the~~
19 ~~child. Any revocation, modification or redispotion of the court~~
20 ~~in whole or in part shall be subject to review on appeal, as in~~
21 ~~other appeals of criminal cases. Bail may be allowed pending~~
22 ~~appeal.~~

23 G. ~~Any arrest or detention under the Oklahoma Juvenile Code or~~
24 ~~any adjudication in a juvenile proceeding shall not be considered an~~

1 ~~arrest, detention or conviction for purposes of employment, civil~~
2 ~~rights, or any statute, regulation, license, questionnaire,~~
3 ~~application, or any other public or private purposes, unless~~
4 ~~otherwise provided by law~~ be afforded the following rights:

5 1. Notice by the filing of a motion for redispotion by the
6 district attorney. The motion shall be served on the child and the
7 parent or legal guardian of the child at least five (5) business
8 days prior to the hearing;

9 2. The proceedings shall be heard without a jury and shall
10 require establishment of the facts alleged by a preponderance of the
11 evidence;

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

15 4. Any modification, revocation or redispotion removing the
16 child from the physical custody of a parent or guardian shall be
17 subject to review on appeal, as in other appeals of delinquent
18 cases;

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

21 6. The court shall not enter an order removing the child from
22 the custody of a parent or legal guardian pursuant to this section
23 unless the court first finds that reasonable efforts have been made
24 to maintain the family unit and prevent the unnecessary removal of

1 the child from the home of the child or that an emergency exists
2 which threatens the safety of the child and that:

- 3 a. such removal is necessary to protect the public,
- 4 b. the child is likely to sustain harm if not immediately
5 removed from the home,
- 6 c. allowing the child to remain in the home is contrary
7 to the welfare of the child, or
- 8 d. immediate placement of the child is in the best
9 interests of the child.

10 The court shall state in the record that such considerations
11 have been made. Nothing in this section shall be interpreted to
12 limit the authority or discretion of the agency providing probation
13 supervision services to modify the terms of probation including, but
14 not limited to, curfews, imposing community service, or any
15 nondetention consequences.

16 SECTION 15. AMENDATORY 10A O.S. 2011, Section 2-2-701,
17 is amended to read as follows:

18 Section 2-2-701. ~~A willful violation of any provision of an~~
19 ~~order of the court issued under the provisions of the Oklahoma~~
20 ~~Juvenile Code shall constitute~~ A. When it is determined to be in
21 the best interests of the child, the court may order a parent, legal
22 guardian or custodian of the child, and any other person living in
23 the home of such child who has been properly served with a summons
24 pursuant to Section 2-2-107 of this title to be present at or bring

1 the child to any proceeding under the provisions of the Oklahoma
2 Juvenile Code. The court may issue a bench warrant for any parent,
3 legal guardian or custodian of the child, or any other person living
4 in the home of such child who has been properly served with a
5 summons pursuant to Section 2-2-107 of this title who, without good
6 cause, fails to appear at any proceeding.

7 B. In any proceeding under the Oklahoma Juvenile Code, the
8 court shall enter an order specifically requiring a parent, legal
9 guardian or custodian of the child, and any other person living in
10 the home of such child who has been properly served with a summons
11 pursuant to Section 2-2-107 of this title to participate in the
12 rehabilitation process of a child including, but not limited to,
13 mandatory attendance at a juvenile proceeding, parenting class,
14 counseling, treatment, or an education program unless the court
15 determines that such an order is not in the best interests of the
16 child.

17 1. Any parent, legal guardian or custodian of the child, and
18 any other person living in the home of such child who has been
19 properly served with a summons pursuant to Section 2-2-107 of this
20 title willfully failing to comply with an order issued under this
21 section without good cause may be found in indirect contempt of
22 court.

23 2. The court may issue a bench warrant for any parent, legal
24 guardian or custodian of the child, and any other person living in

1 the home of such child who has been properly served with a summons
2 pursuant to Section 2-2-107 of this title who, without good cause,
3 fails to appear at any juvenile proceeding or court-ordered program.

4 3. For purposes of this section, "good cause" shall include,
5 but not be limited to, a situation where a parent, legal guardian or
6 custodian of the child, and any other person living in the home of
7 such child who has been properly served with a summons pursuant to
8 Section 2-2-107 of this title:

9 a. has employment obligations that would result in the
10 loss of employment,

11 b. does not have physical custody of the child and
12 resides outside the county of residence of the child,
13 and

14 c. resides in the county of the residence of the child
15 but is outside that county at the time of the juvenile
16 proceeding or court-ordered program for reasons other
17 than avoiding participation or appearance before the
18 court and participating or appearing in the court will
19 result in undue hardship to the parent or guardian.

20 4. Nothing in this section shall be construed to create a right
21 for any child to have his or her parent, legal guardian or custodian
22 of the child, and any other person living in the home of such child
23 who has been properly served with a summons pursuant to Section 2-2-
24

1 107 of this title present at any juvenile proceeding or court-
2 ordered program at which such child is present.

3 C. A parent, legal guardian or custodian of the child, and any
4 other person living in the home of such child who has been properly
5 served with a summons pursuant to Section 2-2-107 of this title may
6 be ordered by the court to:

7 1. Report any probation, parole or conditional release
8 violations; or

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

11 Any person placed under an order to report any probation, parole
12 or conditional release violations or aid in enforcing terms and
13 conditions of probation, parole or conditional release or other
14 orders of the court and who fails to do as ordered may be found in
15 indirect contempt of court and shall be punishable as such.

16 Punishment for any such act of contempt shall not exceed a fine of
17 Three Hundred Dollars (\$300.00), or imprisonment for not more than
18 thirty (30) days in the county jail if the violator is an adult, ~~or~~
19 ~~placement in a juvenile detention center for not more than ten (10)~~
20 ~~days if the violator is a juvenile,~~ or both such fine and
21 imprisonment ~~or detention.~~ The pursuit and prosecution of an
22 indirect contempt of court judgment shall be initiated by the
23 district attorney.

24

1 D. As used in this section, "guardian" or "custodian" shall not
2 include any private or public agency having temporary or permanent
3 custody of the child. Provided, nothing in this subsection shall
4 allow the agency to fail to comply with a writ of habeas corpus
5 issued by the court.

6 SECTION 16. AMENDATORY 10A O.S. 2011, Section 2-3-101,
7 is amended to read as follows:

8 Section 2-3-101. A. When a child is taken into custody
9 pursuant to the provisions of the Oklahoma Juvenile Code, the child
10 shall be detained only if it is necessary to assure the appearance
11 of the child in court or for the protection of the child or the
12 public.

13 1. a. No preadjudicatory or predisposition detention or
14 custody order shall remain in force and effect for
15 more than thirty (30) days. The court, for good and
16 sufficient cause shown, may extend the effective
17 period of such an order for an additional period not
18 to exceed sixty (60) days. If the child is being
19 detained for the commission of a murder, the court
20 may, if it is in the best interests of justice, extend
21 the effective period of such an order an additional
22 sixty (60) days.

23 b. Whenever the court orders a child to be held in a
24 juvenile detention facility, an order for secure

1 detention shall remain in force and effect for not
2 more than fifteen (15) days after such order. Upon an
3 application of the district attorney and after a
4 hearing on such application, the court, for good and
5 sufficient cause shown, may extend the effective
6 period of such an order for an additional period not
7 to exceed fifteen (15) days after such hearing. The
8 total period of preadjudicatory or predisposition
9 shall not exceed the ninety-day limitation as
10 specified in subparagraph a of this paragraph. The
11 child shall be present at the hearing on the
12 application for extension unless, as authorized and
13 approved by the court, the attorney for the child is
14 present at the hearing and the child is available to
15 participate in the hearing via telephone conference
16 communication. For the purpose of this paragraph,
17 "telephone conference communication" means use of a
18 telephone device that allows all parties, including
19 the child, to hear and be heard by the other parties
20 at the hearing. After the hearing, the court may
21 order continued detention in a juvenile detention
22 center, may order the child detained in an alternative
23 to secure detention or may order the release of the
24 child from detention.

