SENATE FLOOR VERSION
February 19, 2013
AS AMENDED

SENATE BILL NO. 679 By: Griffin and Ivester of the Senate

and

Nelson of the House

[children and juvenile code - juvenile detention requirements and case transfer procedure - - codification - effective date]

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

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

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

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

1. Recognize the unique characteristics and needs of juveniles;

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

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

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

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

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

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

8. Provide procedures through which the provisions of the law are executed and enforced and which will assure the parties fair hearings at which their rights as citizens are recognized and protected.

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

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

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

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

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

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

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

6. "Child" or "juvenile" means any person under eighteen (18) years of age, except for any person charged and convicted for any offense specified in the Youthful Offender Act or against whom judgment and sentence has been deferred for such offense, or any person who is certified as an adult pursuant to any certification

procedure authorized in the Oklahoma Juvenile Code for any offense which results in a conviction or against whom judgment and sentence has been deferred for such offense;

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

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

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

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

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

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

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

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

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

a. screening, evaluation and assessment which includes a face-to-face screening and evaluation to establish problem identification and to determine the risk level of a child or adolescent and may result in clinical diagnosis or diagnostic impression,

b. treatment planning which includes preparation of an individualized treatment plan which is usually done as part of the screening, evaluation and assessment,

c. treatment plan reviewing which includes a comprehensive review and evaluation of the effectiveness of the treatment plan,

d. individual counseling which includes face-to-face, one-on-one interaction between a counselor and a juvenile to promote emotional or psychological change to alleviate the issues, problems, and difficulties that led to a referral, including ongoing assessment of the status and response of the juvenile to treatment as well as psychoeducational intervention,

e. group counseling which includes a method of treating a group of individuals using the interaction between a counselor and two or more juveniles ~~and/or~~ or parents or guardians to promote positive emotional or behavioral change, not including social skills development or daily living skills,

f. family counseling which includes a face-to-face interaction between a counselor and the family of the juvenile to facilitate emotional, psychological or behavior changes and promote successful communication and understanding,

g. crisis intervention counseling which includes unanticipated, unscheduled face-to-face emergency intervention provided by a licensed level or qualified staff with immediate access to a licensed provider to resolve immediate, overwhelming problems that severely impair the ability of the juvenile to function or maintain in the community,

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

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

j. case management and home-based services which includes that part of case management services dedicated to travel for the purpose of linkage, advocacy and referral assistance and travel to provide counseling and support services to families of children as needed

to support specific youth and families in self-sufficiency and community tenure,

k. individual rehabilitative treatment which includes face-to-face service provided one-on-one by qualified staff to maintain or develop skills necessary to perform activities of daily living and successful integration into community life, including educational and supportive services regarding independent living, self-care, social skills regarding development, lifestyle changes and recovery principles and practices,

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

m. community-based prevention services which include services delivered in an individual or group setting by a qualified provider designed to meet the services needs of a child or youth and family of the child or

youth who has been referred because of identified problems in the family or community. The group prevention planned activities must be focused on reducing the risk that individuals will experience behavioral, substance abuse or delinquency-related problems. Appropriate curriculum-based group activities include, but are not limited to, First Offender groups, prevention and relationship enhancement groups, anger management groups, life skills groups, substance abuse education groups, smoking cessation groups, STD/HIV groups and parenting groups,

n. individual paraprofessional services which include services delineated in the treatment plan of the juvenile which are necessary for full integration of the juvenile into the home and community, but do not require a professional level of education and experience. Activities include assisting families with Medicaid applications, assisting with school and General Educational Development (GED) enrollment, assisting youth with independent living arrangements, providing assistance with educational problems and deficiencies, acting as a role model for youth while engaging them in community activities, assisting youth

in seeking and obtaining employment, providing transportation for required appointments and activities, participating in recreational activities and accessing other required community support services necessary for full community integration and successful treatment,

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

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

q. emergency shelter beds and shelter host homes which include emergency shelter care for juveniles referred to the program needing shelter care within the State of Oklahoma,

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

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

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

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

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

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

a. has violated any federal or state law or municipal ordinance except a traffic statute or traffic ordinance or any provision of the Oklahoma Wildlife

Conservation Code, the Oklahoma Vessel and Motor Regulation Act or the Oklahoma Boating Safety Regulation Act, or has violated any lawful order of the court made pursuant to the provisions of the Oklahoma Juvenile Code, or

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

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

15. "Executive Director" means the Executive Director of the Office of Juvenile Affairs;

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

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

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

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

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

a. have a program which includes community participation and community-based services, or

b. be a secure facility with a program exclusively designed for a particular category of resident;

21. "Juvenile detention facility" means a secure facility which meets the certification standards of the Office and which is entirely separate from any prison, jail, adult lockup, or other

adult facility, for the temporary care of children. A juvenile detention facility shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes;

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

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

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

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

child care facility as defined by Section 402 of Title 10 of the Oklahoma Statutes;

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

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

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

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

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

a. while under the continuing jurisdiction of the court pending court disposition, or

b. pending placement by the Office of Juvenile Affairs after adjudication;

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

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

33. "Youth Services Agency" means a nonprofit corporation with a local board of directors, officers and staff that has been

designated by the Board as a Youth Services Agency, that is peer reviewed annually, and that provides community-based facilities, programs or services to juveniles and their families in the youth services service area in which it is located.

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

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

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

2. By a peace officer or an employee of the court without a court order, if the child ~~is willfully and voluntarily absent~~ has run away from the home ~~of the child~~ without ~~the consent of the parent, legal guardian, legal custodian or other person having custody and control of the child for a substantial length of time or without intent to return, or if the surroundings of the child are such as to endanger the welfare of the child~~ just cause or, in the

reasonable belief of the employee of the court or peace officer, appears to have run away from home without just cause. For purposes of this section, a peace officer may reasonably believe that a child has run away from home when the child refuses to give his or her name or the name and address of a parent or other person legally responsible for the care of the child or when the peace officer has reason to doubt that the name and address given by the child are the actual name and address of the parent or other person legally responsible for the care of the child. A peace officer or court employee is authorized by the court to take a child who has run away from home or who, in the reasonable belief of the peace officer, appears to have run away from home, to a facility designated for such purposes if the peace officer or court employee is unable to or has determined that it is unsafe to return the child to the home of the child or to the custody of his or her parent or other person legally responsible for the care of the child. Any such facility receiving a child shall inform a parent or other person responsible for the care of the child;

3. Pursuant to an order of the district court issued on the application of the office of the district attorney. The application presented by the district attorney shall be supported by a sworn affidavit which may be based upon information and belief. The application shall state facts sufficient to demonstrate to the court that there is probable cause to believe the child has committed a

crime or is in violation of the terms of probation, parole or order of the court;

