ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 1200 By: Griffin of the Senate

and

Jordan of the House

An Act relating to juvenile detention; amending 10A O.S. 2011, Sections 2-2-503, as amended by Section 14, Chapter 404, O.S.L. 2013, 2-3-101, as last amended by Section 3, Chapter 54, O.S.L. 2015 and 2-7-601 (10A O.S. Supp. 2015, Sections 2-2-503 and 2-3-101), which relate to disposition orders, detention of child and Office of Juvenile Affairs institutions and facilities; deleting exception to certain detention; creating indirect contempt offense for violation of certain orders; providing certain punishment; modifying certain detention requirements; updating language; modifying allowable situs of certain hearings; and providing an effective date.

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill and insert

"An Act relating to juvenile detention; amending 10A O.S. 2011, Sections 2-2-503, as amended by Section 14, Chapter 404, O.S.L. 2013, 2-3-101, as last amended by Section 3, Chapter 54, O.S.L. 2015 and 2-7-601 (10A O.S. Supp. 2015, Sections 2-2-503 and 2-3-101), which relate to disposition orders, detention of child and Office of Juvenile Affairs institutions and facilities; deleting exception to detention in specified cases; creating indirect contempt offense for willful violation of order; providing certain punishment; modifying certain

detention requirements; excepting detention for runaway juveniles from other states; updating language; modifying allowable situs of specified hearings; and providing an effective date.

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

SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-2-503, as amended by Section 14, Chapter 404, O.S.L. 2013 (10A O.S. Supp. 2015, Section 2-2-503), is amended to read as follows:

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

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

2. If it is consistent with the welfare of the child, the child shall be placed with the parent or legal guardian of the child, but if it appears to the court that the conduct of such parent,

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

a. If it is consistent with the welfare of the child, in cases where the child has been adjudicated to be in need of supervision due to repeated absence from school, the court may order counseling and treatment for the child and the parents of the child to be provided by the local school district, the county, the Office or a private individual or entity. Prior to final disposition, the court shall require that it be shown by the appropriate school district that a child found to be truant has been evaluated for learning disabilities, hearing and visual impairments and other impediments which could constitute an educational handicap or has been evaluated to determine whether the child has a disability if it is suspected that the child may require special education services in accordance with the Individuals with Disabilities

Education Act (IDEA). The results of such tests shall be made available to the court for use by the court in determining the disposition of the case.

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

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

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

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

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

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

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

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

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

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

b. order the child to engage in a term of community service without compensation. The state or any political subdivision shall not be liable if a loss or

claim results from any acts or omission of a child ordered to engage in a term of community service pursuant to the provisions of this paragraph,

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

(1) The court shall notify the victim of the dispositional hearing. The court may consider a verified statement from the victim concerning damages for injury or loss of property and actual expenses of medical treatment for personal injury, excluding pain and suffering. If contested, a restitution hearing to determine the liability of the child, the parent or parents of the child, or legal guardian shall be held not later than thirty (30) days after the disposition hearing and may be extended by the court for good cause. The parent or parents of the child or legal guardian may be represented by an attorney in the matter of the order for remittance of the

restitution by the parent or parents of the child or legal guardian. The burden of proving that the amount indicated on the verified statement is not fair and reasonable shall be on the person challenging the fairness and reasonableness of the amount.

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

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

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

(5) Upon the juvenile attaining eighteen (18) years of age, the court shall determine whether the restitution order has been satisfied. If the restitution order has not been satisfied, the court shall enter a judgment of restitution in

favor of each person entitled to restitution for the unpaid balance of any restitution ordered pursuant to this subparagraph. The clerk of the court shall send a copy of the judgment of restitution to each person who is entitled to restitution. The judgment shall be a lien against all property of the individual or individuals ordered to pay restitution and may be enforced by the victim or any other person or entity named in the judgment to receive restitution in the same manner as enforcing monetary judgments. The restitution judgment does not expire until paid in full and is deemed to be a criminal penalty for the purposes of a federal bankruptcy involving the child,

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

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

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

g. impose consequences, including detention as provided for in subparagraph f of this paragraph, for postadjudicatory violations of probation;

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

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

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

of this title, and reasonable efforts are being made to finalize an alternate permanent placement for the child.