1 2. No child alleged or adjudicated to be deprived or in need of
2 supervision or who is or appears to be a minor in need of treatment
3 as defined by the Inpatient Mental Health and Substance Abuse
4 Treatment of Minors Act, shall be confined in any jail, adult
5 lockup, or adult detention facility. No child shall be transported
6 or detained in association with criminal, vicious, or dissolute
7 persons.

8 3. Except as otherwise authorized by this section a child who
9 has been taken into custody as a deprived child, a child in need of
10 supervision, or who appears to be a minor in need of treatment, may
11 not be placed in any detention facility pending court proceedings,
12 but must be placed in shelter care or foster care or, with regard to
13 a child who appears to be a minor in need of treatment, a behavioral
14 health treatment facility in accordance with the provisions of the
15 Inpatient Mental Health and Substance Abuse Treatment of Minors Act,
16 or released to the custody of the parents of the child or some other
17 responsible party. When a child is taken into custody as a child in
18 need of supervision as a result of being a runaway, the court may
19 order the child placed in a juvenile detention facility pending
20 court proceedings if it finds the detention to be essential for the
21 safety of the child.

22 B. No child shall be placed in secure detention unless:

23 1. The child is an escapee from any delinquent placement;
24

1 2. The child is a fugitive from another jurisdiction with a
2 warrant on a delinquency charge or confirmation of delinquency
3 charges by the home jurisdiction;

4 3. The child is seriously assaultive or destructive towards
5 others or self;

6 4. The child is currently charged with any criminal offense
7 that would constitute a felony if committed by an adult or a
8 misdemeanor and:

9 a. is on probation or parole on a prior delinquent
10 offense,

11 b. is on preadjudicatory community supervision, or

12 c. is currently on release status on a prior delinquent
13 offense, ~~or~~;

14 ~~d.~~

15 5. The child has willfully failed or there is reason to believe
16 that the child will willfully fail to appear for juvenile court
17 proceedings;

18 6. A warrant for the child has been issued on the basis that:

19 a. the child is absent from court-ordered placement
20 without approval by the court,

21 b. the child is absent from designated placement by the
22 Office of Juvenile Affairs without approval by the
23 Office of Juvenile Affairs,

24

- 1 c. the initial court appearance of the child is scheduled
2 within twenty-four (24) hours after being taken into
3 custody, excluding weekends and holidays, and
- 4 d. the court of jurisdiction is outside of the Standard
5 Metropolitan Statistical Area as defined by the Bureau
6 of Census, and
- 7 e. there is no existing acceptable alternative placement
8 for the child, and
- 9 f. the jail, adult lockup or adult detention facility
10 provides sight and sound separation for juveniles,
11 pursuant to standards required by subsection E of
12 Section 2-3-103 of this title, or
- 13 g. the jail, adult lockup or adult detention facility
14 meets the requirements for licensure of juvenile
15 detention facilities, as adopted by the Office of
16 Juvenile Affairs, is appropriately licensed, and
17 provides sight and sound separation for juveniles,
18 which includes:
- 19 (1) total separation between juveniles and adult
20 facility spatial areas such that there could be
21 no haphazard or accidental contact between
22 juvenile and adult residents in the respective
23 facilities,
- 24

1 (2) total separation in all juvenile and adult
2 program activities within the facilities,
3 including recreation, education, counseling,
4 health care, dining, sleeping and general living
5 activities, and

6 (3) separate juvenile and adult staff, specifically
7 direct care staff such as recreation, education
8 and counseling.

9 Specialized services staff, such as cooks,
10 bookkeepers, and medical professionals who are not
11 normally in contact with detainees or whose infrequent
12 contacts occur under conditions of separation of
13 juvenile and adults can serve both.

14 2. Nothing in this section shall preclude a child who is
15 detained for the commission of a crime that would constitute a
16 felony if committed by an adult, or a child who is an escapee from a
17 juvenile training school or from an Office of Juvenile Affairs group
18 home from being held in any jail certified by the State Department
19 of Health, police station or similar law enforcement offices for up
20 to six (6) hours for purposes of identification, processing or
21 arranging for transfer to a secure detention or alternative to
22 secure detention. Such holding shall be limited to the absolute
23 minimum time necessary to complete these actions.

1 a. The time limitations for holding a child in a jail for
2 the purposes of identification, processing or
3 arranging transfer established by this section shall
4 not include the actual travel time required for
5 transporting a child from a jail to a juvenile
6 detention facility or alternative to secure detention.

7 b. Whenever the time limitations established by this
8 subsection are exceeded, this circumstance shall not
9 constitute a defense in a subsequent delinquency or
10 criminal proceeding.

11 3. Nothing in this section shall preclude detaining in a county
12 jail or other adult detention facility an eighteen-year old charged
13 in a juvenile petition for whom certification to stand trial as an
14 adult is prayed.

15 4. Nothing in this section shall preclude detaining in a county
16 jail or other adult detention facility a person provided for in
17 Section 2-3-102 of this title if written or electronically
18 transmitted confirmation is received from the state seeking return
19 of the individual that the person is a person provided for in
20 Section 2-3-102 of this title and if, during the time of detention,
21 the person is detained in a facility meeting the requirements of
22 Section 2-3-103 of this title.

23 5. Nothing in this section shall preclude detaining a person,
24 whose age is not immediately ascertainable and who is being detained

1 for the commission of a felony, in a jail certified by the State
2 Department of Health, a police station or similar law enforcement
3 office for up to twenty-four (24) hours for the purpose of
4 determining whether or not the person is a child, if:

- 5 a. there is a reasonable belief that the person is
6 eighteen (18) years of age or older,
- 7 b. there is a reasonable belief that a felony has been
8 committed by the person,
- 9 c. a court order for such detention is obtained from a
10 judge of the district court within six (6) hours of
11 initially detaining the person,
- 12 d. there is no juvenile detention facility that has space
13 available for the person and that is within thirty
14 (30) miles of the jail, police station, or law
15 enforcement office in which the person is to be
16 detained, and
- 17 e. during the time of detention the person is detained in
18 a facility meeting the requirements of subparagraph g
19 of paragraph 1 of this subsection.

20 The time limitation provided for in this paragraph shall include
21 the time the person is detained prior to the issuance of the court
22 order. The time limitation provided for in this paragraph shall not
23 include the actual travel time required for transporting the person
24 to the jail, police station, or similar law enforcement office. If

1 the time limitation established by this paragraph is exceeded, this
2 circumstance shall not constitute a defense in any subsequent
3 delinquency or criminal proceeding.

4 F. Nothing contained in this section shall in any way reduce or
5 eliminate the liability of a county as otherwise provided by law for
6 injury or damages resulting from the placement of a child in a jail,
7 adult lockup, or other adult detention facility.

8 G. Any juvenile detention facility shall be available for use
9 by any eligible Indian child as that term is defined by the Oklahoma
10 Indian Child Welfare Act, providing that the use of the juvenile
11 detention facility meets the requirements of the Oklahoma Juvenile
12 Code. The Indian tribe may contract with any juvenile detention
13 facility for the providing of detention services.

14 H. Each member of the staff of a juvenile detention facility
15 shall satisfactorily complete a training program provided or
16 approved by the Office of Juvenile Affairs.