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

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

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

B. Whenever a child is taken into custody as a delinquent child ~~or a child in need of supervision pursuant to subsection A of this section~~, the child shall be detained, held temporarily in the custodial care of a peace officer or other person employed by a police department, or be released to the custody of the parent of the child, legal guardian, legal custodian, attorney or other responsible adult, upon the written promise of such person to bring the child to the court at the time fixed if a petition is to be filed and to assume responsibility for costs for damages caused by the child if the child commits any delinquent acts after being

released regardless of whether or not a petition is to be filed. It shall be a misdemeanor for any person to sign the written promise and then fail to comply with the terms of the promise. Any person convicted of violating the terms of the written promise shall be subject to imprisonment in the county jail for not more than six (6) months or a fine of not more than Five Hundred Dollars ($500.00), or by both such fine and imprisonment. In addition, if a parent, legal guardian, legal custodian, attorney or other responsible adult is notified that the child has been taken into custody, it shall be a misdemeanor for such person to refuse to assume custody of the child within a timely manner. If detained, the child shall be taken immediately before a judge of the district court in the county in which the child is sought to be detained, or to the place of detention or shelter designated by the court. If no judge be available locally, the person having the child in custody shall immediately report the detention of the child to the presiding judge of the judicial administrative district, provided that the child shall not be detained in custody beyond the next judicial day or for good cause shown due to problems of arranging for and transporting the child to and from a secure juvenile detention center, beyond the second judicial day unless the court shall so order after a detention hearing to determine if there exists probable cause to detain the child. The child shall be present at the detention hearing or the image of the child may be broadcast to the judge by

closed-circuit television or any other electronic means that provides for a two-way communication of image and sound between the child and the judge. If the latter judge cannot be reached, such detention shall be reported immediately to any judge regularly serving within the judicial administrative district. If detained, a reasonable bond for release shall be set. Pending further disposition of the case, a child whose custody has been assumed by the court may be released to the custody of a parent, legal guardian, legal custodian, or other responsible adult or to any other person appointed by the court, or be detained pursuant to Chapter 3 of the Oklahoma Juvenile Code in such place as shall be designated by the court, subject to further order.

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

D. When any child is taken into custody pursuant to this title and it reasonably appears to the peace officer, employee of the court or person acting pursuant to court order that the child is in need of medical treatment to preserve the health of the child, any peace officer, any employee of the court or person acting pursuant to court order shall have the authority to authorize medical examination and medical treatment for any child found to be in need of medical treatment as diagnosed by a competent medical authority in the absence of the parent of the child, legal guardian, legal custodian, or other person having custody and control of the child who is competent to authorize medical treatment. The officer or the employee of the court or person acting pursuant to court order shall authorize said medical treatment only after exercising due diligence to locate the parent of the child, legal guardian, legal custodian, or other person legally competent to authorize said medical treatment. The parent of the child, legal guardian, legal custodian, or other person having custody and control shall be responsible for such medical expenses as ordered by the court. No peace officer, any employee of the court or person acting pursuant to court order authorizing such treatment in accordance with the provisions of this section for any child found in need of such medical treatment shall have any liability, civil or criminal, for giving such authorization.

~~D.~~ E. A child who has been taken into custody as otherwise provided by this Code who appears to be a minor in need of treatment, as defined by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, may be admitted to a behavioral health treatment facility in accordance with the provisions of the Inpatient Mental Health and Substance Abuse Treatment of Minors Act. The parent of the child, legal guardian, legal custodian, or other person having custody and control shall be responsible for such behavioral health expenses as ordered by the court. No peace officer, any employee of the court or person acting pursuant to court order authorizing such treatment in accordance with the provisions of this section for any child found in need of such behavioral health evaluation or treatment shall have any liability, civil or criminal, for giving such authorization.

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

2. If the child is in need of immediate medical treatment or other action to protect the health or welfare of the child, the court may issue an emergency ex parte order upon application of the district attorney of the county in which the child is located. The

application for an ex parte order may be verbal or in writing and shall be supported by facts sufficient to demonstrate to the court that there is reasonable cause to believe that the child is in need of immediate medical treatment or other action to protect the health or welfare of the child. The emergency ex parte order shall be in effect until a full hearing is conducted. A copy of the application, notice for full hearing and a copy of any ex parte order issued by the court shall be served upon such parent, legal guardian, legal custodian, or other responsible adult having custody or control of the child. Within twenty-four (24) hours of the filing of the application the court shall schedule a full hearing on the application, regardless of whether an emergency ex parte order had been issued or denied.

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

guardian, legal custodian, or other person having custody or control of the child.

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

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

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

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

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

a. resides,

b. is found, or

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

2. The court shall have jurisdiction ~~of the~~ over any parent, ~~legal custodian,~~ legal guardian or custodian of the child, and any other person ~~stepparent of the child, or any adult person~~ living in the home of ~~the~~ such child ~~regardless of where the parent, legal custodian, legal guardian, stepparent, or adult person living in the home of the child is found~~ who appears in court or has been properly served with a summons pursuant to Section 2-2-107 of this title.

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

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

B. 1. Upon the filing of a petition alleging the child to be delinquent or upon the assumption of custody pursuant to Section 2-2-101 of this title, the district court of the county where the delinquent act occurred shall have jurisdiction of the child and ~~of the~~ over any parent, ~~legal custodian,~~ legal guardian or custodian~~,~~ ~~stepparent~~ of the child ~~or any adult person~~ and any other person

living in the home of ~~the~~ such child ~~regardless of where the parent, legal custodian, legal guardian, stepparent, or adult person living in the home of the child is found~~ who appears in court or has been properly served with a summons pursuant to Section 2-2-107 of this title.

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

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

C. The district court in which a petition is filed or the district court in which custody has been assumed pursuant to the provisions of Section 2-2-101 of this title may retain jurisdiction of a delinquent child in such proceeding notwithstanding the fact that the child is subject to the jurisdiction of another district court within the state. Any adjudication and disposition made by

the court in which said petition is filed shall control over prior orders in regard to the child.

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

E. If, during the pendency of a criminal charge against any person, it shall be ascertained that the person was a child at the time of committing the alleged offense, the district court or municipal court shall transfer the case, together with all the papers, documents and testimony connected therewith, to the juvenile division of the district court. The division making the transfer shall order the child to be taken forthwith to the place of detention designated by the juvenile division, to that division itself, or release the child to the custody of a suitable person to be brought before the juvenile division.

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

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

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

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

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

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

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

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

5. Administer any screening and assessment instruments or refer for necessary screening and assessments to assist in the determination of any immediate needs of the child as well as the

immediate risks to the community. All screening and assessment instruments shall be uniformly used by all intake workers, including those employed by juvenile bureaus, and shall be instruments specifically prescribed by the Office of Juvenile Affairs.

