

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 2130

By: Nelson

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5  
6 AS INTRODUCED

7 An Act relating to the children and juvenile code;  
8 amending 10A O.S. 2011, Sections 2-1-102 and 2-1-103,  
9 which relate to the Oklahoma Juvenile Code; modifying  
10 legislative intent; clarifying definitions; amending  
11 10A O.S. 2011, Sections 2-2-101, 2-2-102, 2-2-104 and  
12 2-2-107, which relate to custody and court  
13 proceedings; modifying circumstances that allow  
14 taking a child into custody; clarifying juvenile  
15 detention requirements and case transfer procedure;  
16 providing preliminary inquiry procedures for intake  
17 workers; authorizing district attorneys to consult  
18 with intake workers regarding complaints; making  
19 diversion services available for certain at-risk  
20 children; providing for the use of diversion services  
21 after supervision petition filed; prohibiting the  
22 filing of supervision petition while participating in  
23 diversion services; requiring notice when terminated  
24 from diversion services program; deleting certain  
warrant requirement; construing certain provision;  
amending 10A O.S. 2011, Section 2-2-301, which  
relates to custodial interrogations and appointment  
of counsel; providing representation for indigent  
children; modifying guardian ad litem qualifications;  
amending 10A O.S. 2011, Sections 2-2-402 and 2-2-404,  
which relate to adjudicative hearings and delinquency  
proceedings; clarifying privacy requirements for  
adjudicative hearings; allowing open hearings under  
certain circumstances; modifying circumstances that  
allow for the deferral of delinquency proceedings;  
amending 10A O.S. 2011, Sections 2-2-501, 2-2-502  
and 2-2-503, which relate to treatment and service  
plans and disposition orders; establishing time  
limitation for holding dispositional hearings;  
providing guidelines for treatment and service plan  
assessment and evaluation process; directing the

1 Office of Juvenile Affairs to identify risks and  
2 needs assessment instruments for treatment and  
3 service plans; construing certain provision;  
4 providing list of rights for dispositional hearings;  
5 authorizing use of sanctions under certain  
6 circumstances; deleting certain redisposition  
7 guidelines; prohibiting consideration of arrests,  
8 detentions or adjudications for certain purposes;  
9 amending 10A O.S. 2011, Section 2-2-701, which  
10 relates to contempt of court violations; authorizing  
11 issuance of bench warrants; defining terms;  
12 describing contempt of court violations; modifying  
13 punishment; amending 10A O.S. 2011, Section 2-3-101,  
14 which relates to conditions of confinement; modifying  
15 secure detention requirements; amending 10A O.S.  
16 2011, Sections 2-6-101, 2-6-102 and 2-6-108, which  
17 relate to records of juvenile cases; modifying  
18 definitions; deleting and modifying exceptions to  
19 confidentiality requirements; directing court to seal  
20 records of delinquent proceedings; amending 10A O.S.  
21 2011, Sections 2-7-303 and 2-7-305, which relate to  
22 community-based programs and youth shelters;  
23 authorizing the use of school-based prevention  
24 programs; allowing the Office of Juvenile Affairs to  
enter into interlocal agreements with counties;  
modifying functions of community intervention  
centers; amending 10A O.S. 2011, Section 2-7-501,  
which relates to probation services; directing the  
use of common risk and needs assessments; amending 21  
O.S. 2011, Section 1283, as amended by Section 9,  
Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2012, Section  
1283), which relates to firearm possession  
prohibitions; modifying certain prohibited act;  
amending 43A O.S. 2011, Section 5-507, which relates  
to the admission of deprived children; clarifying  
manner in which minor children in state custody may  
be admitted to hospital or treatment facilities;  
amending 70 O.S. 2011, Section 24-101.3, which  
relates to out-of-school suspensions; modifying list  
of acts that provide for out-of-school suspensions;  
repealing 10 O.S. 2011, Sections 22 and 24, which  
relate to personnel of state institutions and the  
appointment of counsel; repealing 10 O.S. 2011,  
Sections 130.1, 130.2, 130.3, 130.4, 130.5, 130.6,  
130.7, 130.8 and 130.9, which relate to detention  
homes for juveniles; repealing 10 O.S. 2011, Section  
1101.1, which relates to placement of certain

1 children in mental health facilities; repealing 10A  
2 O.S. 2011, Section 2-2-806, as amended by Section 40,  
3 Chapter 304, O.S.L. 2012 (10A O.S. Supp. 2012,  
4 Section 2-2-806), which relates to construction of  
5 certain juvenile custody facility; providing for  
6 codification; and providing an effective date.