17 SECTION 17. AMENDATORY 10A O.S. 2011, Section 2-4-107,
18 is amended to read as follows:

19 Section 2-4-107. A. 1. The salary of the director and other
20 employees of the bureau and any detention home established pursuant
21 to Section 2-4-108 of this title shall be fixed by the judge of the
22 Juvenile Division, subject to the general administrative authority
23 of the county commissioners of the contracting county. The salary
24

1 of the director shall not exceed ninety percent (90%) of salaries of
2 county Class A officers.

3 2. The salary of supervisors with intake or probation duties
4 shall not exceed eighty-five percent (85%) of Class A county
5 officers.

6 3. The salary of employees with case, probation, counseling or
7 juvenile duties shall not exceed eighty percent (80%) of Class A
8 county officers.

9 B. The judge of the Juvenile Division, subject to the general
10 administrative authority of the county commissioners of the
11 contracting county, may fix a limit on the amount of expenses that
12 may be incurred by the director and assistants to the director, such
13 limit to be in the judgment of the judge adequate to care for the
14 expenses necessary to carrying out the orders of the court in an
15 efficient and expedient manner. The director and assistants to the
16 director and other personnel of the court shall keep and maintain
17 their offices at the place where the office of the judge of the
18 court is kept, unless the judge of the Juvenile Division, subject to
19 the general administrative authority of the county commissioners of
20 the contracting county, shall direct otherwise. The offices of the
21 director and assistants to the director shall contain adequate
22 equipment, desk space and consultation rooms necessary for
23 appropriate office procedure.

24

1 C. In addition to their salaries, the director and assistants
2 to the director shall be reimbursed at the same rate as state
3 employees for mileage traveled by them in the investigation of court
4 cases and in supervising probationers. The director and assistants
5 may also receive reimbursement, at the rate and in the manner
6 applicable to other county officers, for actual and necessary
7 expenses incurred by them in attending conferences, meetings,
8 seminars or official business of the court either within or outside
9 of the State of Oklahoma.

10 D. In all counties having a juvenile bureau, the budget of the
11 juvenile bureau for salaries and expenses of the director,
12 counselors and other employees shall be established and funded as
13 follows:

14 1. All expenses incurred in complying with the provisions of
15 this article shall be a county charge or funded by a special sales
16 tax dedicated to juvenile programs and expenses;

17 2. The salaries and other compensation of all employees of the
18 juvenile bureau shall be fixed by the judge within the limit of the
19 total appropriations therefor; and

20 3. It is made the duty of the county excise board to make the
21 necessary appropriation and levy for the payment of salaries of the
22 director and all other employees, together with the expenses of
23 administering the bureau, consistent with the duty to do likewise
24 with the budget estimates of other county officers under the board's

1 jurisdiction, as required by the Constitution and laws of this
2 state.

3 4. Except in instances where it is entitled to representation
4 because of insurance coverage, the district attorney of the county
5 in which the juvenile bureau is located shall represent the juvenile
6 bureau and any employee who was acting in his or her official
7 capacity at the time of the act or omission complained of in any
8 lawsuit. If the district attorney has a conflict of interest or
9 otherwise declines to represent the juvenile bureau or its
10 employees, the county commissioners may request the assistance of
11 the Attorney General or authorize the employment of private counsel
12 for the juvenile bureau and its employees in their official
13 capacity.

14 SECTION 18. AMENDATORY 10A O.S. 2011, Section 2-6-101,
15 is amended to read as follows:

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

20 B. As used in the Oklahoma Juvenile Code:

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

1 pertaining to a juvenile proceeding or a child, and shall include
2 information entered into and maintained in an automated or
3 computerized information system;

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

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, certification study, paper or other
21 document, other than 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 19. AMENDATORY 10A O.S. 2011, Section 2-6-108,
11 is amended to read as follows:

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

17 B. The court may sua sponte, upon motion by the state or upon
18 motion by the alleged delinquent, order the records of a person
19 alleged to be delinquent to be sealed as follows:

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

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

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

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

24 Affairs or a juvenile bureau of final discharge

1 of such person from the supervision of the Office
2 of Juvenile Affairs or juvenile bureau, and

3 b. the person has not been found guilty of or admitted to
4 the commission of a subsequent criminal offense in
5 either a juvenile or adult proceeding, and

6 c. no juvenile or adult proceeding for a criminal offense
7 is pending;

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

9 a. the case has been dismissed, or

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

12 c. a petition has been filed but no adjudication has
13 occurred pending the fulfillment of conditions of a
14 preadjudicatory probation;

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

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

20 b. the court dismisses the case at the conclusion of the
21 deferral period; or

22 4. When a juvenile participates in a court-approved military
23 mentor program and:

24

1 a. the juvenile presents satisfactory evidence to the
2 court that the juvenile has successfully completed the
3 program, and

4 b. the court dismisses the case at the conclusion of the
5 deferral period.

6 The records may be sealed one (1) year after such dismissal or
7 completion of the conditions of a voluntary or preadjudicatory
8 probation, alternative diversion program for first-time offenders,
9 or military mentor program or upon the person attaining the age of
10 eighteen (18) years in the discretion of the court. Upon the
11 sealing of any record of a person alleged to be delinquent pursuant
12 to this title, the record and official actions subject to the order
13 shall be deemed never to have occurred, and the person who is the
14 subject of the record and all juvenile justice agencies may properly
15 reply upon any inquiry in the matter that no such action ever
16 occurred and no such record exists with respect to such person.

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

21 ~~D. Upon the sealing of any record of a person alleged to be~~
22 ~~delinquent pursuant to this title, the record and official actions~~
23 ~~subject to the order shall be deemed never to have occurred, and the~~
24 ~~person who is the subject of the record and all juvenile justice~~

1 ~~agencies may properly reply upon any inquiry in the matter that no~~
2 ~~such action ever occurred and no such record exists with respect to~~
3 ~~such person.~~

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

9 2. When notified by the court clerk of a court order sealing a
10 juvenile court record, the law enforcement agency having records
11 pertaining to the person shall seal the records as ordered, except
12 basic identification information shall be maintained.

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

16 ~~F.~~ E. Members of the judiciary, district attorneys, the
17 defendant, the defendant's counsel and employees of juvenile
18 bureaus, the Office of Juvenile Affairs assigned juvenile court
19 intake responsibilities, and the Department of Corrections may
20 access records that have been sealed pursuant to this section
21 without a court order for the purpose of determining whether to
22 dismiss an action, seek a voluntary probation, file a petition, or
23 for purposes of sentencing or placement in a case where the person
24 who is the subject of the sealed record is alleged to have committed

1 a subsequent juvenile delinquent act or any adult criminal offense.
2 Provided, any record sealed pursuant to this section may be used in
3 a subsequent juvenile delinquent or adult prosecution only after the
4 issuance of a court order unsealing the record.

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

7 1. In subsequent cases against the same child pursuant to this
8 title;

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

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

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

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

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

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

22 ~~H.~~ G. Any person or agency having a legitimate interest in a
23 delinquency case or proceeding may petition the court for an order
24 unsealing a juvenile court record. Upon the filing of a petition to

1 unseal any juvenile court record, the court shall set a date for a
2 hearing and shall provide thirty (30) ~~days~~ days of notice to all
3 interested parties. The hearing may be closed at the ~~court's~~
4 discretion of the court. If, after a hearing, the court determines
5 that there is any reason enumerated in subsection ~~G~~ F of this
6 section and it is necessary for the protection of a legitimate
7 public or private interest to unseal the records, the court shall
8 order the record unsealed.