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

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

1. Be voluntarily entered into by all parties;

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

3. Be revocable by the intake worker in the event there is reasonable cause to believe the child has failed to carry out the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. If the youthful offender or child is not otherwise represented by counsel, whenever a petition is filed pursuant to the provisions of Section 2-2-104 of this title, the court shall appoint an attorney, who shall not be a district attorney, for the youthful offender or child regardless of any attempted waiver by the parent or other legal custodian of the youthful offender or child of the right of the youthful offender or child to be represented by counsel. Counsel shall be appointed by the court only upon determination by the court that the parent, legal guardian or legal custodian is found to be indigent. <u>If indigency is established, the Oklahoma Indigent Defense System shall represent the child in accordance with Section 1355.6 of Title 22 of the Oklahoma Statutes or the applicable office of the county indigent defender shall represent the child in accordance with Section 138.5 of Title 19 of the Oklahoma Statutes. Provided, if the parent or legal guardian of a child is not indigent but refuses to employ counsel, the court shall appoint counsel to represent the child at detention hearings until counsel is provided. Costs of representation shall be imposed on the parent or other legal custodian as provided by Section 138.10 of Title 19 of the Oklahoma Statutes. Thereafter, the court shall not appoint counsel for a child with a nonindigent parent or legal</u>

custodian and shall order the parent or legal custodian to obtain counsel. A parent or legal custodian of an indigent child who has been ordered to obtain counsel for the child and who willfully fails to follow the court order shall be found in indirect contempt of court.

D. ~~Whenever a petition is filed alleging that a child is a delinquent child or a child in need of supervision, the court may appoint a guardian ad litem for the child at any time subsequent to the filing of the petition and shall appoint a guardian ad litem upon the request of the child or the attorney of the child. The guardian ad litem shall not be a district attorney, an employee of the office of the district attorney, an employee of the court, an employee of a juvenile bureau, or an employee of any public agency having duties or responsibilities towards the child~~ In all cases of juvenile delinquency, adult certification, reverse certification, or youthful offender proceedings and appeals, or any other proceedings and appeals pursuant to the Oklahoma Juvenile Code, except mental health or in-need-of-supervision proceedings and appeals, and any other juvenile proceedings that are civil in nature, and other than in counties where the office of the county indigent defender is appointed, the Oklahoma Indigent Defense System shall be appointed to represent indigent juveniles as provided for in the Indigent Defense Act. In all other cases pursuant to this title, including juvenile proceedings that are civil in nature, juvenile mental

health or in-need-of-supervision proceedings and appeals, with the exception of proceedings in counties where the office of the county indigent defender is appointed, the court shall, if counsel is appointed and assigned, allow and direct to be paid from the local court fund a reasonable and just compensation to the attorney or attorneys for such services as they may render; provided, that any attorney appointed pursuant to this subsection shall not be paid a sum in excess of One Hundred Dollars ($100.00) for services rendered in preliminary proceedings, Five Hundred Dollars ($500.00) for services rendered during trial, and One Hundred Dollars ($100.00) for services rendered at each subsequent post-disposition hearing.

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

F. The guardian ad litem shall not be a district attorney, an employee of the office of the district attorney, an employee of the court, an employee of a juvenile bureau, or an employee of any public agency having duties or responsibilities towards the child. The guardian ad litem shall be given access to the court file and access to all records and reports relevant to the case and to any records and reports of examination of the child's parent or other

custodian, made pursuant to this section or Section ~~846~~ 1-2-101 of ~~Title 21 of the Oklahoma Statutes~~ this title. Provided, nothing in this subsection shall obligate counsel for the child to breach attorney-client confidentiality with the child.

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

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

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

or specific instances of deprivation are being presented. Stenographic notes or other transcript of the hearings shall be kept as in other cases, but they shall not be open to inspection except by order of the court or as otherwise provided by law.

2. ~~Hearings related to the second or subsequent delinquency adjudication of a child shall be public proceedings. The adjudications relied upon to determine whether a hearing is a public proceeding pursuant to this paragraph shall not have arisen out of the same transaction or occurrence or series of events closely related in time and location. Upon its own motion or the motion of any of the parties to the hearing and for good cause shown, the court may order specific testimony or evidence to be heard in private; provided, the court shall not exclude any relative, legal guardian of a victim, or a person designated by the victim who is not subject to the rule of sequestration as a witness from the hearing during testimony of the victim. For the purposes of this paragraph, "good cause" shall mean a showing that it would be substantially harmful to the mental or physical well-being of the child if such testimony or evidence were presented at a public hearing~~ The judge may, for good cause shown, open the court hearings to educate members of the public about juvenile justice issues; however, the identities of the juvenile respondents shall not be published in any reports or articles of general circulation.

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

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

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

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

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

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

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

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

3. Has not been previously adjudicated a delinquent.

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

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

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

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

4. An alternative diversion program; or

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

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

D. As used in this section, "alternative diversion program" means a program for juveniles who have been identified by law enforcement personnel, the district attorney, or the court as having committed acts which are not serious enough to warrant adjudication through the juvenile court process, but which do indicate a need for intervention to prevent further development toward juvenile

delinquency. The program shall be administered, pursuant to contract with the Office of Juvenile Affairs, by organizations designated as youth services agencies by law.

SECTION 11. AMENDATORY 10A O.S. 2011, Section 2-2-501, is amended to read as follows:

Section 2-2-501. A. ~~After~~ No later than forty (40) days after making an order of adjudication, the court shall hold a dispositional hearing, at which all evidence helpful in determining the proper disposition best serving the interest of the child and the public, including but not limited to oral and written reports, may be admitted and may be relied upon to the extent of its probative value, even though not competent for the purposes of the adjudicatory hearing.

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

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

D. In scheduling investigations and hearings, the court shall give priority to proceedings in which a child is in detention, or has otherwise been removed from his home, before an order of disposition has been made.

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

Section 2-2-502. A. ~~An individual treatment and service plan shall be filed with the court within the~~ Within thirty (30) days after ~~any child has been adjudicated to be delinquent or in need of supervision. Said plan shall be filed~~ adjudication, ~~by~~ the person, department or agency responsible for the supervision of the case ~~or by the legal custodian if the child has been removed from the custody of its lawful parent or parents. The treatment and service plan shall be based on a comprehensive assessment and evaluation of the child and family and include but not be limited to:~~ shall provide a recommendation, based upon the comprehensive assessment and evaluation process, for disposition to the court and counsel.

The recommendation shall include, but not be limited to, the child's eligibility for probation, placement in community residential treatment, or commitment with the Office of Juvenile Affairs.