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

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

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

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

- 16 1. Recognize the unique characteristics and needs of juveniles;
- 17 2. Give juveniles access to opportunities for personal and  
18 social growth;
- 19 3. Maintain the integrity of substantive law prohibiting  
20 certain behavior and developing individual responsibility for lawful  
21 behavior;
- 22 4. Provide a system relying upon individualized treatment and  
23 best practices for the rehabilitation and reintegration of juvenile  
24 delinquents into society;

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

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

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

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

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

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

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

23 2. "Alternatives to secure detention" means those services and  
24 facilities which are included in the State Plan for the

1 Establishment of Juvenile Detention Services adopted by the Board of  
2 Juvenile Affairs and which are used for the temporary detention of  
3 juveniles in lieu of secure detention in a juvenile detention  
4 facility;

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

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

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

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

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

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

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

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

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

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

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

1 first-time offenders, transitional living, independent living and  
2 other rehabilitative services;

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

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

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

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

- 1 h. crisis intervention telephone support which includes  
2 supportive telephone assistance provided by a licensed  
3 level provider or qualified staff with immediate  
4 access to a licensed provider to resolve immediate,  
5 overwhelming problems that severely impair the ability  
6 of the juvenile to function or maintain in the  
7 community,
- 8 i. case management which includes planned linkage,  
9 advocacy and referral assistance provided in  
10 partnership with a client to support that client in  
11 self-sufficiency and community tenure,
- 12 j. case management and home-based services which includes  
13 that part of case management services dedicated to  
14 travel for the purpose of linkage, advocacy and  
15 referral assistance and travel to provide counseling  
16 and support services to families of children as needed  
17 to support specific youth and families in self-  
18 sufficiency and community tenure,
- 19 k. individual rehabilitative treatment which includes  
20 face-to-face service provided one-on-one by qualified  
21 staff to maintain or develop skills necessary to  
22 perform activities of daily living and successful  
23 integration into community life, including educational  
24 and supportive services regarding independent living,

1 self-care, social skills regarding development,  
2 lifestyle changes and recovery principles and  
3 practices,

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

13 m. community-based prevention services which include  
14 services delivered in an individual or group setting  
15 by a qualified provider designed to meet the services  
16 needs of a child or youth and family of the child or  
17 youth who has been referred because of identified  
18 problems in the family or community. The group  
19 prevention planned activities must be focused on  
20 reducing the risk that individuals will experience  
21 behavioral, substance abuse or delinquency-related  
22 problems. Appropriate curriculum-based group  
23 activities include, but are not limited to, First  
24 Offender groups, prevention and relationship

1 enhancement groups, anger management groups, life  
2 skills groups, substance abuse education groups,  
3 smoking cessation groups, STD/HIV groups and parenting  
4 groups,

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

23 o. tutoring which includes a tutor and student working  
24 together as a learning team to bring about overall

1 academic success, improved self-esteem and increased  
2 independence as a learner for the student,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24

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

9 2. By a peace officer or an employee of the court without a  
10 court order~~7~~, if the child ~~is willfully and voluntarily absent~~ has  
11 run away from the home ~~of the child~~ without ~~the consent of the~~  
12 ~~parent, legal guardian, legal custodian or other person having~~  
13 ~~custody and control of the child for a substantial length of time or~~  
14 ~~without intent to return,~~ or if the surroundings of the child are  
15 ~~such as to endanger the welfare of the child~~ just cause or, in the  
16 reasonable conclusion of the employee of the court or peace officer,  
17 appears to have run away from home without just cause. For purposes  
18 of this section, a peace officer may reasonably conclude that a  
19 child has run away from home when the child refuses to give his or  
20 her name or the name and address of a parent or other person legally  
21 responsible for the care of the child or when the peace officer has  
22 reason to doubt that the name and address given by the child are the  
23 actual name and address of the parent or other person legally  
24 responsible for the care of the child. A peace officer or court

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 12           a. resides,
- 13           b. is found, or
- 14           c. is alleged to be or is found to be in need of  
15           supervision.

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

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

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

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

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

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

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

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

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

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

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

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

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

21 B. In the course of the preliminary inquiry, the intake worker  
22 may:  
23  
24

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

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

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

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

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

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

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

10        1. Be voluntarily entered into by all parties;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 rendered during trial, and One Hundred Dollars (\$100.00) for  
2 services rendered at each subsequent postdisposition hearing.

