STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

HOUSE BILL 2241 By: Nelson

AS INTRODUCED

An Act relating to children and juvenile code; amending 10A O.S. 2011, Section 2-1-103, which relates to definitions of the Oklahoma Juvenile Code; modifying certain definition; and providing an effective date.

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

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

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

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

2. "Alternatives to secure detention" means those services and facilities which are included in the State Plan for the Establishment of Juvenile Detention Services adopted by the Board of

Juvenile Affairs and which are used for the temporary detention of juveniles in lieu of secure detention in a juvenile detention facility;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d. individual counseling which includes face-to-face, one-on-one interaction between a counselor and a

juvenile to promote emotional or psychological change to alleviate the issues, problems, and difficulties that led to a referral, including ongoing assessment of the status and response of the juvenile to treatment as well as psychoeducational intervention,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

q. emergency ~~shelter beds~~ shelters and shelter host homes which include emergency ~~shelter care~~ living accommodations twenty-four (24) hours a day for a short term, usually ninety (90) days or less, for ~~juveniles referred to the program needing shelter care within the State of Oklahoma~~ children and youth in a crisis situation such as abandonment, abuse, neglect, runaway, respite, or law enforcement or court involvement. The emergency shelter or shelter host home shall provide parenting, education, counseling, activities, experiences and referrals needed by children and youth in order to develop and realize their full potential,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 2. This act shall become effective November 1, 2013.

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