B. If the recommendation is for probation, an individual treatment and service plan shall be provided to the court and counsel for the parties at the same time as the recommendation provide for in subsection A of this section. If the recommendation is for custody with the Office of Juvenile Affairs or is court-ordered placement in other residential treatment, the individual treatment and service plan shall be provided to the court and counsel for the parties within thirty (30) days after disposition. The plan shall be prepared by the person, department or agency responsible for the supervision of the case or by the legal custodian if the child has been removed from the custody of his or her lawful parent or parents. The treatment and service plan shall be based on a comprehensive assessment and evaluation of the child and family and that identifies the priority needs of the child for rehabilitation and treatment and identifies any needs of the parent or legal guardian of the child for services that would improve their ability to provide adequate support, guidance, and supervision of the child. This process should take into account the detention risk assessment decision, the intake preliminary assessment, any comprehensive assessment for substance abuse treatment services, behavioral health services, intellectual disabilities, literary

services, and other educational and treatment services as components. The completed assessment process shall result in an individual treatment and service plan which shall include, but not be limited to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 13. AMENDATORY 10A O.S. 2011, Section 2-2-503, is amended to read as follows:

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

1. The court may place the child on probation with or without supervision in the home of the child, or in the custody of a suitable person, upon such conditions as the court shall determine. If the child is placed on probation, the court may impose a probation fee of not more than Twenty-five Dollars ($25.00) per month, if the court finds that the child or parent or legal guardian

of the child has the ability to pay the fee. In counties having a juvenile bureau, the fee shall be paid to the juvenile bureau; in all other counties, the fee shall be paid to the Office of Juvenile Affairs~~.~~;

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

a. If it is consistent with the welfare of the child, in cases where the child has been adjudicated to be in need of supervision due to repeated absence from school, the court may order counseling and treatment for the child and the parents of the child to be provided by the local school district, the county, the Office or a private individual or entity. Prior to final disposition, the court shall require that it be shown by the appropriate school district that a child

found to be truant has been evaluated for learning disabilities, hearing and visual impairments and other impediments which could constitute an educational handicap or has been evaluated to determine whether the child has a disability if it is suspected that the child may require special education services in accordance with the Individuals with Disabilities Education Act (IDEA). The results of such tests shall be made available to the court for use by the court in determining the disposition of the case.

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

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

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

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

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

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

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

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

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

a. for acts involving criminally injurious conduct as defined in Section 142.3 of Title 21 of the Oklahoma Statutes, order the child to pay a victim compensation assessment in an amount not to exceed that amount specified in Section 142.18 of Title 21 of the Oklahoma Statutes. The court shall forward a copy of the adjudication order to the Crime Victims Compensation Board for purposes of Section 142.11 of

Title 21 of the Oklahoma Statutes. Except as otherwise provided by law, such adjudication order shall be kept confidential by the Board,

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

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

(1) The court shall notify the victim of the dispositional hearing. The court may consider a verified statement from the victim concerning damages for injury or loss of property and actual expenses of medical treatment for personal injury, excluding pain and suffering. If contested, a restitution hearing to determine the liability of the child, the parent or parents of

the child, or legal guardian shall be held not later than thirty (30) days after the disposition hearing and may be extended by the court for good cause. The parent or parents of the child or legal guardian may be represented by an attorney in the matter of the order for remittance of the restitution by the parent or parents of the child or legal guardian. The burden of proving that the amount indicated on the verified statement is not fair and reasonable shall be on the person challenging the fairness and reasonableness of the amount.

(2) Restitution may consist of monetary reimbursement for the damage or injury in the form of a lump sum or installment payments after the consideration of the court of the nature of the offense, the age, physical and mental condition of the child, the earning capacity of the child, the parent or parents of the child, or legal guardian, or the ability to pay, as the case may be. The payments shall be made to such official designated by the court for distribution to the victim. The court may also consider any other hardship on the child, the parent or parents of

the child, or legal guardian and, if consistent with the welfare of the child, require community service in lieu of restitution or require both community service and full or partial restitution for the acts of delinquency by the child.

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

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

(5) Upon the juvenile attaining eighteen (18) years of age, the court shall determine whether the restitution order has been satisfied. If the restitution order has not been satisfied, the court shall enter a judgment of restitution in favor of each person entitled to restitution for the unpaid balance of any restitution ordered pursuant to this subparagraph. The clerk of the court shall send a copy of the judgment of restitution to each person who is entitled to restitution. The judgment shall be a lien against all property of the individual or individuals ordered to pay restitution and may be enforced by the victim or any other person or entity named in the judgment to receive restitution in the same manner as enforcing monetary judgments. The restitution judgment does not expire until paid in full and is deemed to be a criminal penalty for the purposes of a federal bankruptcy involving the child,

d. order the child to pay the fine which would have been imposed had such child been convicted of such crime as an adult. Any such fine collected pursuant to this paragraph shall be deposited in a special Work

Restitution Fund to be established by the court to allow children otherwise unable to pay restitution to work in community service projects in the private or public sector to earn money to compensate their victims,

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

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

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

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

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

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

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

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

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

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

F. The court may revoke or modify a disposition order and may order redisposition. The child whose disposition is being considered for revocation or modification at said hearing shall ~~have the right to be represented by counsel, to present evidence on~~

~~behalf of the child and to be confronted by witnesses against the child. Any revocation, modification or redisposition of the court in whole or in part shall be subject to review on appeal, as in other appeals of criminal cases. Bail may be allowed pending appeal.~~

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

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

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

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

4. Any modification, revocation or redisposition removing the child from the physical custody of a parent or guardian shall be

subject to review on appeal, as in other appeals of delinquent cases;

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

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

a. such removal is necessary to protect the public,

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

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

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

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

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

SECTION 14. AMENDATORY 10A O.S. 2011, Section 2-2-701, is amended to read as follows:

Section 2-2-701. ~~A willful violation of any provision of an order of the court issued under the provisions of the Oklahoma Juvenile Code shall constitute~~ A. When it is determined to be in the best interests of the child, the court may order a parent, legal guardian or custodian of the child, and any other person living in the home of such child who has been properly served with a summons pursuant to Section 2-2-107 of this title to be present at or bring the child to any proceeding under the provisions of the Oklahoma Juvenile Code. The court may issue a bench warrant for any parent, legal guardian or custodian of the child, or any other person living in the home of such child who has been properly served with a summons pursuant to Section 2-2-107 of this title who, without good cause, fails to appear at any proceeding.

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

determines that such an order is not in the best interests of the child.

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

2. The court may issue a bench warrant for any parent,legal guardian or custodian of the child, and any other person living in the home of such child who has been properly served with a summons pursuant to Section 2-2-107 of this title who, without good cause, fails to appear at any juvenile proceeding or court-ordered program.

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

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

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

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

4. Nothing in this section shall be construed to create a right for any child to have his or her parent, legal guardian or custodian of the child, and any other person living in the home of such child who has been properly served with a summons pursuant to Section 2-2-107 of this title present at any juvenile proceeding or court-ordered program at which such child is present.