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

9 F. The guardian ad litem shall not be a district attorney, an  
10 employee of the office of the district attorney, an employee of the  
11 court, an employee of a juvenile bureau, or an employee of any  
12 public agency having duties or responsibilities towards the child.  
13 The guardian ad litem shall be given access to the court file and  
14 access to all records and reports relevant to the case and to any  
15 records and reports of examination of the child's parent or other  
16 custodian, made pursuant to this section or Section ~~846~~ 1-2-101 of  
17 ~~Title 21 of the Oklahoma Statutes~~ this title. Provided, nothing in  
18 this subsection shall obligate counsel for the child to breach  
19 attorney-client confidentiality with the child.

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

22 Section 2-2-402. A. All cases of children shall be heard  
23 separately from the trial of cases against adults. The adjudicative  
24

1 hearings shall be conducted according to the rules of evidence, and  
2 may be adjourned from time to time.

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

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

21 2. ~~Hearings related to the second or subsequent delinquency~~  
22 ~~adjudication of a child shall be public proceedings. The~~  
23 ~~adjudications relied upon to determine whether a hearing is a public~~  
24 ~~proceeding pursuant to this paragraph shall not have arisen out of~~

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

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

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

1 to sustain the allegations of the petition. In proceedings pursuant  
2 to the Oklahoma Juvenile Code, the court may allow mileage as in  
3 civil actions to witnesses and reimbursement for expert witnesses  
4 but such shall not be tendered in advance of the hearing. If a  
5 child is alleged to be delinquent and the facts are stipulated, the  
6 judge shall ascertain from the child if the child agrees with the  
7 stipulation and if the child understands the consequences of  
8 stipulating the facts.

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

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

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

23  
24

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

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

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

13 3. Has not been previously adjudicated a delinquent.

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

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

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

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

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

3 4. An alternative diversion program; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24

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

6        ~~3.~~ 4. Identification of the services to be provided to the  
7 parent, legal guardian, legal custodian, stepparent, other adult  
8 person living in the home or other family members, to remediate or  
9 alleviate the conditions that led to the adjudication, including  
10 services needed to assist the family to provide proper care and  
11 supervision of the child;

12        ~~4.~~ 5. Performance criteria that will measure the progress of  
13 the child and family toward completion of the treatment and service  
14 plan;

15        ~~5.~~ 6. A projected date for the completion of the treatment and  
16 service plan; and

17        ~~6.~~ 7. The name and business address of the attorney  
18 representing the child, if any.

19        ~~B.~~ C. The Office of Juvenile Affairs shall identify the  
20 appropriate risk and needs assessment instruments used to develop  
21 the recommendations of the individualized treatment and service  
22 plan. The juvenile probation counselor shall be responsible for  
23 making informed decisions and recommendations to other agencies, the  
24 district attorney, and the courts so that the child and family of

1 the child may receive the least intrusive service alternative  
2 throughout the court process.

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

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

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

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

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

19 ~~C.~~ E. Whenever a child who is subject to the provisions of this  
20 section is committed for inpatient mental health or substance abuse  
21 treatment pursuant to the Inpatient Mental Health and Substance  
22 Abuse Treatment of Minors Act, the individual treatment and service  
23 plan shall be amended as necessary and appropriate, including but  
24 not limited to identification of the treatment and services to be

1 provided to the child and his family upon discharge of the child  
2 from inpatient mental health or substance abuse treatment.

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

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

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

18 2. If it is consistent with the welfare of the child, the child  
19 shall be placed with the parent or legal guardian of the child, but  
20 if it appears to the court that the conduct of such parent,  
21 guardian, legal guardian, stepparent or other adult person living in  
22 the home has contributed to the child becoming delinquent or in need  
23 of supervision, the court may issue a written order specifying  
24 conduct to be followed by such parent, guardian, legal custodian,

1 stepparent or other adult person living in the home with respect to  
2 such child. The conduct specified shall be such as would reasonably  
3 prevent the child from continuing to be delinquent or in need of  
4 supervision.

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

24

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

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

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

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

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

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

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

20           6. If the child has been placed outside the home, and it  
21 appears to the court that the parent, guardian, legal custodian, or  
22 stepparent, or other adult person living in the home has contributed  
23 to the child becoming delinquent or in need of supervision, the  
24 court may order that the parent, guardian, legal custodian,

1 stepparent, or other adult living in the home be made subject to any  
2 treatment or placement plan prescribed by the Office or other person  
3 or agency receiving custody of the child-;

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

6 a. for acts involving criminally injurious conduct as  
7 defined in Section 142.3 of Title 21 of the Oklahoma  
8 Statutes, order the child to pay a victim compensation  
9 assessment in an amount not to exceed that amount  
10 specified in Section 142.18 of Title 21 of the  
11 Oklahoma Statutes. The court shall forward a copy of  
12 the adjudication order to the Crime Victims  
13 Compensation Board for purposes of Section 142.11 of  
14 Title 21 of the Oklahoma Statutes. Except as  
15 otherwise provided by law, such adjudication order  
16 shall be kept confidential by the Board,

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

23 c. order the child, the parent or parents of the child,  
24 legal guardian of the child, or both the child and the

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

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

1 challenging the fairness and reasonableness of  
2 the amount.