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

12 SECTION 20. AMENDATORY 10A O.S. 2011, Section 2-7-303,
13 is amended to read as follows:

14 Section 2-7-303. The Office of Juvenile Affairs, in its role as
15 planner and coordinator for juvenile justice and delinquency
16 prevention services, is hereby authorized to and shall enter into
17 contracts for the establishment and maintenance of community-based
18 facilities, services and programs which may include, but are not
19 limited to: Emergency shelter, diagnosis, crisis intervention,
20 counseling, group work, case supervision, job placement, school-
21 based prevention programs, alternative diversion programs for first-
22 time offenders and for youth alleged or adjudicated to be in need of
23 supervision, recruitment and training of volunteers, consultation,
24 case management services, and agency coordination with emphasis on

1 keeping youth with a high potential for delinquency out of the
2 traditional juvenile justice process and community intervention
3 centers. The Office of Juvenile Affairs shall enter into contracts
4 with Youth Services Agencies for core community-based facilities,
5 programs and services based on need as indicated in its State Plan
6 for Youth Services Agencies.

7 SECTION 21. AMENDATORY 10A O.S. 2011, Section 2-7-305,
8 is amended to read as follows:

9 Section 2-7-305. A. The Office of Juvenile Affairs is
10 authorized to enter into contracts to establish or maintain
11 community-based youth service programs, shelters and community
12 intervention centers out of local, state and federal monies.

13 B. The Office of Juvenile Affairs shall take all necessary
14 steps to develop and implement a diversity of community services and
15 community-based residential care as needed to provide for adequate
16 and appropriate community-based care, treatment and rehabilitation
17 of children in the care, custody, and supervision of the Office of
18 Juvenile Affairs. Such community services and residential care
19 shall be consistent with the treatment needs of the child and the
20 protection of the public.

21 1. The Office of Juvenile Affairs shall, to the extent
22 reasonable and practicable, provide community-based services,
23 community residential care and community intervention centers to
24 children in the custody of the Office of Juvenile Affairs through

1 financial agreements, as authorized in Sections 2-7-303 and 2-7-304
2 of this title.

3 2. The Office of Juvenile Affairs shall establish procedures
4 for the letting of grants or contracts, and the conditions and
5 requirements for the receipt of such grants or contracts, for
6 community-based services, community residential care and community
7 intervention centers. A copy of such procedures shall be made
8 available to any member of the general public upon request.

9 C. Any state agency letting grants or contracts for the
10 establishment of community residential care or treatment facilities
11 for children shall require, as a condition for receipt of such
12 grants or contracts, documented assurance from the agency or
13 organization establishing such facility that appropriate
14 arrangements have been made for providing the educational services
15 to which residents of the facility are entitled pursuant to state
16 and federal law.

17 D. 1. The Office of Juvenile Affairs shall implement programs
18 for establishment and continued operation of community intervention
19 centers. The centers shall be established pursuant to interlocal
20 agreements between one or more municipalities or one or more
21 counties and the Office of Juvenile Affairs pursuant to rules
22 promulgated by the Office. The municipality or county may enter
23 into subcontracts with one or more service providers, subject to the
24 approval by the Office of Juvenile Affairs. The service provider,

1 whether a municipality, county or other entity, must have access to
2 the management information system provided for in Section 2-7-308 of
3 this title and must employ qualified staff, as determined by the
4 Office of Juvenile Affairs.

5 2. The community intervention center shall serve as a short-
6 term reception facility to receive and hold juveniles who have been
7 taken into custody by law enforcement agencies for the alleged
8 violation of a municipal ordinance or state law or who are alleged
9 to be in need of supervision and for whom detention is inappropriate
10 or unavailable. The community intervention center may be a secure
11 facility. Juveniles held in the community intervention facility
12 shall not be isolated from common areas other than for short-term
13 protective holding for combative or self-destructive behavior, as
14 defined by the Office of Juvenile Affairs.

15 3. Juveniles shall not be held in a community intervention
16 center for more than twenty-four (24) hours.

17 4. The community intervention center shall perform the
18 following functions:

- 19 a. enter demographic information into the management
20 information system provided for in Section 2-7-308 of
21 this title,
- 22 b. immediately notify the parents or parent, guardian, or
23 other person legally responsible for the juvenile's
24 care, or if such legally responsible person is

1 unavailable the adult with whom the juvenile resides,
2 that the juvenile has been taken into custody and to
3 pick up the juvenile, ~~and~~

4 c. hold juveniles until they can be released to a parent,
5 guardian, or other responsible adult or until a
6 temporary placement can be secured, but in no event
7 for longer than twenty-four (24) hours, and

8 d. ensure that a written promise is executed by the
9 parent, guardian or other responsible adult to bring
10 the child to court at any time if a petition is to be
11 modified.

12 5. The community intervention center may perform the following
13 functions:

14 a. gather information to determine if the juvenile is in
15 need of immediate medical attention,

16 b. conduct an initial assessment pursuant to rules
17 promulgated by the Office of Juvenile Affairs. Such
18 initial assessment may be given without parental
19 consent if the juvenile agrees to participate in the
20 assessment, and

21 c. conduct an assessment pursuant to a Problem Behavior
22 Inventory or a Mental Status Checklist or an
23 equivalent assessment instrument authorized by rules
24 promulgated by the Office of Juvenile Affairs, if

1 written permission to do so is obtained from the
2 parent, guardian or other person legally responsible
3 for the care of the juvenile. Such person and the
4 juvenile may review the assessment instrument prior to
5 the assessment process, must be informed that
6 participation in the assessment is voluntary and that
7 refusal to participate shall not result in any
8 penalty, and must sign a written acknowledgment that
9 they were given an opportunity to review the
10 assessment instrument. The assessment shall be used
11 to develop recommendations to correct the behavior of
12 the juvenile, to divert the progression of the
13 juvenile into the juvenile justice system, to
14 determine if the juvenile is in need of nonemergency
15 medical treatment, and to determine if the juvenile is
16 the victim of violence. Information derived from the
17 assessment shall not be made available to the court
18 prior to adjudication of the alleged offense, and
19 shall not be used in any phase of prosecution but may
20 be used by the court following adjudication for the
21 dispositional order and may be used for referrals to
22 social services.

23 6. A juvenile alleged to have committed an offense which would
24 be a felony if committed by an adult may be fingerprinted at a

1 community intervention center. No other juveniles shall be
2 fingerprinted at community intervention centers.

3 7. Community intervention centers shall be certified pursuant
4 to standards established and rules promulgated by the Office of
5 Juvenile Affairs.