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

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

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

Any person placed under an order to report any probation, parole or conditional release violations or aid in enforcing terms and conditions of probation, parole or conditional release or other orders of the court and who fails to do as ordered may be found in

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

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

SECTION 15. AMENDATORY 10A O.S. 2011, Section 2-3-101, is amended to read as follows:

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

1. a. No preadjudicatory or predisposition detention or custody order shall remain in force and effect for more than thirty (30) days. The court, for good and

sufficient cause shown, may extend the effective period of such an order for an additional period not to exceed sixty (60) days. If the child is being detained for the commission of a murder, the court may, if it is in the best interests of justice, extend the effective period of such an order an additional sixty (60) days.

b. Whenever the court orders a child to be held in a juvenile detention facility, an order for secure detention shall remain in force and effect for not more than fifteen (15) days after such order. Upon an application of the district attorney and after a hearing on such application, the court, for good and sufficient cause shown, may extend the effective period of such an order for an additional period not to exceed fifteen (15) days after such hearing. The total period of preadjudicatory or predisposition shall not exceed the ninety-day limitation as specified in subparagraph a of this paragraph. The child shall be present at the hearing on the application for extension unless, as authorized and approved by the court, the attorney for the child is present at the hearing and the child is available to participate in the hearing via telephone conference

communication. For the purpose of this paragraph, "telephone conference communication" means use of a telephone device that allows all parties, including the child, to hear and be heard by the other parties at the hearing. After the hearing, the court may order continued detention in a juvenile detention center, may order the child detained in an alternative to secure detention or may order the release of the child from detention.

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

3. Except as otherwise authorized by this section a child who has been taken into custody as a deprived child, a child in need of supervision, or who appears to be a minor in need of treatment, may not be placed in any detention facility pending court proceedings, but must be placed in shelter care or foster care or, with regard to a child who appears to be a minor in need of treatment, a behavioral health treatment facility in accordance with the provisions of the Inpatient Mental Health and Substance Abuse Treatment of Minors Act,

or released to the custody of the parents of the child or some other responsible party. When a child is taken into custody as a child in need of supervision as a result of being a runaway, the court may order the child placed in a juvenile detention facility pending court proceedings if it finds the detention to be essential for the safety of the child.

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

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

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

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

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

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

b. is on preadjudicatory community supervision, <u>or</u>

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

~~d.~~

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

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

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

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

c. there is reason to believe the child will not remain at said placement, or

d. if the child is subject to an administrative transfer or parole revocations proceedings.

C. A child who has violated a court order and has had the order revoked or modified pursuant to Section 2-2-503 of this title may be placed into an Office-of-Juvenile-Affairs-designated sanction detention bed or an Office-of-Juvenile-Affairs-approved sanction program.

D. Priority shall be given to the use of juvenile detention facilities for the detention of juvenile offenders through provisions requiring the removal from detention of a juvenile with a lower priority status if an empty detention bed is not available at the time of referral of a juvenile with a higher priority status and if the juvenile with a higher priority status would be more of a

danger to the public than the juvenile with the lower priority status.

E. 1. Except as otherwise provided in this section, no child shall be placed in secure detention in a jail, adult lockup, or other adult detention facility unless:

a. the child is detained for the commission of a crime that would constitute a felony if committed by an adult, and

b. the child is awaiting an initial court appearance, and

c. the initial court appearance of the child is scheduled within twenty-four (24) hours after being taken into custody, excluding weekends and holidays, and

d. the court of jurisdiction is outside of the Standard Metropolitan Statistical Area as defined by the Bureau of Census, and

e. there is no existing acceptable alternative placement for the child, and

f. the jail, adult lockup or adult detention facility provides sight and sound separation for juveniles, pursuant to standards required by subsection E of Section 2-3-103 of this title, or

g. the jail, adult lockup or adult detention facility meets the requirements for licensure of juvenile detention facilities, as adopted by the Office of

Juvenile Affairs, is appropriately licensed, and provides sight and sound separation for juveniles, which includes:

(1) total separation between juveniles and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities,

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

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

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

2. Nothing in this section shall preclude a child who is detained for the commission of a crime that would constitute a felony if committed by an adult, or a child who is an escapee from a

juvenile training school or from an Office of Juvenile Affairs group home from being held in any jail certified by the State Department of Health, police station or similar law enforcement offices for up to six (6) hours for purposes of identification, processing or arranging for transfer to a secure detention or alternative to secure detention. Such holding shall be limited to the absolute minimum time necessary to complete these actions.

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

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

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

4. Nothing in this section shall preclude detaining in a county jail or other adult detention facility a person provided for in Section 2-3-102 of this title if written or electronically

transmitted confirmation is received from the state seeking return of the individual that the person is a person provided for in Section 2-3-102 of this title and if, during the time of detention, the person is detained in a facility meeting the requirements of Section 2-3-103 of this title.

5. Nothing in this section shall preclude detaining a person, whose age is not immediately ascertainable and who is being detained for the commission of a felony, in a jail certified by the State Department of Health, a police station or similar law enforcement office for up to twenty-four (24) hours for the purpose of determining whether or not the person is a child, if:

a. there is a reasonable belief that the person is eighteen (18) years of age or older,

b. there is a reasonable belief that a felony has been committed by the person,

c. a court order for such detention is obtained from a judge of the district court within six (6) hours of initially detaining the person,

d. there is no juvenile detention facility that has space available for the person and that is within thirty (30) miles of the jail, police station, or law enforcement office in which the person is to be detained, and

e. during the time of detention the person is detained in a facility meeting the requirements of subparagraph g of paragraph 1 of this subsection.

The time limitation provided for in this paragraph shall include the time the person is detained prior to the issuance of the court order.

The time limitation provided for in this paragraph shall not include the actual travel time required for transporting the person to the jail, police station, or similar law enforcement office. If the time limitation established by this paragraph is exceeded, this circumstance shall not constitute a defense in any subsequent delinquency or criminal proceeding.

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

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

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

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

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

B. As used in the Oklahoma Juvenile Code:

1. "Records" or "record" shall include but not be limited to written or printed documents, papers, logs, reports, files, case notes, films, photographs, psychological evaluations, certification studies, presentence investigations, audio or visual tape recordings pertaining to a juvenile proceeding or a child, and shall include information entered into and maintained in an automated or computerized information system;

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

3. "Agency record" means records prepared, obtained or maintained by a public or private agency with regard to a child who

is or has been under its care, custody or supervision or with regard to a family member or other person living in the home of such child and shall include but not be limited to:

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

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

4. "District attorney's records" means any records prepared or obtained by an office of a district attorney relating to a juvenile case and any records prepared or obtained for the prosecution of crimes against children that constitute a legal or social record of a child;

5. "Law enforcement records" means any contact, incident or similar reports, arrest records, disposition records, detention records, fingerprints, or photographs related to a child and shall include but not be limited to reports of investigations or inquiries conducted by a law enforcement agency to determine whether a child is or may be subject to the provisions of this chapter as a delinquent child or a child in need of supervision. Law enforcement

records pertaining to juveniles shall be maintained separately from records pertaining to adults;

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

7. "Legal record" means any petition, docket, motion, finding, order, judgment, pleading, <u>certification study,</u> paper or other document, other than social records, filed with the court;

8. "Social record" means family social histories, medical reports, psychological and psychiatric evaluations or assessments, clinical or other treatment reports, educational records, or home studies, even if attached to court reports prepared by the agency; and

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

SECTION 17. AMENDATORY 10A O.S. 2011, Section 2-6-102, is amended to read as follows:

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

1. Juvenile court records;

2. Agency records;

3. District attorney's records;

4. Law enforcement records;

5. Nondirectory education records; and

6. Social records.

B. The confidentiality limitation of subsection A of this section shall not apply to statistical information or information of a general nature obtained pursuant to the provisions of the Oklahoma Juvenile Code.