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

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

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

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

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

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

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

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

23           f.    sanction detention in the residence of the child or  
24                  facility designated by the ~~Department~~ Office of

1 Juvenile ~~Justice~~ Affairs or the juvenile bureau for  
2 such purpose for up to five (5) days, order weekend  
3 detention in a place other than a juvenile detention  
4 facility or shelter, tracking, or house arrest with  
5 electronic monitoring, and

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

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

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

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

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

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

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

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

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

20 ~~G. Any arrest or detention under the Oklahoma Juvenile Code or~~  
21 ~~any adjudication in a juvenile proceeding shall not be considered an~~  
22 ~~arrest, detention or conviction for purposes of employment, civil~~  
23 ~~rights, or any statute, regulation, license, questionnaire,~~  
24

1 ~~application, or any other public or private purposes, unless~~  
2 ~~otherwise provided by law~~ be afforded the following rights:

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

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

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

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

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

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

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

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

- 1           c. allowing the child to remain in the home is contrary  
2           to the welfare of the child,  
3           d. immediate placement of the child is in the best  
4           interests of the child, and  
5           e. reasonable efforts have been made to maintain the  
6           family unit and prevent the unnecessary removal of the  
7           child from the home of the child or that an emergency  
8           exists which threatens the safety of the child.

9 The court shall state in the record that such considerations have  
10 been made.

11           Nothing in this section shall be interpreted to limit the  
12 authority or discretion of the agency providing probation  
13 supervision services to modify the terms of probation including, but  
14 not limited to, curfews, imposing community service, or any other  
15 nondetention consequences.

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

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

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

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

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

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

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

4 3. For purposes of this section, "without good cause, fails to  
5 appear" shall include, but not be limited to, a situation where a  
6 parent, legal guardian or custodian of the child, and any other  
7 person living in the home of such child who has been properly served  
8 with a summons pursuant to Section 2-2-107 of this title:

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

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

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

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

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

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

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

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

11 Any person placed under an order to report any probation, parole  
12 or conditional release violations or aid in enforcing terms and  
13 conditions of probation, parole or conditional release or other  
14 orders of the court and who fails to do as ordered may be proceeded  
15 against for indirect contempt of court and shall be punishable as  
16 such. Punishment for any such act of contempt shall not exceed a  
17 fine of Three Hundred Dollars (\$300.00), or imprisonment for not  
18 more than thirty (30) days in the county jail if the violator is an  
19 adult, ~~or placement in a juvenile detention center for not more than~~  
20 ~~ten (10) days if the violator is a juvenile,~~ or both such fine and  
21 imprisonment ~~or detention.~~ The pursuit and prosecution of an  
22 indirect contempt of court judgment shall be initiated by the  
23 district attorney.

24

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

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

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

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

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

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

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

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

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

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

24

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

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

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

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

11           b. is on preadjudicatory community supervision, or

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

14           d.;

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

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

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

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

24

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

3           d. if the child is subject to an administrative transfer  
4           or parole revocation proceedings.

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

10          D. Priority shall be given to the use of juvenile detention  
11 facilities for the detention of juvenile offenders through  
12 provisions requiring the removal from detention of a juvenile with a  
13 lower priority status if an empty detention bed is not available at  
14 the time of referral of a juvenile with a higher priority status and  
15 if the juvenile with a higher priority status would be more of a  
16 danger to the public than the juvenile with the lower priority  
17 status.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 The time limitation provided for in this paragraph shall not include  
24 the actual travel time required for transporting the person to the

1 jail, police station, or similar law enforcement office. If the  
2 time limitation established by this paragraph is exceeded, this  
3 circumstance shall not constitute a defense in any subsequent  
4 delinquency or criminal proceeding.

