

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 HOUSE BILL 2992

By: Perryman

4
5
6 AS INTRODUCED

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

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

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

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

20 2. Any other municipality may enter into an interlocal
21 agreement with the district court pursuant to the Interlocal
22 Cooperation Act, to assume jurisdiction of cases involving children
23 under eighteen (18) years of age charged with violating any
24

1 municipal ordinance as agreed by the district court, the district
2 attorney and the municipality.

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

10 B. 1. A child under eighteen (18) years of age who is taken
11 into custody for the alleged violation of a municipal ordinance
12 relating to truancy may be held pursuant to Section 10-109 of Title
13 70 of the Oklahoma Statutes.

14 2. A child under eighteen (18) years of age who is taken into
15 custody for the alleged violation of a municipal ordinance relating
16 to curfews may be held temporarily under the care of a peace officer
17 or other person employed by a police department only until the
18 parent of the child, legal guardian, legal custodian, attorney or
19 other responsible adult assumes custody or, if such a person cannot
20 be located within a reasonable time of the taking of the child into
21 custody or if such a person refuses to assume custody, until
22 temporary shelter is found for the child. The temporary custody
23 provided for by this paragraph shall be utilized as a means of
24

1 returning the child to the home of the child or other place of
2 shelter.

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

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

21 a. the municipality shall immediately take all reasonable
22 steps to attempt to locate the parent of the child,
23 legal guardian, legal custodian, attorney or another
24 responsible adult and determine if the parent, legal

1 guardian, legal custodian, attorney or other
2 responsible adult is willing to appear at the
3 municipal juvenile facility and assume personal
4 custody of the child upon the release of the child
5 from such facility,

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

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

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

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

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

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

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

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

19 1. A municipal juvenile facility shall be certified by the
20 Office of Juvenile Affairs pursuant to the applicable certification
21 standards. The Office of Juvenile Affairs is directed to and shall
22 establish standards for certification of municipal juvenile
23 facilities to include but not be limited to the conditions set forth
24

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

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

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

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

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

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

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

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

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

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

- 11 a. fails to appear for a court date on more than one
12 occasion,
- 13 b. is convicted of two or more of the municipal offenses,
14 which offenses occurred on different days, or
- 15 c. fails to pay any fine or cost properly assessed by a
16 municipal court,

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

24

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

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

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

22 H. Funds generated from fines paid pursuant to an interlocal
23 agreement between a municipality and the district court shall be
24

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

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

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

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

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

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

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

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

19

20 54-2-9777 GRS 01/14/14

21

22

23

24