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

1. Upon the ~~charging or~~ certification <u>or sentencing</u> of a juvenile as an adult or youthful offender;

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

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

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

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

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

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

~~8.~~ 4. Whenever a juvenile is accepted for placement or treatment in a facility or private treatment facility within this state as a result of or following a conviction or adjudication for an out-of-state offense that would qualify the juvenile as a youthful offender, as defined in Section 2-5-202 of this title, had the crime occurred within this state. The facility shall provide

any law enforcement agency or peace officer all prior criminal offense, conviction, and adjudication information. If ~~a~~ the juvenile flees or is otherwise absent from the facility without permission, the facility shall provide any law enforcement agency or peace officer all prior criminal offense, conviction, and adjudication information. Any law enforcement agency or peace officer shall have the authority to review or copy any records concerning the juvenile, including prior criminal offense, conviction, or adjudication information.

D. Following the first adjudication as a delinquent, the court having jurisdiction shall note on the juvenile court record of the person that any subsequent juvenile court records shall not be confidential; provided, the child is at least fourteen (14) years of age or older. Any juvenile court record which becomes an open juvenile record as provided in this subsection may be expunged as provided in Section ~~7307-1.8~~ 2-6-109 of this title.

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

E. When a delinquent child has escaped or run away from a training school or other institutional placement for delinquents, the name and description of the child may be released to the public by the agency having custody of the child as necessary and

appropriate for the protection of the public and the apprehension of the delinquent child ~~whether or not the juvenile record is confidential or open~~.

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

G. An order of the court authorizing the inspection, release, disclosure, correction or expungement of confidential records shall be entered by the court only after a review of the records by the court and a determination by the court, with due regard for the confidentiality of the records and the privacy of persons identified in the records, that a compelling reason exists and such inspection, release or disclosure is necessary for the protection of a legitimate public or private interest.

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

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

I. Any agency or person may seek an order from the juvenile court prohibiting the release of confidential information subject to disclosure without an order of the court pursuant to Section 620.6 of Title 10 of the Oklahoma Statutes or any provision of this chapter. The court may, for good cause shown, prohibit the release of such information or authorize release of the information upon such conditions as the court deems necessary and appropriate.

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

1. Information included in the records listed in subsection A of this section may be entered in and maintained in the Juvenile Justice Information System and other automated information systems

related to services to children and youth whether or not the record is confidential or open; and

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

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

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

L. Nothing contained in the provisions of Section 620.6 of Title 10 of the Oklahoma Statutes or any provision of this chapter shall be construed as:

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

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

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

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

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

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

7. Prohibiting the person or agency conducting a preliminary inquiry relating to an alleged delinquent act from providing information, as to the disposition of the matter by the district attorney, to the person or agency which referred the matter, including but not limited to whether a petition was filed or an alternative action taken, and the basis for such action and the

terms of any agreement entered into by the child for payment of restitution, and including but not limited to provisions for community services.

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

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

SECTION 18. AMENDATORY 10A O.S. 2011, Section 2-6-108, is amended to read as follows:

Section 2-6-108. A. No adjudication by the court upon the status of a child in a juvenile proceeding shall operate to impose

any of the civil disabilities ordinarily resulting from conviction of a crime, nor shall a child be deemed a criminal by reason of a juvenile adjudication.

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

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

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

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

(2) notice to the court by the Office of Juvenile Affairs or a juvenile bureau of final discharge of such person from the supervision of the Office of Juvenile Affairs or juvenile bureau, and

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

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

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

a. the case has been dismissed, or

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

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

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

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

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

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

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

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

The records may be sealed one (1) year after such dismissal or completion of the conditions of a voluntary or preadjudicatory probation, alternative diversion program for first-time offenders, or military mentor program or upon the person attaining the age of eighteen (18) years in the discretion of the court. <u>Upon the sealing of any record of a person alleged to be delinquent pursuant to this title, the record and official actions subject to the order</u>

shall be deemed never to have occurred, and the person who is the subject of the record and all juvenile justice agencies may properly reply upon any inquiry in the matter that no such action ever occurred and no such record exists with respect to such person.

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

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

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

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

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

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

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

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

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

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

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

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

6. For the purpose of a criminal investigation; or

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

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

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

SECTION 19. AMENDATORY 10A O.S. 2011, Section 2-7-303, is amended to read as follows:

Section 2-7-303. The Office of Juvenile Affairs, in its role as planner and coordinator for juvenile justice and delinquency prevention services, is hereby authorized to and shall enter into contracts for the establishment and maintenance of community-based facilities, services and programs which may include, but are not limited to: Emergency shelter, diagnosis, crisis intervention, counseling, group work, case supervision, job placement, school-based prevention programs, alternative diversion programs for first-time offenders and for youth alleged or adjudicated to be in need of supervision, recruitment and training of volunteers, consultation, case management services, and agency coordination with emphasis on keeping youth with a high potential for delinquency out of the traditional juvenile justice process and community intervention centers. The Office of Juvenile Affairs shall enter into contracts with Youth Services Agencies for core community-based facilities, programs and services based on need as indicated in its State Plan for Youth Services Agencies.

SECTION 20. AMENDATORY 10A O.S. 2011, Section 2-7-305, is amended to read as follows:

Section 2-7-305. A. The Office of Juvenile Affairs is authorized to enter into contracts to establish or maintain

community-based youth service programs, shelters and community intervention centers out of local, state and federal monies.

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

1. The Office of Juvenile Affairs shall, to the extent reasonable and practicable, provide community-based services, community residential care and community intervention centers to children in the custody of the Office of Juvenile Affairs through financial agreements, as authorized in Sections 2-7-303 and 2-7-304 of this title.

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

C. Any state agency letting grants or contracts for the establishment of community residential care or treatment facilities

for children shall require, as a condition for receipt of such grants or contracts, documented assurance from the agency or organization establishing such facility that appropriate arrangements have been made for providing the educational services to which residents of the facility are entitled pursuant to state and federal law.

D. 1. The Office of Juvenile Affairs shall implement programs for establishment and continued operation of community intervention centers. The centers shall be established pursuant to interlocal agreements between one or more municipalities or one or more counties and the Office of Juvenile Affairs pursuant to rules promulgated by the Office. The municipality or county may enter into subcontracts with one or more service providers, subject to the approval by the Office of Juvenile Affairs. The service provider, whether a municipality, county or other entity, must have access to the management information system provided for in Section 2-7-308 of this title and must employ qualified staff, as determined by the Office of Juvenile Affairs.