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

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

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

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

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

24 B. As used in the Oklahoma Juvenile Code:

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

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

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

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

23            b. any records made in the course of any investigation or  
24            inquiry conducted by an agency to determine whether a

1 child is a delinquent child or a child in need of  
2 supervision;

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

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

17 6. "Nondirectory education records" means any records  
18 maintained by a public or private school, including a technology  
19 center school, regarding a child who is or has been a student at the  
20 school which are categorized as private or confidential records  
21 pursuant to the federal Family Educational Rights and Privacy Act of  
22 1974 and any rules promulgated pursuant to the act;

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

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

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

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

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

- 22 1. Juvenile court records;
- 23 2. Agency records;
- 24 3. District attorney's records;

- 1 4. Law enforcement records;
- 2 5. Nondirectory education records; and
- 3 6. Social records.

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

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

11 1. Upon the ~~charging or~~ certification or sentencing of a  
12 juvenile as an adult or youthful offender;

13 2. ~~Upon the charging of an individual pursuant to Section 2-5-~~  
14 ~~101 of this title;~~

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

21 4. ~~To a juvenile who is fourteen (14) years of age or older and~~  
22 ~~who has been adjudicated delinquent and who subsequently comes~~  
23 ~~before the juvenile court on a new delinquency matter after July 1,~~  
24 ~~1995;~~

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

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

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

9 ~~8.~~ 4. Whenever a juvenile is accepted for placement or  
10 treatment in a facility or private treatment facility within this  
11 state as a result of or following a conviction or adjudication for  
12 an out-of-state offense that would qualify the juvenile as a  
13 youthful offender, as defined in Section 2-5-202 of this title, had  
14 the crime occurred within this state. The facility shall provide  
15 any law enforcement agency or peace officer all prior criminal  
16 offense, conviction, and adjudication information. If ~~a~~ the  
17 juvenile flees or is otherwise absent from the facility without  
18 permission, the facility shall provide any law enforcement agency or  
19 peace officer all prior criminal offense, conviction, and  
20 adjudication information. Any law enforcement agency or peace  
21 officer shall have the authority to review or copy any records  
22 concerning the juvenile, including prior criminal offense,  
23 conviction, or adjudication information.

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

8 ~~The provisions of this subsection shall only apply to the~~  
9 ~~juvenile court records and law enforcement records of juvenile~~  
10 ~~offenders certified, charged or adjudicated on and after July 1,~~  
11 ~~1995.~~

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

19 F. Except as otherwise required by state or federal law, the  
20 confidential records listed in subsection A of this section may only  
21 be inspected, released, disclosed, corrected or expunged pursuant to  
22 an order of the court. Except as otherwise provided in Section  
23 601.6 of Title 10 of the Oklahoma Statutes or any provision of this  
24 chapter, no subpoena or subpoena duces tecum purporting to compel

1 disclosure of confidential information or any confidential juvenile  
2 record shall be valid.

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

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

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

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

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

11 1. Information included in the records listed in subsection A  
12 of this section may be entered in and maintained in the Juvenile  
13 Justice Information System and other automated information systems  
14 related to services to children and youth whether or not the record  
15 is confidential or open; and

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

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

24

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

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

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

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

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

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

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

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

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

17           M. The confidential records listed in subsection A of this  
18 section may be inspected and their contents disclosed without a  
19 court order to a school district in which the child who is the  
20 subject of the record is currently enrolled or has been presented  
21 for enrollment. The inspection of records and disclosure authorized  
22 by this subsection may be limited to summaries or to information  
23 directly necessary for the purpose of such inspection or disclosure.  
24 Upon request by the school district, the agency in possession of the

1 records shall provide in writing, digitally, or by delivery to a  
2 secure facsimile line, the requested information to the school  
3 district within five (5) business days upon receipt of the request.  
4 Any records disclosed as provided by this subsection shall remain  
5 confidential. The use of any information shall be limited to the  
6 purposes for which disclosure is authorized.

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

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

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

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

- 20 1. When the person has been alleged to be delinquent and:
- 21 a. one (1) year has elapsed from the later of:
- 22 (1) dismissal or closure of the case by the court, or
- 23 (2) notice to the court by the Office of Juvenile
- 24 Affairs or a juvenile bureau of final discharge

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

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

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

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

9 a. the case has been dismissed, or

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

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

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

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

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

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

24

- 1           a.    the juvenile presents satisfactory evidence to the  
2                    court that the juvenile has successfully completed the  
3                    program, and
- 4           b.    the court dismisses the case at the conclusion of the  
5                    deferral period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 Section 2-7-501. A. The Office of Juvenile Affairs shall  
9 provide intake and probation services for juveniles in all counties  
10 not having a juvenile bureau and parole services in all counties of  
11 the state and may enter into agreements to supplement probationary  
12 services to juveniles in any county. The Office of Juvenile Affairs  
13 may participate in federal programs for juvenile probation officers,  
14 and may apply for, receive, use and administer federal funds for  
15 such purpose.