6 SECTION 22. AMENDATORY 10A O.S. 2011, Section 2-7-306,
7 as amended by Section 42, Chapter 304, O.S.L. 2012 (10A O.S. Supp.
8 2012, Section 2-7-306), is amended to read as follows:

9 Section 2-7-306. A. Funds specifically appropriated to the
10 Office of Juvenile Affairs for designated Youth Services Agency
11 programs for both the Office of Juvenile Affairs and the Department
12 of Human Services or funds allocated by the Office of Juvenile
13 Affairs or the Department of Human Services for designated Youth
14 Services programs shall be made available through contracts
15 negotiated by the Office of Juvenile Affairs, ~~7~~ or the Department of
16 Human Services to organizations designated by the Board of Juvenile
17 Affairs as "Youth Services Agencies". All core community-based
18 programs and services to be performed by a Youth Services Agency
19 during a contract period pursuant to a contract with the Office of
20 Juvenile Affairs shall be included in one contract or contract
21 extension for that period. Designations of Youth Services Agencies
22 by the Board shall be granted based on community needs, as indicated
23 in the State Plan for Youth Services Agencies which shall be adopted
24 by rule by the Board. The State Plan for Youth Services Agencies

1 shall be adopted in accordance with criteria approved by the Board
2 of Juvenile Affairs after full consideration of any recommendations
3 of the Department of Human Services and the Oklahoma Association of
4 Youth Services. The criteria and plan adopted by the Board shall
5 designate community-based Youth Services Agency Service Areas that
6 will serve as the primary catchment area for each Youth Services
7 Agency. Until the criteria is established by the Board, the
8 criteria established by the Commission for Human Services shall
9 remain in effect. The criteria for designation of Youth Services
10 Agencies shall include but shall not be limited to:

11 1. Capability to deliver all or part of the compensable
12 services enumerated in Section 2-7-303 of this title, if the Youth
13 Services Agency is to provide such services;

14 2. Capability to deliver all or part of the compensable
15 children's services that the Department of Human Services is
16 authorized to provide for by contract with a private agency, if the
17 Youth Services Agency is to provide such services;

18 3. Adequate and qualified staff who are available as needed,
19 within a reasonable time after being contacted for services in each
20 county served by the agency;

21 4. Adequate services in the Youth Services Agency Area served
22 by the agency;

23 5. Financial viability;

24

1 6. A documented need for the local services to be offered as
2 determined by a local needs assessment for the Youth Services Agency
3 Service Area that shall be reviewed and approved or modified by the
4 Board and included in the State Plan for Youth Services Agencies;
5 and

6 7. Any negative impact on the ability to provide services or
7 the financial viability of an existing Youth Services Agency.

8 As used in this section, "financial viability" means the ability
9 of a Youth Services Agency to continue to achieve its operating
10 objectives and fulfill its mission over the long term. When
11 determining the financial viability of a Youth Services Agency, the
12 Office of Juvenile Affairs shall develop an analysis that takes into
13 consideration the three (3) previous fiscal years' financial audits,
14 if available; the previous fiscal year program audits, if available;
15 the current fiscal year financial position; and one-year future
16 revenue and expenditure projection.

17 B. The criteria for designation of Youth Services Agencies also
18 may include:

19 1. Successful completion of an initial peer review by the
20 Oklahoma Association of Youth Services or another Oklahoma nonprofit
21 corporation whose membership consists solely of Youth Services
22 Agencies and of whom at least a majority of Youth Services Agencies
23 are members; and

24

1 2. Such other criteria as the Board of Juvenile Affairs
2 determines appropriate.

3 C. Each Youth Services Agency receiving, by grant or contract
4 from the Department of Human Services on June 30, 1995, state funds
5 specifically appropriated for community-based youth services
6 programs, is hereby automatically designated a "Youth Services
7 Agency".

8 D. The Board of Juvenile Affairs, on recommendation of the
9 Office of Juvenile Affairs, may terminate the designation of a Youth
10 Services Agency that:

11 1. Is seriously deficient in the administration of its program;

12 2. Loses financial viability; or

13 3. Fails to successfully complete the annual peer review

14 process by the Oklahoma Association of Youth Services or another

15 Oklahoma nonprofit corporation whose membership consists solely of

16 Youth Services Agencies and of whom at least a majority of Youth

17 Services Agencies are members.

18 Before the Board of Juvenile Affairs terminates the designation

19 of a Youth Services Agency, the Office of Juvenile Affairs shall

20 complete a report documenting its reasons for the termination. The

21 report shall be submitted to the Board for review. The report shall

22 contain an analysis of the program administration, financial

23 viability and most recent peer review report of the Youth Services

24 Agency. The Office of Juvenile Affairs shall also develop a plan to

1 ensure that services provided by the Youth Services Agency whose
2 designation is being terminated shall continue to be provided by
3 another Youth Services Agency or agencies. In developing the plan,
4 the Office of Juvenile Affairs shall give full consideration to any
5 recommendations of the Oklahoma Association of Youth Services. The
6 plan shall be submitted to the Board as part of the report
7 documenting the reasons for termination of the Youth Services Agency
8 by the Office of Juvenile Affairs.

9 Any applicant organization denied designation as a Youth
10 Services Agency or any Youth Services Agency whose designation as a
11 Youth Services Agency is being terminated, is entitled to an
12 individual proceeding as provided in Article II of the
13 Administrative Procedures Act.

14 E. No Youth Services Agency shall be eligible to receive
15 funding until the beginning of the fiscal year after it receives its
16 designation as a Youth Services Agency unless it is replacing a
17 Youth Services Agency whose designation has been terminated. No
18 Youth Services Agency shall receive funding for the first time if
19 such funding will result in lowering the contract amount from the
20 previous fiscal year for any existing Youth Services Agency.

21 F. The Office of Juvenile Affairs shall be the sole
22 administrator of Youth Services Agency contracts unless a contract
23 is with another state agency or a federal agency in which case the
24 contract shall be administered as provided by the terms of the

1 contract or applicable federal law. Any contracting procedure shall
2 include a procedure for converting all contracts to a system of
3 payment which will be structured in a manner that will allow for the
4 receipt of all available federal funds. Provided, the Office of
5 Juvenile Affairs shall make no requirement that would require a
6 juvenile to be inappropriately diagnosed for the purpose of
7 receiving federal reimbursement for services.

8 G. The Office of Juvenile Affairs and the Department of Human
9 Services shall enter into a cooperative agreement that establishes
10 procedures to ensure the continuation of services provided for in
11 paragraph 2 of subsection A of this section by Youth Services
12 Agencies. The Office of Juvenile Affairs shall consult with the
13 Department of Human Services when assessing the capability of a
14 Youth Services Agency to deliver services pursuant to paragraph 2 of
15 subsection A of this section.

16 H. Funds for the support of Youth Services Agencies shall be
17 authorized by the Office of Juvenile Affairs only on the basis of
18 cost reimbursement performance contracts or fee-for-service
19 contracts. If a Youth Services Agency provides some services on a
20 fee-for-services basis and some services on a cost reimbursement
21 basis, no cost which has been included as part of the rate for
22 services provided on a fee-for-service basis shall be reimbursable
23 under the cost reimbursement portion of the contract. Fees charged
24 for annual peer reviews shall be reimbursable.

1 I. The Board may establish a fixed and uniform rate for any
2 community-based prevention service, including services to
3 individuals, groups, and community relations directed toward the
4 larger community, so long as the segment of the larger community or
5 target audience of persons to benefit is identified and the specific
6 prevention activities to be performed are described in the rate.

7 ~~J. Beginning in fiscal year 2007 and thereafter, contracts~~
8 Contracts with the Office of Juvenile Affairs or the Department of
9 Human Services for the support of, or for services by, Youth
10 Services Agencies shall be negotiated in the following manner:

11 1. The local board of the Youth Services Agency, based upon its
12 knowledge and assessment of the needs of the community, shall
13 prepare and present to the Office of Juvenile Affairs or the
14 Department of Human Services a proposal to provide community-based
15 services to juveniles and families in the youth services service
16 area in which it is located. The proposal shall be specific in
17 terms of its program objectives and goals and the services the Youth
18 Services Agency proposes to render;

19 2. Upon receipt of the proposal of the Youth Services Agency,
20 the Office of Juvenile Affairs or the Department of Human Services
21 shall determine if the proposal meets the criteria adopted by the
22 Board of Juvenile Affairs in the State Plan for Youth Services
23 Agencies and, within the resources available, meets the need for
24 community-based services in the youth services service area. If no

1 State Plan for Youth Services exists, the proposal shall be deemed
2 to meet the need for community-based services in the youth services
3 area;