2. The community intervention center shall serve as a short-term reception facility to receive and hold juveniles who have been taken into custody by law enforcement agencies for the alleged violation of a municipal ordinance or state law or who are alleged to be in need of supervision and for whom detention is inappropriate or unavailable. The community intervention center may be a secure

facility. Juveniles held in the community intervention facility shall not be isolated from common areas other than for short-term protective holding for combative or self-destructive behavior, as defined by the Office of Juvenile Affairs.

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

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

a. enter demographic information into the management information system provided for in Section 2-7-308 of this title,

b. immediately notify the parents or parent, guardian, or other person legally responsible for the juvenile's care, or if such legally responsible person is unavailable the adult with whom the juvenile resides, that the juvenile has been taken into custody and to pick up the juvenile, ~~and~~

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

d. ensure that a written promise is executed by the parent, guardian or other responsible adult to bring

the child to court at any time if a petition is to be modified.

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

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

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

c. conduct an assessment pursuant to a Problem Behavior Inventory or a Mental Status Checklist or an equivalent assessment instrument authorized by rules promulgated by the Office of Juvenile Affairs, if written permission to do so is obtained from the parent, guardian or other person legally responsible for the care of the juvenile. Such person and the juvenile may review the assessment instrument prior to the assessment process, must be informed that participation in the assessment is voluntary and that refusal to participate shall not result in any penalty, and must sign a written acknowledgment that they were given an opportunity to review the

assessment instrument. The assessment shall be used to develop recommendations to correct the behavior of the juvenile, to divert the progression of the juvenile into the juvenile justice system, to determine if the juvenile is in need of nonemergency medical treatment, and to determine if the juvenile is the victim of violence. Information derived from the assessment shall not be made available to the prosecutors or the court prior to adjudication of the alleged offense, and shall not be used in any phase of prosecution but may be used by the court following adjudication for the dispositional order and may be used for referrals to social services.

6. A juvenile alleged to have committed an offense which would be a felony if committed by an adult may be fingerprinted at a community intervention center. No other juveniles shall be fingerprinted at community intervention centers.

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

SECTION 21. AMENDATORY 10A O.S. 2011, Section 2-7-501, is amended to read as follows:

Section 2-7-501. A. The Office of Juvenile Affairs shall provide intake and probation services for juveniles in all counties

not having a juvenile bureau and parole services in all counties of the state and may enter into agreements to supplement probationary services to juveniles in any county. The Office of Juvenile Affairs may participate in federal programs for juvenile probation officers, and may apply for, receive, use and administer federal funds for such purpose.

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

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

2. The results of the substance abuse assessment may be given to the intake, probation or parole counselor of the child, the parent or guardian of the child or to the attorney of the child. In accordance with the Juvenile Offender Tracking Program and Section 620.6 of Title 10 of the Oklahoma Statutes, the counselor may also provide the results of the substance abuse assessment to medical

personnel, therapists, school personnel or others for use in the treatment and rehabilitation of the child.

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

1. ~~Court~~ Use of an intake ~~risk-assessment~~ risk and needs assessment familiar to the court for children alleged or adjudicated to be delinquent;

2. The imposition of administrative sanctions for the violation of a condition of probation or parole;

3. A case management system for ensuring appropriate:

a. diversion of youth from the juvenile justice system,

b. services for and supervision of all youth on pre-adjudicatory or postadjudicatory probation or on parole, and for juvenile offenders in the custody of the Office of Juvenile Affairs, and

c. intensive supervision of juvenile offenders and communication between law enforcement and juvenile court personnel and others regarding such offenders; and

4. Guidelines for juvenile court personnel recommendations to district attorneys regarding the disposition of individual cases by district attorneys.

D. 1. The Office of Juvenile Affairs shall establish directly and by contract, services including, but not limited to:

a. misdemeanor and nonserious first-time offender programs,

b. tracking and mentor services,

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

c. any other measure used to determine:

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

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

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

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

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

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

(3) the child's attorney.

b. In accordance with the Juvenile Offender Tracking Program and Section 620.6 of Title 10 of the Oklahoma Statutes, the counselor may also provide the results of the literacy skills assessment to therapists, school personnel or others for use in the training and rehabilitation of the child.

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

b. If the child is adjudicated delinquent or in need of supervision or is being detained as part of a deferral of prosecution agreement, deferral to file agreement or a deferral sentence agreement, and the results of the literacy skills assessment show that the child is not reading at an age-appropriate level but has the capacity to improve his or her reading skills, the child shall be required to actively participate in a literacy skills improvement program which may include, but not be limited to, a program of instruction through a public or private school, including any technology center school, of this state or any other state. The child shall provide documentation of

substantial quantifiable literacy improvement, sufficient to demonstrate reading proficiency at an age-appropriate or developmentally appropriate level; provided, however, failure to demonstrate substantial quantifiable literacy improvement shall not be the sole basis for not dismissing a case against a child.

SECTION 22. AMENDATORY 21 O.S. 2011, Section 1283, as amended by Section 9, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2012, Section 1283), is amended to read as follows:

Section 1283.

CONVICTED FELONS AND DELINQUENTS

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

B. Any person who has previously been convicted of a nonviolent felony in any court of this state or of another state or of the United States, and who has received a full and complete pardon from the proper authority and has not been convicted of any other felony

offense which has not been pardoned, shall have restored the right to possess any firearm or other weapon prohibited by subsection A of this section, the right to apply for and carry a handgun, concealed or unconcealed, pursuant to the Oklahoma Self-Defense Act and the right to perform the duties of a peace officer, gunsmith, or for firearms repair.

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

D. It shall be unlawful for any person previously adjudicated as a delinquent child or a youthful offender for the commission of an offense~~, which would have constituted a felony offense if committed by an adult,~~ listed in paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes, Section 13.1 of this title or Section 2-5-206 of Title 10A of the Oklahoma Statutes to have in the possession of the person or under the immediate control of the person, or have in any vehicle which he or she is driving or in which the person is riding as a passenger, or at the residence of the person, any pistol, imitation or homemade pistol, altered air or

toy pistol, machine gun, sawed-off shotgun or rifle, or any other dangerous or deadly firearm within ten (10) years after such adjudication; provided, that nothing in this subsection shall be construed to prohibit the placement of the person in a home with a full-time duly appointed peace officer who is certified by the Council on Law Enforcement Education and Training (CLEET) pursuant to the provisions of Section 3311 of Title 70 of the Oklahoma Statutes.

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

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

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

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

I. For purposes of this section, "altered air pistol" shall mean any air pistol manufactured to propel projectiles by air pressure which has been altered from its original manufactured state.