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

22 1. Information gained from the substance abuse assessment  
23 pursuant to this subsection shall be used only for substance abuse  
24 treatment and for no other purpose. The results shall not be used

1 in any evidentiary or fact-finding hearing in a juvenile proceeding  
2 or as the sole basis for the revocation of a community-based  
3 placement or participation in a community-based program.

4 2. The results of the substance abuse assessment may be given  
5 to the intake, probation or parole counselor of the child, the  
6 parent or guardian of the child or to the attorney of the child. In  
7 accordance with the Juvenile Offender Tracking Program and Section  
8 620.6 of Title 10 of the Oklahoma Statutes, the counselor may also  
9 provide the results of the substance abuse assessment to medical  
10 personnel, therapists, school personnel or others for use in the  
11 treatment and rehabilitation of the child.

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

14 1. ~~Court~~ Use of a common court intake risk-assessment risk and  
15 needs assessment for children alleged or adjudicated to be  
16 delinquent;

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

19 3. A case management system for ensuring appropriate:

20 a. diversion of youth from the juvenile justice system,

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

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

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

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

- 10 a. misdemeanor and nonserious first-time offender  
11 programs,
- 12 b. tracking and mentor services,
- 13 c. weekend detention,
- 14 d. five-day out-of-home sanction placements,
- 15 e. short-term thirty-day intensive, highly structured  
16 placements,
- 17 f. transitional programs,
- 18 g. substance abuse treatment and diagnostic and  
19 evaluation programs, and
- 20 h. day treatment programs.

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

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

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

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

- 12 a. structured interviews,
- 13 b. standardized literacy testing instruments which  
14 measure the educational proficiency of the child, and
- 15 c. any other measure used to determine:
  - 16 (1) whether a child is reading at an age-appropriate  
17 level, and
  - 18 (2) the capacity of the child to read at such level.

19 3. The results of the literacy skills assessment required  
20 pursuant to this subsection shall be made available to the court by  
21 the district attorney for use in the disposition phase; provided,  
22 however, the results shall not be used in any evidentiary or fact-  
23 finding hearing in a juvenile proceeding to determine whether a  
24 juvenile should be adjudicated. Provided, further, such results

1 shall not be used as the sole basis for the revocation of a  
2 community-based placement or participation in a community-based  
3 program.

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

- 6 (1) the child's intake, probation or parole  
7 counselor,
- 8 (2) the parent or guardian of the child, or
- 9 (3) the child's attorney.

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

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

21 b. If the child is adjudicated delinquent or in need of  
22 supervision or is being detained as part of a deferral  
23 of prosecution agreement, deferral to file agreement  
24 or a deferral sentence agreement, and the results of

1 the literacy skills assessment show that the child is  
2 not reading at an age-appropriate level but has the  
3 capacity to improve his or her reading skills, the  
4 child shall be required to actively participate in a  
5 literacy skills improvement program which may include,  
6 but not be limited to, a program of instruction  
7 through a public or private school, including any  
8 technology center school, of this state or any other  
9 state. The child shall provide documentation of  
10 substantial quantifiable literacy improvement,  
11 sufficient to demonstrate reading proficiency at an  
12 age-appropriate or developmentally appropriate level;  
13 provided, however, failure to demonstrate substantial  
14 quantifiable literacy improvement shall not be the  
15 sole basis for not dismissing a case against a child.

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

19 Section 1283.

20 CONVICTED FELONS AND DELINQUENTS

21 A. Except as provided in subsection B of this section, it shall  
22 be unlawful for any person convicted of any felony in any court of  
23 this state or of another state or of the United States to have in  
24 his or her possession or under his or her immediate control, or in

1 any vehicle which the person is operating, or in which the person is  
2 riding as a passenger, or at the residence where the convicted  
3 person resides, any pistol, imitation or homemade pistol, altered  
4 air or toy pistol, machine gun, sawed-off shotgun or rifle, or any  
5 other dangerous or deadly firearm.

6 B. Any person who has previously been convicted of a nonviolent  
7 felony in any court of this state or of another state or of the  
8 United States, and who has received a full and complete pardon from  
9 the proper authority and has not been convicted of any other felony  
10 offense which has not been pardoned, shall have restored the right  
11 to possess any firearm or other weapon prohibited by subsection A of  
12 this section, the right to apply for and carry a handgun, concealed  
13 or unconcealed, pursuant to the Oklahoma Self-Defense Act and the  
14 right to perform the duties of a peace officer, gunsmith, or for  
15 firearms repair.