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

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

D. No child who has been adjudicated in need of supervision may be placed in a secure facility~~; provided, a child who has been adjudicated in need of supervision and who has willfully violated a valid court order as defined in and in compliance with the Juvenile Justice and Delinquency Prevention Act of 2002, 42 U.S.C. 5601 et seq. may be placed in secure detention~~.

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

F. The court may revoke or modify a disposition order and may order redisposition. The child whose disposition is being considered for revocation or modification at said hearing shall be afforded the following rights:

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

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

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

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

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

6. The court shall not enter an order removing the child from the custody of a parent or legal guardian pursuant to this section unless the court first finds that reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the home of the child or that an emergency exists which threatens the safety of the child and that:

a. such removal is necessary to protect the public,

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

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

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

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

G. A willful violation of any provision of an order of the court issued under the provisions of the Oklahoma Juvenile Code shall constitute indirect contempt of court and shall be punishable by a fine not to exceed Three Hundred Dollars ($300.00) or, as to a delinquent child, placement in a juvenile detention center for not more than ten (10) days, or by both such fine and detention.

SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-3-101, as last amended by Section 3, Chapter 54, O.S.L. 2015 (10A O.S. Supp. 2015, Section 2-3-101), is amended to read as follows:

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

1. a. No preadjudicatory or predisposition detention or custody order shall remain in force and effect for

more than thirty (30) days. The court, for good and sufficient cause shown, may extend the effective period of such an order for an additional period not to exceed sixty (60) days. If the child is being detained for the commission of a murder, the court may, if it is in the best interests of justice, extend the effective period of such an order an additional sixty (60) days.

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

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

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

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

Inpatient Mental Health and Substance Abuse Treatment of Minors Act, or released to the custody of the parents of the child or some other responsible party. ~~When a child is taken into custody as a child in need of supervision as a result of being a runaway, the court may order the child placed in a juvenile detention facility pending court proceedings if it finds the detention to be essential for the safety of the child~~ Provided, this shall not preclude runaway juveniles from other states, with or without delinquent status, to be held in a detention facility in accordance with the Interstate Compact for Juveniles in Sections 2-9-101 through 2-9-116 of this title and rules promulgated by the Interstate Commission.

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

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

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

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

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

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

b. is on preadjudicatory community supervision, or

c. is currently on release status on a prior delinquent offense;

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

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

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

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

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

d. the child is subject to an administrative transfer or parole revocation proceeding.

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

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

the time of referral of a juvenile with a higher priority status and if the juvenile with a higher priority status would be more of a danger to the public than the juvenile with the lower priority status.

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

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

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

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

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

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

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

g. the jail, adult lockup or adult detention facility meets the requirements for licensure of juvenile detention facilities, as adopted by the Office of Juvenile Affairs, is appropriately licensed, and provides sight and sound separation for juveniles, which includes:

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

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

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

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

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

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

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

3. Nothing in this section shall preclude detaining in a county jail or other adult detention facility an eighteen-year-old charged in a juvenile petition for whom certification to stand trial as an adult is prayed. <u>However, if no certification motion is filed, the</u>

eighteen-year-old may remain in a juvenile detention facility as long as secure detention is required.

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

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

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

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

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

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

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

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

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

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

G. Any juvenile detention facility shall be available for use by any eligible Indian child as that term is defined by the Oklahoma Indian Child Welfare Act, providing that the use of the juvenile

detention facility meets the requirements of the Oklahoma Juvenile Code. The Indian tribe may contract with any juvenile detention facility for the providing of detention services.

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

I. Whenever a juvenile is placed in any jail, adult lockup, or other detention facility, the Office of Juvenile Affairs shall have access to all facilities which detain such juveniles and shall have access to any data regarding such juveniles. The Office of Juvenile Affairs shall have access to all jails, adult lockups, or other adult facilities in this state, including all data maintained by such facilities, to assure compliance with this section. The Board of Juvenile Affairs shall promulgate rules as necessary to implement the provisions of this section.

SECTION 3. AMENDATORY 10A O.S. 2011, Section 2-7-601, is amended to read as follows:

Section 2-7-601. A. In addition to the other powers and duties prescribed by law, the Office of Juvenile Affairs shall have the following duties and powers with regard to juveniles placed in Office-operated institutions and facilities:

1. Provide for the care, education, training, treatment and rehabilitation of juveniles who are placed in the institutions and facilities. The Office shall provide for a uniform system of

assessment of the reading ability of each juvenile upon initial placement in an Office-operated institution or facility. The assessment shall include, but not be limited to, the following skills:

a. the level of word decoding skills of the juvenile,

b. the level of vocabulary and spelling ability of the juvenile, and

c. the comprehension level of the juvenile.