SECTION 23. AMENDATORY 43A O.S. 2011, Section 5-507, is amended to read as follows:

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

1. On an emergency basis except as provided by this section;

2. For inpatient treatment except upon a commitment order of the court pursuant to the provisions of subsection D of this section and after a finding that the minor requires such services as provided by Section 5-512 of this title.

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

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

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

on the petition as provided by Section 5-510 of this title or further order of the court.

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

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

Section 24-101.3 A. Any student who is guilty of an act described in paragraph 1 of subsection C of this section may be suspended out-of-school in accordance with the provisions of this section. Each school district board of education shall adopt a policy with procedures which provides for out-of-school suspension of students. The policy shall address the term of the out-of-school suspension, provide an appeals process as described in subsection B of this section, and provide that before a student is suspended out-of-school, the school or district administration shall consider and apply, if appropriate, alternative in-school placement options that are not to be considered suspension, such as placement in an alternative school setting, reassignment to another classroom, or in-school detention. The policy shall address education for students subject to the provisions of subsection D of this section

and whether participation in extracurricular activities shall be permitted.

B. 1. Students suspended out-of-school for ten (10) or fewer days shall have the right to appeal the decision of the administration as provided in the policy required in subsection A of this section. The policy shall specify whether appeals for short-term suspensions as provided in this subsection shall be to a local committee composed of district administrators or teachers or both, or to the district board of education. Upon full investigation of the matter, the committee or board shall determine the guilt or innocence of the student and the reasonableness of the term of the out-of-school suspension. If the policy requires appeals for short-term suspensions to a committee, the policy adopted by the board may, but is not required to, provide for appeal of the committee's decision to the board.

2. Students suspended out-of-school for more than ten (10) days and students suspended pursuant to the provisions of paragraph 2 of subsection C of this section may request a review of the suspension with the administration of the district. If the administration does not withdraw the suspension, the student shall have the right to appeal the decision of the administration to the district board of education. Except as otherwise provided for in paragraph 2 of subsection C of this section, no out-of-school suspension shall extend beyond the current semester and the succeeding semester.

Upon full investigation of the matter, the board shall determine the guilt or innocence of the student and the reasonableness of the term of the out-of-school suspension. A board of education may conduct the hearing and render the final decision or may appoint a hearing officer to conduct the hearing and render the final decision. The decision of the district board of education or the hearing officer, if applicable, shall be final.

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

a. violation of a school regulation,

b. ~~immorality,~~

~~c. adjudication as a delinquent for an offense that is not a violent offense. For the purposes of this section, "violent offense" shall include those offenses listed as the exceptions to the term "nonviolent offense" as specified in Section 571 of Title 57 of the Oklahoma Statutes. "Violent offense" shall include the offense of assault with a dangerous weapon but shall not include the offense of assault,~~

~~d.~~ possession of an intoxicating beverage, low-point beer, as defined by Section 163.2 of Title 37 of the Oklahoma Statutes, or missing or stolen property if the property is reasonably suspected to have been

taken from a student, a school employee, or the school during school activities, and

~~c.~~

c. possession of a dangerous weapon or a controlled dangerous substance while on public school property, at a school event, as defined in the Uniform Controlled Dangerous Substances Act. Possession of a firearm shall result in out-of-school suspension as provided in paragraph 2 of this subsection.

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

3. Any student in grades six through twelve found to have assaulted, attempted to cause physical bodily injury, or acted in a manner that could reasonably cause bodily injury to a school employee or a person volunteering for a school as prohibited pursuant to Section ~~81~~ 6-146 of this ~~act~~ title shall be suspended

for the remainder of the current semester and the next consecutive semester, to be determined by the board of education pursuant to the provisions of this section. The term of the suspension may be modified by the district superintendent on a case-by-case basis.

D. At its discretion a school district may provide an education plan for students suspended out-of-school for five (5) or fewer days pursuant to the provisions of this subsection. The following provisions shall apply to students who are suspended out-of-school for more than five (5) days and who are guilty of acts listed in subparagraphs a~~,~~ and b~~, c and d~~ of paragraph 1 of subsection C of this section. Upon the out-of-school suspension, the parent or guardian of a student suspended out-of-school pursuant to the provisions of this subsection shall be responsible for the provision of a supervised, structured environment in which the parent or guardian shall place the student and bear responsibility for monitoring the student's educational progress until the student is readmitted into school. The school administration shall provide the student with an education plan designed for the eventual reintegration of the student into school which provides only for the core units in which the student is enrolled. A copy of the education plan shall also be provided to the student's parent or guardian. For the purposes of this section, the core units shall consist of the minimum English, mathematics, science, social studies and art units required by the State Board of Education for grade

completion in grades kindergarten through eight and for high school graduation in grades nine through twelve. The plan shall set out the procedure for education and shall address academic credit for work satisfactorily completed.

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

F. No public school of this state shall be required to provide education services in the regular school setting to any student who has been adjudicated as a delinquent for an offense defined in Section 571 of Title 57 of the Oklahoma Statutes as an exception to a nonviolent offense or convicted as an adult of an offense defined in Section 571 of Title 57 of the Oklahoma Statutes as an exception to a nonviolent offense, who has been removed from a public or private school in the State of Oklahoma or another state by administrative or judicial process for a violent act or an act showing deliberate or reckless disregard for the health or safety of faculty or other students, or who has been suspended as provided for in paragraph 3 of subsection C of this section until the school in which the student is subsequently enrolled determines that the

student no longer poses a threat to self, other students or school district faculty or employees. Until the school in which such student subsequently enrolls or re-enrolls determines that the student no longer poses a threat to self, other students or school district faculty or employees, the school may provide education services through an alternative school setting, home-based instruction, or other appropriate setting. If the school provides education services to such student at a district school facility, the school shall notify any student or school district faculty or employee victims of such student, when known, and shall ensure that the student will not be allowed in the general vicinity of or contact with a victim of the student, provided such victim notifies the school of the victim's desire to refrain from contact with the offending student.

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

H. A student who has been suspended for a violent offense which is directed towards a classroom teacher shall not be allowed to

return to that teacher's classroom without the approval of that teacher.

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

SECTION 25. REPEALER 10 O.S. 2011, Sections 22 and 24, are hereby repealed.

SECTION 26. REPEALER 10 O.S. 2011, Sections 130.1, 130.2, 130.3, 130.4, 130.5, 130.6, 130.7, 130.8 and 130.9, are hereby repealed.

SECTION 27. REPEALER 10 O.S. 2011, Section 1101.1, is hereby repealed.

SECTION 28. REPEALER 10A O.S. 2011, Section 2-2-806, as amended by Section 40, Chapter 304, O.S.L. 2012 (10A O.S. Supp. 2012, Section 2-2-806), is hereby repealed.

SECTION 29. This act shall become effective November 1, 2013.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
February 19, 2013 - DO PASS AS AMENDED