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

24

1 D. It shall be unlawful for any person previously adjudicated  
2 as a delinquent child or a youthful offender for the commission of  
3 an offense, ~~which would have constituted a felony offense if~~  
4 ~~committed by an adult,~~ listed in paragraph 2 of Section 571 of Title  
5 57 of the Oklahoma Statutes, Section 13.1 of this title or Section  
6 2-5-206 of Title 10A of the Oklahoma Statutes to have in the  
7 possession of the person or under the immediate control of the  
8 person, or have in any vehicle which he or she is driving or in  
9 which the person is riding as a passenger, or at the residence of  
10 the person, any pistol, imitation or homemade pistol, altered air or  
11 toy pistol, machine gun, sawed-off shotgun or rifle, or any other  
12 dangerous or deadly firearm within ten (10) years after such  
13 adjudication; provided, that nothing in this subsection shall be  
14 construed to prohibit the placement of the person in a home with a  
15 full-time duly appointed peace officer who is certified by the  
16 Council on Law Enforcement Education and Training (CLEET) pursuant  
17 to the provisions of Section 3311 of Title 70 of the Oklahoma  
18 Statutes.

19 E. Any person having been issued a handgun license pursuant to  
20 the provisions of the Oklahoma Self-Defense Act and who thereafter  
21 knowingly or intentionally allows a convicted felon or adjudicated  
22 delinquent or a youthful offender as prohibited by the provisions of  
23 subsection A, C, or D of this section to possess or have control of  
24 any pistol authorized by the Oklahoma Self-Defense Act shall, upon

1 conviction, be guilty of a felony punishable by a fine not to exceed  
2 Five Thousand Dollars (\$5,000.00). In addition, the person shall  
3 have the handgun license revoked by the Oklahoma State Bureau of  
4 Investigation after a hearing and determination that the person has  
5 violated the provisions of this section.

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

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

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

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

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

21 Section 5-507. A. No minor who is ~~taken~~ placed into emergency,  
22 temporary or permanent custody of a state agency pursuant to Section  
23 ~~1-4-201~~ of Title 10A of the Oklahoma Statutes as an alleged deprived  
24 ~~child, or who has been adjudicated a ward of the court~~ shall be

1 admitted to a hospital or mental health or substance abuse treatment  
2 facility:

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

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

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

24

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

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

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

18 Section 24-101.3 A. Any student who is guilty of an act  
19 described in paragraph 1 of subsection C of this section may be  
20 suspended out-of-school in accordance with the provisions of this  
21 section. Each school district board of education shall adopt a  
22 policy with procedures which provides for out-of-school suspension  
23 of students. The policy shall address the term of the out-of-school  
24 suspension, provide an appeals process as described in subsection B

1 of this section, and provide that before a student is suspended out-  
2 of-school, the school or district administration shall consider and  
3 apply, if appropriate, alternative in-school placement options that  
4 are not to be considered suspension, such as placement in an  
5 alternative school setting, reassignment to another classroom, or  
6 in-school detention. The policy shall address education for  
7 students subject to the provisions of subsection D of this section  
8 and whether participation in extracurricular activities shall be  
9 permitted.

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

23 2. Students suspended out-of-school for more than ten (10) days  
24 and students suspended pursuant to the provisions of paragraph 2 of

1 subsection C of this section may request a review of the suspension  
2 with the administration of the district. If the administration does  
3 not withdraw the suspension, the student shall have the right to  
4 appeal the decision of the administration to the district board of  
5 education. Except as otherwise provided for in paragraph 2 of  
6 subsection C of this section, no out-of-school suspension shall  
7 extend beyond the current semester and the succeeding semester.  
8 Upon full investigation of the matter, the board shall determine the  
9 guilt or innocence of the student and the reasonableness of the term  
10 of the out-of-school suspension. A board of education may conduct  
11 the hearing and render the final decision or may appoint a hearing  
12 officer to conduct the hearing and render the final decision. The  
13 decision of the district board of education or the hearing officer,  
14 if applicable, shall be final.

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

- 18 a. violation of a school regulation,
- 19 b. ~~immorality,~~
- 20 c. ~~adjudication as a delinquent for an offense that is~~  
21 ~~not a violent offense. For the purposes of this~~  
22 ~~section, "violent offense" shall include those~~  
23 ~~offenses listed as the exceptions to the term~~  
24 ~~"nonviolent offense" as specified in Section 571 of~~

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

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

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

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

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

6 Oklahoma Statutes, or missing or stolen property if

7 the property is reasonably suspected to have been

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

9 during school activities, and

10 ~~e.~~ c. possession of a dangerous weapon or a controlled

11 dangerous substance, as defined in the Uniform

12 Controlled Dangerous Substances Act while on public

13 school property or at a school event. Possession of a

14 firearm shall result in out-of-school suspension as

15 provided in paragraph 2 of this subsection.