The Office may give assistance to local school districts in providing an education to such juveniles, may supplement such education, and may provide facilities for such purposes. It shall be the duty of the Office to assure that juveniles in the aforesaid institutions and facilities receive educational services which provide each juvenile with a balanced and comprehensive reading program, which includes as its primary and foundational components:

(1) an organized, systematic, explicit skills program that may include phonics, word recognition strategies and other word decoding skills to address the needs of the individual juvenile as determined by the entry level needs assessment,

(2) a strong language arts and comprehension program that includes a balance of oral and written language, an ongoing individualized evaluation

and diagnosis that informs the teacher and an assessment that assures accountability, and

(3) writing, mathematics, science and vocational-technical education;

2. Transfer from a juvenile institution to another facility under the jurisdiction of the Office, a juvenile who has been adjudicated delinquent, if the Office believes it advisable to do so; transfer from a facility for juveniles in need of supervision to another such facility, a juvenile who has been adjudicated in need of supervision, provided that such transfer is consistent with the treatment needs of the juvenile; transfer from a juvenile institution or facility to a state school for the mentally retarded, any juvenile eligible for admission thereto, if the juvenile appears to be in need of the care and treatment provided at such school; transfer from a facility for delinquent or in need of supervision juveniles to an appropriate facility or to the Department of Mental Health and Substance Abuse Services any juvenile found by the court to be a minor in need of treatment pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act and committed to inpatient mental health or substance abuse treatment as provided by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act. If a transfer is made pursuant to this paragraph, the Office shall comply with the notification requirements of Section 2-2-504 of this title;

3. Release on parole a juvenile previously adjudicated to be delinquent, subject to terms and conditions specified by the Office, whenever the Office determines that such release will not be detrimental to society and that the juvenile is ready to be returned to the community and revoke said parole for violation of the specified terms or conditions of parole pursuant to the provisions of this section and the rules and procedures established by the Office for such revocation;

4. Release any juvenile from a juvenile institution for placement in a group home, transitional living program, independent living program, other community-based facility or program or out-of-home care subject to terms and conditions specified by the Office; and

5. Provide parole services for juveniles released on parole from juvenile institutions, and aftercare services for juveniles discharged from juvenile institutions or facilities. Persons designated as Juvenile Parole Officers by the Office shall have the power to serve process and to apprehend and detain juveniles and make arrests in accordance with the laws of the state.

B. The transfer of a juvenile from a nonsecure placement to a secure placement shall be subject to an administrative transfer hearing and any revocation of parole shall be subject to a parole revocation hearing.

1. In any administrative transfer or parole revocation proceeding, the following minimum standards shall apply:

a. the juvenile shall have the right to notice of the proposed transfer or parole revocation hearing and the alleged violation of administrative or parole rules on which the proposed transfer or parole revocation is based,

b. the juvenile shall have the right to representation by an attorney,

c. the juvenile shall have the right to present evidence on behalf of the juvenile, and

d. the juvenile shall have a right to bail, except that ~~said~~ the right to bail shall not be construed to require that a juvenile who is in residence in an Office-operated institution or other facility at the time of an alleged violation leading to an administrative transfer proceeding be released from such institution or facility.

2. The situs of ~~said~~ the hearings shall be the county in which the alleged violation of administrative or parole rules ~~occurs~~ occurred or the county of original jurisdiction. The judge having juvenile docket jurisdiction in ~~said~~ the county shall aid the administrative transfer or parole revocation process of the Office by:

a. determining eligibility for and amount of bail~~;~~,

b. deciding any intermediate custody or placement issue~~;~~, and

c. if legal counsel for the juvenile has not otherwise been obtained, appointing legal counsel for the juvenile and fixing the amount of compensation for the legal counsel. ~~Said~~ The judge shall also determine if the juvenile is eligible for free legal services. If the juvenile is not eligible for free legal services, the court shall order the parents or legal guardian of the juvenile to pay for such services.

