

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 1200 By: Griffin of the Senate  
3 and  
4 Jordan of the House  
5  
6

7 An Act relating to juvenile detention; amending 10A  
8 O.S. 2011, Sections 2-2-503, as amended by Section  
9 14, Chapter 404, O.S.L. 2013, 2-3-101, as last  
10 amended by Section 3, Chapter 54, O.S.L. 2015 and 2-  
11 7-601 (10A O.S. Supp. 2015, Sections 2-2-503 and 2-3-  
12 101), which relate to disposition orders, detention  
13 of child and Office of Juvenile Affairs institutions  
14 and facilities; deleting exception to certain  
15 detention; creating indirect contempt offense for  
16 violation of certain orders; providing certain  
17 punishment; modifying certain detention requirements;  
18 updating language; modifying allowable situs of  
19 certain hearings; and providing an effective date.

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

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

6 SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-2-503, as  
7 amended by Section 14, Chapter 404, O.S.L. 2013 (10A O.S. Supp.  
8 2015, Section 2-2-503), is amended to read as follows:

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

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

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

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

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

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

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

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

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

24

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

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

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

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

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

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

- 11           a. for acts involving criminally injurious conduct as  
12 defined in Section 142.3 of Title 21 of the Oklahoma  
13 Statutes, order the child to pay a victim compensation  
14 assessment in an amount not to exceed that amount  
15 specified in Section 142.18 of Title 21 of the  
16 Oklahoma Statutes. The court shall forward a copy of  
17 the adjudication order to the Crime Victims  
18 Compensation Board for purposes of Section 142.11 of  
19 Title 21 of the Oklahoma Statutes. Except as  
20 otherwise provided by law, such adjudication order  
21 shall be kept confidential by the Board,
- 22           b. order the child to engage in a term of community  
23 service without compensation. The state or any  
24 political subdivision shall not be liable if a loss or

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

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

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

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

7 (2) Restitution may consist of monetary reimbursement  
8 for the damage or injury in the form of a lump  
9 sum or installment payments after the  
10 consideration of the court of the nature of the  
11 offense, the age, physical and mental condition  
12 of the child, the earning capacity of the child,  
13 the parent or parents of the child, or legal  
14 guardian, or the ability to pay, as the case may  
15 be. The payments shall be made to such official  
16 designated by the court for distribution to the  
17 victim. The court may also consider any other  
18 hardship on the child, the parent or parents of  
19 the child, or legal guardian and, if consistent  
20 with the welfare of the child, require community  
21 service in lieu of restitution or require both  
22 community service and full or partial restitution  
23 for the acts of delinquency by the child.  
24

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

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

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

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

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

1 e. order the cancellation or denial of driving privileges  
2 as provided by Sections 6-107.1 and 6-107.2 of Title  
3 47 of the Oklahoma Statutes,

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

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

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

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

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

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

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

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

24

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

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

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

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

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

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

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

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

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

- 19           a. such removal is necessary to protect the public,  
20           b. the child is likely to sustain harm if not immediately  
21                removed from the home,  
22           c. allowing the child to remain in the home is contrary  
23                to the welfare of the child, or  
24

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

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

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

15 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-3-101, as  
16 last amended by Section 3, Chapter 54, O.S.L. 2015 (10A O.S. Supp.  
17 2015, Section 2-3-101), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 b. is on preadjudicatory community supervision, or

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

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

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

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

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

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

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

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

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

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

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

- 8 a. the child is detained for the commission of a crime  
9 that would constitute a felony if committed by an  
10 adult, and
- 11 b. the child is awaiting an initial court appearance, and
- 12 c. the initial court appearance of the child is scheduled  
13 within twenty-four (24) hours after being taken into  
14 custody, excluding weekends and holidays, and
- 15 d. the court of jurisdiction is outside of the Standard  
16 Metropolitan Statistical Area as defined by the Bureau  
17 of Census, and
- 18 e. there is no existing acceptable alternative placement  
19 for the child, and
- 20 f. the jail, adult lockup or adult detention facility  
21 provides sight and sound separation for juveniles,  
22 pursuant to standards required by subsection E of  
23 Section 2-3-103 of this title, or

24

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

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

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

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

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

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

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

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

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

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

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

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

- 17 a. there is a reasonable belief that the person is  
18 eighteen (18) years of age or older,
- 19 b. there is a reasonable belief that a felony has been  
20 committed by the person,
- 21 c. a court order for such detention is obtained from a  
22 judge of the district court within six (6) hours of  
23 initially detaining the person,

24

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

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

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

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

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

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

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

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

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

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

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

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

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

- 5 a. the level of word decoding skills of the juvenile,
- 6 b. the level of vocabulary and spelling ability of the  
7 juvenile, and
- 8 c. the comprehension level of the juvenile.

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

- 16 (1) an organized, systematic, explicit skills program  
17 that may include phonics, word recognition  
18 strategies and other word decoding skills to  
19 address the needs of the individual juvenile as  
20 determined by the entry level needs assessment,
- 21 (2) a strong language arts and comprehension program  
22 that includes a balance of oral and written  
23 language, an ongoing individualized evaluation

24

1 and diagnosis that informs the teacher and an  
2 assessment that assures accountability, and  
3 (3) writing, mathematics, science and vocational-  
4 technical education;

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

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

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

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

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

24

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

- 3           a. the juvenile shall have the right to notice of the  
4           proposed transfer or parole revocation hearing and the  
5           alleged violation of administrative or parole rules on  
6           which the proposed transfer or parole revocation is  
7           based,
- 8           b. the juvenile shall have the right to representation by  
9           an attorney,
- 10          c. the juvenile shall have the right to present evidence  
11          on behalf of the juvenile, and
- 12          d. the juvenile shall have a right to bail, except that  
13          ~~said~~ the right to bail shall not be construed to  
14          require that a juvenile who is in residence in an  
15          Office-operated institution or other facility at the  
16          time of an alleged violation leading to an  
17          administrative transfer proceeding be released from  
18          such institution or facility.

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

- 1 a. determining eligibility for and amount of bail<sup>+</sup>,
- 2 b. deciding any intermediate custody or placement issue<sup>+</sup>,
- 3 and
- 4 c. if legal counsel for the juvenile has not otherwise
- 5 been obtained, appointing legal counsel for the
- 6 juvenile and fixing the amount of compensation for the
- 7 legal counsel. ~~Said~~ The judge shall also determine if
- 8 the juvenile is eligible for free legal services. If
- 9 the juvenile is not eligible for free legal services,
- 10 the court shall order the parents or legal guardian of
- 11 the juvenile to pay for such services.

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

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