4 3. Contracts shall require performance of a specific service or
5 services to be performed. Where the services cannot be broken down
6 into units, specifically measurable and reviewable services shall be
7 stated. Contracts may contain requirements of performance based
8 upon measurable quality outcome indicators. Documentation required
9 for monitoring and evaluation of the contract shall be consistent
10 with the terms of the contract, shall be in accordance with
11 generally accepted governmental accounting practices, and so far as
12 possible, sufficient for the Office of Juvenile Affairs or the
13 Department of Human Services to monitor the performance of the
14 contract without being overly burdensome to the Youth Services
15 Agency. The documentation to be required is the proper subject of
16 negotiation as part of the contracts, and the parties may rely on
17 the Office of Management and Enterprise Services for assistance if
18 they are unable to reach agreement;

19 4. The Office of Juvenile Affairs or the Department of Human
20 Services and the Youth Services Agency shall negotiate the final
21 terms and enter into the contract. Youth Services Agencies may
22 authorize the Oklahoma Association of Youth Services or another
23 Oklahoma nonprofit corporation, whose membership consists solely of
24

1 Youth Services Agencies and of whom at least a majority of Youth
2 Services Agencies are members, to negotiate on their behalf; and

3 5. The Office of Juvenile Affairs or the Department of Human
4 Services and a Youth Services Agency may agree to extend their
5 fiscal year 2006 contracts for a period not to exceed one (1) year
6 in order to implement the provisions of this subsection. The amount
7 of money in the contracts may be amended to reflect any change in
8 the money appropriated for fiscal year 2007 for community-based
9 service agencies.

10 K. Contracts with Youth Services Agencies and the Office of
11 Juvenile Affairs for community-based services shall be for a period
12 of twelve (12) months, beginning at the first of each fiscal year,
13 and renewable on an annual basis. Contracts shall be considered
14 during the third and fourth quarter of the fiscal year for
15 contracting the following year. Consideration for renewal shall
16 include a review of the performance of the current contract
17 including the annual peer review. If the Office of Juvenile Affairs
18 determines the contractual relationship shall be renewed, it shall
19 be in a new contract for the upcoming fiscal year and may or may not
20 contain the same terms, conditions, form and format as the previous
21 contract. Any change from the contract of the previous year that is
22 proposed by the Youth Services Agency or the Office of Juvenile
23 Affairs shall be the subject of negotiation at the request of either
24 party.

1 L. The Oklahoma Association of Youth Services, or another
2 Oklahoma nonprofit corporation whose membership consists solely of
3 Youth Services Agencies and of whom at least a majority of Youth
4 Services Agencies are members may provide technical assistance to
5 the Youth Services Agencies in the preparation and presentation of
6 their proposals or negotiations as requested by a Youth Services
7 Agency.

8 M. The Office of Juvenile Affairs is authorized to contract
9 with the Oklahoma Association of Youth Services or another Oklahoma
10 nonprofit corporation whose membership consists solely of Youth
11 Services Agencies and of whom at least a majority of Youth Services
12 Agencies are members for evaluation, training and program materials
13 and for statewide office support, including rental of office space
14 and general technical assistance for Youth Services Agencies with
15 which the Office of Juvenile Affairs has contracts.

16 SECTION 23. AMENDATORY 10A O.S. 2011, Section 2-7-501,
17 is amended to read as follows:

18 Section 2-7-501. A. The Office of Juvenile Affairs shall
19 provide intake and probation services for juveniles in all counties
20 not having a juvenile bureau and parole services in all counties of
21 the state and may enter into agreements to supplement probationary
22 services to juveniles in any county. The Office of Juvenile Affairs
23 may participate in federal programs for juvenile probation officers,
24

1 and may apply for, receive, use and administer federal funds for
2 such purpose.

3 B. A pre-adjudicatory substance abuse assessment of a child may
4 be conducted in conjunction with a court intake or preliminary
5 inquiry pursuant to an alleged delinquent act or upon admission to a
6 juvenile detention facility through the use of diagnostic tools
7 including, but not limited to, urinalysis, structured interviews or
8 substance abuse projective testing instruments.

9 1. Information gained from the substance abuse assessment
10 pursuant to this subsection shall be used only for substance abuse
11 treatment and for no other purpose. The results shall not be used
12 in any evidentiary or fact-finding hearing in a juvenile proceeding
13 or as the sole basis for the revocation of a community-based
14 placement or participation in a community-based program.

15 2. The results of the substance abuse assessment may be given
16 to the intake, probation or parole counselor of the child, the
17 parent or guardian of the child or to the attorney of the child. In
18 accordance with the Juvenile Offender Tracking Program and Section
19 620.6 of Title 10 of the Oklahoma Statutes, the counselor may also
20 provide the results of the substance abuse assessment to medical
21 personnel, therapists, school personnel or others for use in the
22 treatment and rehabilitation of the child.

23 C. The Office of Juvenile Affairs and the juvenile bureaus
24 shall implement:

- 1 1. ~~Court~~ Use of an intake ~~risk-assessment~~ risk and needs
2 assessment familiar to the court for children alleged or adjudicated
3 to be delinquent;
- 4 2. The imposition of administrative sanctions for the violation
5 of a condition of probation or parole;
- 6 3. A case management system for ensuring appropriate:
7 a. diversion of youth from the juvenile justice system,
8 b. services for and supervision of all youth on pre-
9 adjudicatory or postadjudicatory probation or on
10 parole, and for juvenile offenders in the custody of
11 the Office of Juvenile Affairs, and
12 c. intensive supervision of juvenile offenders and
13 communication between law enforcement and juvenile
14 court personnel and others regarding such offenders;
15 and
- 16 4. Guidelines for juvenile court personnel recommendations to
17 district attorneys regarding the disposition of individual cases by
18 district attorneys.
- 19 D. 1. The Office of Juvenile Affairs shall establish directly
20 and by contract, services including, but not limited to:
21 a. misdemeanor and nonserious first-time offender
22 programs,
23 b. tracking and mentor services,
24 c. weekend detention,

- d. five-day out-of-home sanction placements,
- e. short-term thirty-day intensive, highly structured placements,
- f. transitional programs,
- g. substance abuse treatment and diagnostic and evaluation programs, and
- h. day treatment programs.

2. In implementing these services, the Office of Juvenile Affairs shall give priority to those areas of the state having the highest incidences of juvenile crime and delinquency.

E. 1. The following entities shall conduct, upon adjudication of a child as a delinquent or in need of supervision unless such child has been previously assessed within the six (6) months prior to such intake, a literacy skills assessment:

- a. the Office of Juvenile Affairs,
- b. a first-time offender program within a designated youth services agency,
- c. any metropolitan county juvenile bureau, or
- d. any county operating a juvenile bureau.

2. Such assessment shall be conducted through the use of diagnostic tools which include, but are not limited to:

- a. structured interviews,
- b. standardized literacy testing instruments which measure the educational proficiency of the child, and

1 c. any other measure used to determine:

2 (1) whether a child is reading at an age-appropriate
3 level, and

4 (2) the capacity of the child to read at such level.

5 3. The results of the literacy skills assessment required
6 pursuant to this subsection shall be made available to the court by
7 the district attorney for use in the disposition phase; provided,
8 however, the results shall not be used in any evidentiary or fact-
9 finding hearing in a juvenile proceeding to determine whether a
10 juvenile should be adjudicated. Provided, further, such results
11 shall not be used as the sole basis for the revocation of a
12 community-based placement or participation in a community-based
13 program.

14 4. a. Upon request, the results of the literacy skills
15 assessment shall be given to the following:

16 (1) the child's intake, probation or parole
17 counselor,

18 (2) the parent or guardian of the child, or

19 (3) the child's attorney.