3. If legal counsel for the juvenile has not otherwise been obtained, the appointment of legal counsel for the juvenile, the setting of the amount of compensation for such counsel, and the determination of whether or not the juvenile is eligible for free legal services shall be provided for pursuant to the Indigent Defense Act; provided, however, in those counties subject to the provisions of Section 138.1 of Title 19 of the Oklahoma Statutes, the legal services shall be provided by the county indigent defender as provided by law. If the juvenile is not eligible for free legal services, the court shall order the parents or legal guardian of the juvenile to pay for such services.

C. The Office may participate in federal programs relating to delinquent juveniles, or juveniles in need of supervision, or

institutions and services for such juveniles and apply for, receive, use and administer federal funds for such purposes.

D. The Office shall receive interest earnings on the investment by the State Treasurer of monies, to be credited to an agency special account, for the benefit of and held in trust for persons placed in the custody of the Office or in residence at institutions or facilities maintained by the Office.

SECTION 4. This act shall become effective November 1, 2016."

Passed the House of Representatives the 14th day of April, 2016.

_____
Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2016.

_____
Presiding Officer of the Senate

ENGROSSED SENATE
BILL NO. 1200 By: Griffin of the Senate

and

Jordan of the House

An Act relating to juvenile detention; amending 10A O.S. 2011, Sections 2-2-503, as amended by Section 14, Chapter 404, O.S.L. 2013, 2-3-101, as last amended by Section 3, Chapter 54, O.S.L. 2015 and 2-7-601 (10A O.S. Supp. 2015, Sections 2-2-503 and 2-3-101), which relate to disposition orders, detention of child and Office of Juvenile Affairs institutions and facilities; deleting exception to certain detention; creating indirect contempt offense for violation of certain orders; providing certain punishment; modifying certain detention requirements; updating language; modifying allowable situs of certain hearings; and providing an effective date.

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

SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-2-503, as amended by Section 14, Chapter 404, O.S.L. 2013 (10A O.S. Supp. 2015, Section 2-2-503), is amended to read as follows:

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

1. The court may place the child on probation with or without supervision in the home of the child, or in the custody of a suitable person, upon such conditions as the court shall determine.

If the child is placed on probation, the court may impose a probation fee of not more than Twenty-five Dollars ($25.00) per month, if the court finds that the child or parent or legal guardian of the child has the ability to pay the fee. In counties having a juvenile bureau, the fee shall be paid to the juvenile bureau; in all other counties, the fee shall be paid to the Office of Juvenile Affairs;

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

a. If it is consistent with the welfare of the child, in cases where the child has been adjudicated to be in need of supervision due to repeated absence from school, the court may order counseling and treatment for the child and the parents of the child to be provided by the local school district, the county, the

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

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

c. In any dispositional order involving a child age sixteen (16) or older, the court shall make a

determination, where appropriate, of the services needed to assist the child to make the transition to independent living.

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

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

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

shall give to the court such information concerning the child as the court may at any time require;

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

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

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

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

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

the adjudication order to the Crime Victims Compensation Board for purposes of Section 142.11 of Title 21 of the Oklahoma Statutes. Except as otherwise provided by law, such adjudication order shall be kept confidential by the Board,

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

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

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

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

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

victim. The court may also consider any other hardship on the child, the parent or parents of the child, or legal guardian and, if consistent with the welfare of the child, require community service in lieu of restitution or require both community service and full or partial restitution for the acts of delinquency by the child.

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

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

and the court shall promptly take any action necessary to compel compliance.

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

d. order the child to pay the fine which would have been imposed had such child been convicted of such crime as

an adult. Any such fine collected pursuant to this paragraph shall be deposited in a special Work Restitution Fund to be established by the court to allow children otherwise unable to pay restitution to work in community service projects in the private or public sector to earn money to compensate their victims,

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

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

g. impose consequences, including detention as provided for in subparagraph f of this paragraph, for postadjudicatory violations of probation;

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

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

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

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

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

D. No child who has been adjudicated in need of supervision may be placed in a secure facility~~; provided, a child who has been adjudicated in need of supervision and who has willfully violated a valid court order as defined in and in compliance with the Juvenile Justice and Delinquency Prevention Act of 2002, 42 U.S.C. 5601 et seq. may be placed in secure detention~~.

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

F. The court may revoke or modify a disposition order and may order redisposition. The child whose disposition is being considered for revocation or modification at said hearing shall be afforded the following rights:

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

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

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

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

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

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

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

a. such removal is necessary to protect the public,

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

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

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

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

G. A willful violation of any provision of an order of the court issued under the provisions of the Oklahoma Juvenile Code shall constitute indirect contempt of court and shall be punishable by a fine not to exceed Three Hundred Dollars ($300.00) or placement in a juvenile detention center for not more than ten (10) days, or by both such fine and detention.

SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-3-101, as last amended by Section 3, Chapter 54, O.S.L. 2015 (10A O.S. Supp. 2015, Section 2-3-101), is amended to read as follows:

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

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

b. Whenever the court orders a child to be held in a juvenile detention facility, an order for secure detention shall remain in force and effect for not more than fifteen (15) days after such order. Upon an application of the district attorney and after a hearing on such application, the court, for good and sufficient cause shown, may extend the effective period of such an order for an additional period not to exceed fifteen (15) days after such hearing. The

total period of preadjudicatory or predisposition shall not exceed the ninety-day limitation as specified in subparagraph a of this paragraph. The child shall be present at the hearing on the application for extension unless, as authorized and approved by the court, the attorney for the child is present at the hearing and the child is available to participate in the hearing via telephone conference communication. For the purpose of this paragraph, "telephone conference communication" means use of a telephone device that allows all parties, including the child, to hear and be heard by the other parties at the hearing. After the hearing, the court may order continued detention in a juvenile detention center, may order the child detained in an alternative to secure detention or may order the release of the child from detention.

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

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

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

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

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

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

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

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

b. is on preadjudicatory community supervision, or

c. is currently on release status on a prior delinquent offense;

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

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

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

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

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

d. the child is subject to an administrative transfer or parole revocation proceeding.

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

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

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

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

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

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

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

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

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

g. the jail, adult lockup or adult detention facility meets the requirements for licensure of juvenile detention facilities, as adopted by the Office of Juvenile Affairs, is appropriately licensed, and provides sight and sound separation for juveniles, which includes:

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

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

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

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

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

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

b. Whenever the time limitations established by this subsection are exceeded, this circumstance shall not

constitute a defense in a subsequent delinquency or criminal proceeding.

3. Nothing in this section shall preclude detaining in a county jail or other adult detention facility an eighteen-year old charged in a juvenile petition for whom certification to stand trial as an adult is prayed. <u>However, if no certification motion is filed, the eighteen-year old may remain in a juvenile detention facility as long as secure detention is required.</u>

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

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

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

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

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

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

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

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

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

F. Nothing contained in this section shall in any way reduce or eliminate the liability of a county as otherwise provided by law for

injury or damages resulting from the placement of a child in a jail, adult lockup, or other adult detention facility.

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

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

I. Whenever a juvenile is placed in any jail, adult lockup, or other detention facility, the Office of Juvenile Affairs shall have access to all facilities which detain such juveniles and shall have access to any data regarding such juveniles. The Office of Juvenile Affairs shall have access to all jails, adult lockups, or other adult facilities in this state, including all data maintained by such facilities, to assure compliance with this section. The Board of Juvenile Affairs shall promulgate rules as necessary to implement the provisions of this section.

SECTION 3. AMENDATORY 10A O.S. 2011, Section 2-7-601, is amended to read as follows:

Section 2-7-601. A. In addition to the other powers and duties prescribed by law, the Office of Juvenile Affairs shall have the

following duties and powers with regard to juveniles placed in Office-operated institutions and facilities:

1. Provide for the care, education, training, treatment and rehabilitation of juveniles who are placed in the institutions and facilities. The Office shall provide for a uniform system of assessment of the reading ability of each juvenile upon initial placement in an Office-operated institution or facility. The assessment shall include, but not be limited to, the following skills:

a. the level of word decoding skills of the juvenile,

b. the level of vocabulary and spelling ability of the juvenile, and

c. the comprehension level of the juvenile.