16 2. Any student found in possession of a firearm while on any  
17 public school property or while in any school bus or other vehicle

18 used by a public school for transportation of students or teachers  
19 shall be suspended out-of-school for a period of not less than one

20 (1) year, to be determined by the district board of education

21 pursuant to the provisions of this section. The term of the

22 suspension may be modified by the district superintendent on a case-

23 by-case basis. For purposes of this paragraph the term "firearm"

24

1 shall mean and include all weapons as defined by 18 U.S.C., Section  
2 921.

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

12 D. At its discretion a school district may provide an education  
13 plan for students suspended out-of-school for five (5) or fewer days  
14 pursuant to the provisions of this subsection. The following  
15 provisions shall apply to students who are suspended out-of-school  
16 for more than five (5) days and who are guilty of acts listed in  
17 subparagraphs ~~a, and b, c and d~~ a of paragraph 1 of subsection C of  
18 this section. Upon the out-of-school suspension, the parent or  
19 guardian of a student suspended out-of-school pursuant to the  
20 provisions of this subsection shall be responsible for the provision  
21 of a supervised, structured environment in which the parent or  
22 guardian shall place the student and bear responsibility for  
23 monitoring the student's educational progress until the student is  
24 readmitted into school. The school administration shall provide the

1 student with an education plan designed for the eventual  
2 reintegration of the student into school which provides only for the  
3 core units in which the student is enrolled. A copy of the  
4 education plan shall also be provided to the student's parent or  
5 guardian. For the purposes of this section, the core units shall  
6 consist of the minimum English, mathematics, science, social studies  
7 and art units required by the State Board of Education for grade  
8 completion in grades kindergarten through eight and for high school  
9 graduation in grades nine through twelve. The plan shall set out  
10 the procedure for education and shall address academic credit for  
11 work satisfactorily completed.

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

19 F. No public school of this state shall be required to provide  
20 education services in the regular school setting to any student who  
21 has been adjudicated as a delinquent for an offense defined in  
22 Section 571 of Title 57 of the Oklahoma Statutes as an exception to  
23 a nonviolent offense or convicted as an adult of an offense defined  
24 in Section 571 of Title 57 of the Oklahoma Statutes as an exception

1 to a nonviolent offense, who has been removed from a public or  
2 private school in the State of Oklahoma or another state by  
3 administrative or judicial process for a violent act or an act  
4 showing deliberate or reckless disregard for the health or safety of  
5 faculty or other students, or who has been suspended as provided for  
6 in paragraph 3 of subsection C of this section until the school in  
7 which the student is subsequently enrolled determines that the  
8 student no longer poses a threat to self, other students or school  
9 district faculty or employees. Until the school in which such  
10 student subsequently enrolls or re-enrolls determines that the  
11 student no longer poses a threat to self, other students or school  
12 district faculty or employees, the school may provide education  
13 services through an alternative school setting, home-based  
14 instruction, or other appropriate setting. If the school provides  
15 education services to such student at a district school facility,  
16 the school shall notify any student or school district faculty or  
17 employee victims of such student, when known, and shall ensure that  
18 the student will not be allowed in the general vicinity of or  
19 contact with a victim of the student, provided such victim notifies  
20 the school of the victim's desire to refrain from contact with the  
21 offending student.

22 G. Students suspended out-of-school who are on an  
23 individualized education plan pursuant to the Individuals with  
24 Disabilities Education Act, P.L. No. 101-476, or who are subject to

1 the provisions of subsection F of this section and who are on an  
2 individualized education plan shall be provided the education and  
3 related services in accordance with the student's individualized  
4 education plan.

5 H. A student who has been suspended for a violent offense which  
6 is directed towards a classroom teacher shall not be allowed to  
7 return to that teacher's classroom without the approval of that  
8 teacher.

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

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

14 SECTION 26. REPEALER 10 O.S. 2011, Sections 130.1,  
15 130.2, 130.3, 130.4, 130.5, 130.6, 130.7, 130.8 and 130.9, are  
16 hereby repealed.

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

19 SECTION 28. REPEALER 10A O.S. 2011, Section 2-2-806, as  
20 amended by Section 40, Chapter 304, O.S.L. 2012 (10A O.S. Supp.  
21 2012, Section 2-2-806), is hereby repealed.

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

23

24 54-1-6436 GRS 01/11/13