20 b. In accordance with the Juvenile Offender Tracking
21 Program and Section 620.6 of Title 10 of the Oklahoma
22 Statutes, the counselor may also provide the results
23 of the literacy skills assessment to therapists,
24

1 school personnel or others for use in the training and
2 rehabilitation of the child.

3 5. a. If the child is a juvenile placed in an institution or
4 facility operated by the Office of Juvenile Affairs,
5 the child shall be assessed and a literacy improvement
6 program shall be implemented in accordance with
7 Sections 2-7-601 and 2-7-603 of this title.

8 b. If the child is adjudicated delinquent or in need of
9 supervision or is being detained as part of a deferral
10 of prosecution agreement, deferral to file agreement
11 or a deferral sentence agreement, and the results of
12 the literacy skills assessment show that the child is
13 not reading at an age-appropriate level but has the
14 capacity to improve his or her reading skills, the
15 child shall be required to actively participate in a
16 literacy skills improvement program which may include,
17 but not be limited to, a program of instruction
18 through a public or private school, including any
19 technology center school, of this state or any other
20 state. The child shall provide documentation of
21 substantial quantifiable literacy improvement,
22 sufficient to demonstrate reading proficiency at an
23 age-appropriate or developmentally appropriate level;
24 provided, however, failure to demonstrate substantial

1 quantifiable literacy improvement shall not be the
2 sole basis for not dismissing a case against a child.

3 SECTION 24. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2-8-221 of Title 10A, unless
5 there is created a duplication in numbering, reads as follows:

6 A. Whenever the district attorney for any district has
7 reasonable cause to believe that an individual, with knowledge of
8 its content, is engaged in sending a transmission or causing a
9 transmission to originate within this state containing obscene
10 material or child pornography, the district attorney for the
11 district into which the transmission is sent or caused to be sent,
12 may institute an action in the district court for an adjudication of
13 the obscenity or child pornographic content of the transmission.
14 Provided that if the conditions of subsection B of this section are
15 present, then it shall be at the discretion of the district attorney
16 whether the action instituted is a juvenile offense as defined in
17 subsection B of this section or whether the action instituted is a
18 felony for a violation of Section 1040.13a of Title 21 of the
19 Oklahoma Statutes.

20 The individual sending the transmission specified in this
21 section may be indicted and tried in any district wherein the
22 transmission is sent or in which it is received by the person to
23 whom it was transmitted.

1 For purposes of any criminal prosecution pursuant to a violation
2 of this section, the person violating the provisions of this section
3 shall be deemed to be within the jurisdiction of this state by the
4 fact of accessing any computer, cellular phone, or other computer-
5 related or satellite-operated device in this state, regardless of
6 the actual jurisdiction where the violator resides.

7 B. Any individual under eighteen (18) years of age who engages
8 in the original or relayed transmission of obscene or erotic
9 material via electronic media in the form of digital images, videos,
10 or other depictions of real persons under the age of eighteen (18)
11 years, and:

12 1. The original or relayed transmission is of another minor
13 over thirteen (13) years of age and is made with the consent of the
14 pictured individual and is transmitted to five (5) or fewer
15 individual destinations, known or unknown, shall be guilty of a
16 misdemeanor violation of this section punishable by:

- 17 a. a fine not to exceed Five Hundred Dollars (\$500.00)
18 for the first offense,
- 19 b. a fine not to exceed One Thousand Dollars (\$1,000.00)
20 for a second and subsequent offense,
- 21 c. up to forty (40) hours of community service, or
- 22 d. a referral to a juvenile bureau to propose a probation
23 plan which shall be adopted through disposition;

24

1 2. The original or relayed transmission is of another minor
2 over thirteen (13) years of age and is made without the consent of
3 the pictured individual, or is sent to six (6) or more individual
4 destinations, known or unknown, shall be guilty of a misdemeanor
5 violation of this section punishable by:

6 a. a fine not to exceed Seven Hundred Dollars (\$700.00)
7 for the first offense,

8 b. a fine not to exceed One Thousand Four Hundred Dollars
9 (\$1,400.00) for a second or subsequent offense,

10 c. up to sixty (60) hours of community service, and

11 d. a referral to a juvenile bureau to propose a probation
12 plan which shall be adopted through disposition; and

13 3. The original or relayed transmission is of another minor
14 thirteen (13) years of age or younger, with or without the pictured
15 individuals consent, and is transmitted to any number of
16 destinations, known or unknown, shall be guilty of a misdemeanor
17 violation of this section punishable by:

18 a. a fine not to exceed Nine Hundred Dollars (\$900.00)
19 for the first offense,

20 b. a fine not to exceed One Thousand Eight Hundred
21 Dollars (\$1,800.00) for a second or subsequent
22 offense,

23 c. up to eighty (80) hours of community service, and
24

1 d. a referral to a juvenile bureau to propose a probation
2 plan which may be adopted through disposition.

3 C. The fact that the individual making the transmission and the
4 individual pictured are the same does not alter the criminality
5 provided in this section.

6 SECTION 25. AMENDATORY 43A O.S. 2011, Section 5-507, is
7 amended to read as follows:

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

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

19 B. After an initial assessment and a determination that a minor
20 is a minor in need of treatment, the minor may be admitted to a
21 hospital or mental health or substance abuse treatment facility on
22 an emergency basis for a period not to exceed five (5) days from the
23 time of admission, excluding weekends and holidays. On the next
24 business day following admission, notice of such admission shall be

1 given by the person responsible for the supervision of the case, as
2 applicable, to the minor's attorney, Court Appointed Special
3 Advocate (CASA) or guardian ad litem, the court and district
4 attorney.

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

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

21 E. Nothing in this section shall be interpreted to preclude or
22 prohibit a parent having physical custody of a minor who is a ward
23 of the court from arranging for an emergency admission of the minor.

24

1 In such cases, the parent shall immediately notify the person
2 responsible for the supervision of the case of the admission.

3 SECTION 26. AMENDATORY 70 O.S. 2011, Section 24-101.3,
4 is amended to read as follows:

5 Section 24-101.3 A. Any student who is guilty of an act
6 described in paragraph 1 of subsection C of this section may be
7 suspended out-of-school in accordance with the provisions of this
8 section. Each school district board of education shall adopt a
9 policy with procedures which provides for out-of-school suspension
10 of students. The policy shall address the term of the out-of-school
11 suspension, provide an appeals process as described in subsection B
12 of this section, and provide that before a student is suspended out-
13 of-school, the school or district administration shall consider and
14 apply, if appropriate, alternative in-school placement options that
15 are not to be considered suspension, such as placement in an
16 alternative school setting, reassignment to another classroom, or
17 in-school detention. The policy shall address education for
18 students subject to the provisions of subsection D of this section
19 and whether participation in extracurricular activities shall be
20 permitted.

21 B. 1. Students suspended out-of-school for ten (10) or fewer
22 days shall have the right to appeal the decision of the
23 administration as provided in the policy required in subsection A of
24 this section. The policy shall specify whether appeals for short-

1 term suspensions as provided in this subsection shall be to a local
2 committee composed of district administrators or teachers or both,
3 or to the district board of education. Upon full investigation of
4 the matter, the committee or board shall determine the guilt or
5 innocence of the student and the reasonableness of the term of the
6 out-of-school suspension. If the policy requires appeals for short-
7 term suspensions to a committee, the policy adopted by the board
8 may, but is not required to, provide for appeal of the committee's
9 decision to the board.