The Office may give assistance to local school districts in providing an education to such juveniles, may supplement such education, and may provide facilities for such purposes. It shall be the duty of the Office to assure that juveniles in the aforesaid institutions and facilities receive educational services which provide each juvenile with a balanced and comprehensive reading program, which includes as its primary and foundational components:

(1) an organized, systematic, explicit skills program that may include phonics, word recognition strategies and other word decoding skills to

address the needs of the individual juvenile as determined by the entry level needs assessment,

(2) a strong language arts and comprehension program that includes a balance of oral and written language, an ongoing individualized evaluation and diagnosis that informs the teacher and an assessment that assures accountability, and

(3) writing, mathematics, science and vocational-technical education;

2. Transfer from a juvenile institution to another facility under the jurisdiction of the Office, a juvenile who has been adjudicated delinquent, if the Office believes it advisable to do so; transfer from a facility for juveniles in need of supervision to another such facility, a juvenile who has been adjudicated in need of supervision, provided that such transfer is consistent with the treatment needs of the juvenile; transfer from a juvenile institution or facility to a state school for the mentally retarded, any juvenile eligible for admission thereto, if the juvenile appears to be in need of the care and treatment provided at such school; transfer from a facility for delinquent or in need of supervision juveniles to an appropriate facility or to the Department of Mental Health and Substance Abuse Services any juvenile found by the court to be a minor in need of treatment pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act and committed to

inpatient mental health or substance abuse treatment as provided by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act. If a transfer is made pursuant to this paragraph, the Office shall comply with the notification requirements of Section 2-2-504 of this title;

3. Release on parole a juvenile previously adjudicated to be delinquent, subject to terms and conditions specified by the Office, whenever the Office determines that such release will not be detrimental to society and that the juvenile is ready to be returned to the community and revoke said parole for violation of the specified terms or conditions of parole pursuant to the provisions of this section and the rules and procedures established by the Office for such revocation;

4. Release any juvenile from a juvenile institution for placement in a group home, transitional living program, independent living program, other community-based facility or program or out-of-home care subject to terms and conditions specified by the Office; and

5. Provide parole services for juveniles released on parole from juvenile institutions, and aftercare services for juveniles discharged from juvenile institutions or facilities. Persons designated as Juvenile Parole Officers by the Office shall have the power to serve process and to apprehend and detain juveniles and make arrests in accordance with the laws of the state.

B. The transfer of a juvenile from a nonsecure placement to a secure placement shall be subject to an administrative transfer hearing and any revocation of parole shall be subject to a parole revocation hearing.

1. In any administrative transfer or parole revocation proceeding, the following minimum standards shall apply:

a. the juvenile shall have the right to notice of the proposed transfer or parole revocation hearing and the alleged violation of administrative or parole rules on which the proposed transfer or parole revocation is based,

b. the juvenile shall have the right to representation by an attorney,

c. the juvenile shall have the right to present evidence on behalf of the juvenile, and

d. the juvenile shall have a right to bail, except that ~~said~~ the right to bail shall not be construed to require that a juvenile who is in residence in an Office-operated institution or other facility at the time of an alleged violation leading to an administrative transfer proceeding be released from such institution or facility.

2. The situs of ~~said~~ the hearings shall be the county in which the alleged violation of administrative or parole rules ~~occurs~~

occurred or the county of original jurisdiction. The judge having juvenile docket jurisdiction in ~~said~~ the county shall aid the administrative transfer or parole revocation process of the Office by:

a. determining eligibility for and amount of bail;

b. deciding any intermediate custody or placement issue; and

c. if legal counsel for the juvenile has not otherwise been obtained, appointing legal counsel for the juvenile and fixing the amount of compensation for the legal counsel. ~~Said~~ The judge shall also determine if the juvenile is eligible for free legal services. If the juvenile is not eligible for free legal services, the court shall order the parents or legal guardian of the juvenile to pay for such services.

3. If legal counsel for the juvenile has not otherwise been obtained, the appointment of legal counsel for the juvenile, the setting of the amount of compensation for such counsel, and the determination of whether or not the juvenile is eligible for free legal services shall be provided for pursuant to the Indigent Defense Act; provided, however, in those counties subject to the provisions of Section 138.1 of Title 19 of the Oklahoma Statutes, the legal services shall be provided by the county indigent defender as provided by law. If the juvenile is not eligible for free legal

services, the court shall order the parents or legal guardian of the juvenile to pay for such services.

C. The Office may participate in federal programs relating to delinquent juveniles, or juveniles in need of supervision, or institutions and services for such juveniles and apply for, receive, use and administer federal funds for such purposes.

D. The Office shall receive interest earnings on the investment by the State Treasurer of monies, to be credited to an agency special account, for the benefit of and held in trust for persons placed in the custody of the Office or in residence at institutions or facilities maintained by the Office.

SECTION 4. This act shall become effective November 1, 2016.

Passed the Senate the 9th day of March, 2016.

_____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2016.

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Presiding Officer of the House of Representatives