10 2. Students suspended out-of-school for more than ten (10) days
11 and students suspended pursuant to the provisions of paragraph 2 of
12 subsection C of this section may request a review of the suspension
13 with the administration of the district. If the administration does
14 not withdraw the suspension, the student shall have the right to
15 appeal the decision of the administration to the district board of
16 education. Except as otherwise provided for in paragraph 2 of
17 subsection C of this section, no out-of-school suspension shall
18 extend beyond the current semester and the succeeding semester.
19 Upon full investigation of the matter, the board shall determine the
20 guilt or innocence of the student and the reasonableness of the term
21 of the out-of-school suspension. A board of education may conduct
22 the hearing and render the final decision or may appoint a hearing
23 officer to conduct the hearing and render the final decision. The

24

1 decision of the district board of education or the hearing officer,
2 if applicable, shall be final.

3 C. 1. Students who are guilty of any of the following acts may
4 be suspended out-of-school by the administration of the school or
5 district:

6 a. violation of a school regulation,

7 b. ~~immorality,~~

8 ~~c. adjudication as a delinquent for an offense that is~~

9 ~~not a violent offense. For the purposes of this~~

10 ~~section, "violent offense" shall include those~~

11 ~~offenses listed as the exceptions to the term~~

12 ~~"nonviolent offense" as specified in Section 571 of~~

13 ~~Title 57 of the Oklahoma Statutes. "Violent offense"~~

14 ~~shall include the offense of assault with a dangerous~~

15 ~~weapon but shall not include the offense of assault,~~

16 ~~d.~~ possession of an intoxicating beverage, low-point

17 beer, as defined by Section 163.2 of Title 37 of the

18 Oklahoma Statutes, or missing or stolen property if

19 the property is reasonably suspected to have been

20 taken from a student, a school employee, or the school

21 during school activities, and

22 ~~e.~~

23 c. possession of a dangerous weapon or a controlled

24 dangerous substance while on or within two thousand

1 (2,000) feet of public school property, or at a school
2 event, as defined in the Uniform Controlled Dangerous
3 Substances Act. Possession of a firearm shall result
4 in out-of-school suspension as provided in paragraph 2
5 of this subsection.

6 2. Any student found in possession of a firearm while on any
7 public school property or while in any school bus or other vehicle
8 used by a public school for transportation of students or teachers
9 shall be suspended out-of-school for a period of not less than one
10 (1) year, to be determined by the district board of education
11 pursuant to the provisions of this section. The term of the
12 suspension may be modified by the district superintendent on a case-
13 by-case basis. For purposes of this paragraph the term "firearm"
14 shall mean and include all weapons as defined by 18 U.S.C., Section
15 921.

16 3. Any student in grades six through twelve found to have
17 assaulted, attempted to cause physical bodily injury, or acted in a
18 manner that could reasonably cause bodily injury to a school
19 employee or a person volunteering for a school as prohibited
20 pursuant to Section ~~§1~~ 6-146 of this ~~act~~ title shall be suspended
21 for the remainder of the current semester and the next consecutive
22 semester, to be determined by the board of education pursuant to the
23 provisions of this section. The term of the suspension may be
24 modified by the district superintendent on a case-by-case basis.

1 D. At its discretion a school district may provide an education
2 plan for students suspended out-of-school for five (5) or fewer days
3 pursuant to the provisions of this subsection. The following
4 provisions shall apply to students who are suspended out-of-school
5 for more than five (5) days and who are guilty of acts listed in
6 subparagraphs ~~a, b, c and d~~ a and b of paragraph 1 of subsection C of
7 this section. Upon the out-of-school suspension, the parent or
8 guardian of a student suspended out-of-school pursuant to the
9 provisions of this subsection shall be responsible for the provision
10 of a supervised, structured environment in which the parent or
11 guardian shall place the student and bear responsibility for
12 monitoring the student's educational progress until the student is
13 readmitted into school. The school administration shall provide the
14 student with an education plan designed for the eventual
15 reintegration of the student into school which provides only for the
16 core units in which the student is enrolled. A copy of the
17 education plan shall also be provided to the student's parent or
18 guardian. For the purposes of this section, the core units shall
19 consist of the minimum English, mathematics, science, social studies
20 and art units required by the State Board of Education for grade
21 completion in grades kindergarten through eight and for high school
22 graduation in grades nine through twelve. The plan shall set out
23 the procedure for education and shall address academic credit for
24 work satisfactorily completed.

1 E. A student who has been suspended out-of-school from a public
2 or private school in the State of Oklahoma or another state for a
3 violent act or an act showing deliberate or reckless disregard for
4 the health or safety of faculty or other students shall not be
5 entitled to enroll in a public school of this state, and no public
6 school shall be required to enroll the student, until the terms of
7 the suspension have been met or the time of suspension has expired.

8 F. No public school of this state shall be required to provide
9 education services in the regular school setting to any student who
10 has been adjudicated as a delinquent for an offense defined in
11 Section 571 of Title 57 of the Oklahoma Statutes as an exception to
12 a nonviolent offense or convicted as an adult of an offense defined
13 in Section 571 of Title 57 of the Oklahoma Statutes as an exception
14 to a nonviolent offense, who has been removed from a public or
15 private school in the State of Oklahoma or another state by
16 administrative or judicial process for a violent act or an act
17 showing deliberate or reckless disregard for the health or safety of
18 faculty or other students, or who has been suspended as provided for
19 in paragraph 3 of subsection C of this section until the school in
20 which the student is subsequently enrolled determines that the
21 student no longer poses a threat to self, other students or school
22 district faculty or employees. Until the school in which such
23 student subsequently enrolls or re-enrolls determines that the
24 student no longer poses a threat to self, other students or school

1 district faculty or employees, the school may provide education
2 services through an alternative school setting, home-based
3 instruction, or other appropriate setting. If the school provides
4 education services to such student at a district school facility,
5 the school shall notify any student or school district faculty or
6 employee victims of such student, when known, and shall ensure that
7 the student will not be allowed in the general vicinity of or
8 contact with a victim of the student, provided such victim notifies
9 the school of the victim's desire to refrain from contact with the
10 offending student.

11 G. Students suspended out-of-school who are on an
12 individualized education plan pursuant to the Individuals with
13 Disabilities Education Act, P.L. No. 101-476, or who are subject to
14 the provisions of subsection F of this section and who are on an
15 individualized education plan shall be provided the education and
16 related services in accordance with the student's individualized
17 education plan.

18 H. A student who has been suspended for a violent offense which
19 is directed towards a classroom teacher shall not be allowed to
20 return to that teacher's classroom without the approval of that
21 teacher.

22 I. No school board, administrator or teacher may be held
23 civilly liable for any action taken in good faith which is
24 authorized by this section.

1 SECTION 27. RECODIFICATION 21 O.S. 2011, Sections 1215
2 and 1216, shall be recodified as Sections 2-8-222 and 2-8-223 of
3 Title 10A of the Oklahoma Statutes, unless there is created a
4 duplication in numbering.

5 SECTION 28. RECODIFICATION 37 O.S. 2011, Section 600.4,
6 shall be recodified as Section 2-8-224 of Title 10A of the Oklahoma
7 Statutes, unless there is created a duplication in numbering.

8 SECTION 29. REPEALER 10 O.S. 2011, Sections 22, 24,
9 130.1, 130.2, 130.3, 130.4, 130.5, 130.6, 130.7, 130.8, 130.9 and
10 1101.1, are hereby repealed.

11 SECTION 30. REPEALER 10A O.S. 2011, Section 2-2-806, as
12 amended by Section 40, Chapter 304, O.S.L. 2012 (10A O.S. Supp.
13 2012, Section 2-2-806), is hereby repealed.

14 SECTION 31. This act shall become effective November 1, 2013.

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16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04/10/2013 - DO
17 PASS, As Amended.

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