

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1153

By: Griffin

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5
6 AS INTRODUCED

7 An Act relating to confidentiality of juvenile
8 records; amending 10A O.S. 2011, Sections 2-2-103, 2-
9 2-402, as last amended by Section 1, Chapter 417,
10 O.S.L. 2014, 2-2-503, as amended by Section 14,
11 Chapter 404, O.S.L. 2013, 2-6-102, as last amended by
12 Section 5, Chapter 54, O.S.L. 2015, and 2-6-104 (10A
13 O.S. Supp. 2015, Section 2-2-402, 2-2-503 and 2-6-
14 102), which relate to municipal facilities,
15 adjudicative hearings, disposition orders and
16 confidential juvenile records; updating statutory
17 reference; providing for confidentiality of certain
18 municipal records; requiring certain adjudicative
19 hearings to be private; defining term; modifying
20 certain exceptions; modifying confidentiality
21 requirement for certain subsequent records;
22 authorizing disclosure of certain records for
23 specified purpose; and providing an effective date.
24

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

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

Section 2-2-103. A. 1. A municipality with a population of at
least twenty-five thousand (25,000) may, by written resolution filed
with the district court, assume jurisdiction of cases involving

1 children under eighteen (18) years of age charged with violating any
2 municipal ordinance identified in the resolution.

3 2. Any other municipality may enter into an interlocal
4 agreement with the district court pursuant to the Interlocal
5 Cooperation Act, to assume jurisdiction of cases involving children
6 under eighteen (18) years of age charged with violating any
7 municipal ordinance as agreed by the district court, the district
8 attorney and the municipality.

9 3. The chief juvenile judge of the district court judicial
10 district, or if there is no chief judge then the presiding judge of
11 the judicial administrative district, is hereby authorized to enter
12 into the interlocal agreement as provided for in this section for
13 and on behalf of said judicial district if the judge determines that
14 the agreement is constitutional and complies with state and federal
15 law.

16 B. 1. A child under eighteen (18) years of age who is taken
17 into custody for the alleged violation of a municipal ordinance
18 relating to truancy may be held pursuant to Section 10-109 of Title
19 70 of the Oklahoma Statutes.

20 2. A child under eighteen (18) years of age who is taken into
21 custody for the alleged violation of a municipal ordinance relating
22 to curfews may be held temporarily under the care of a peace officer
23 or other person employed by a police department only until the
24 parent of the child, legal guardian, legal custodian, attorney or

1 other responsible adult assumes custody or, if such a person cannot
2 be located within a reasonable time of the taking of the child into
3 custody or if such a person refuses to assume custody, until
4 temporary shelter is found for the child. The temporary custody
5 provided for by this paragraph shall be utilized as a means of
6 returning the child to the home of the child or other place of
7 shelter.

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

17 4. Notwithstanding any other provision of this Code, a child
18 less than eighteen (18) years of age, who is taken into custody for
19 the alleged violation of a municipal ordinance, and who can be
20 prosecuted in municipal court for such offense pursuant to
21 jurisdiction assumed by the municipal court pursuant to the
22 provisions of paragraph 1 of this subsection, may be temporarily
23 detained by the municipality in a municipal juvenile facility, as
24

1 defined by this section, but only pursuant to the following
2 conditions:

3 a. the municipality shall immediately take all reasonable
4 steps to attempt to locate the parent of the child,
5 legal guardian, legal custodian, attorney or another
6 responsible adult and determine if the parent, legal
7 guardian, legal custodian, attorney or other
8 responsible adult is willing to appear at the
9 municipal juvenile facility and assume personal
10 custody of the child upon the release of the child
11 from such facility,

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

- 1 c. the child shall be detained in the municipal juvenile
2 facility for no longer than twenty-four (24) hours;
3 provided, if the parent of the child, legal guardian,
4 legal custodian, attorney or other responsible adult
5 fails to appear at the municipal juvenile facility and
6 assume personal custody of the child within said
7 twenty-four-hour period, then custody or release of
8 the child shall be determined pursuant to the
9 provisions of Section ~~40~~ 2-2-101 of this ~~act~~ title,
- 10 d. the child shall be provided with adequate fresh
11 drinking water,
- 12 e. the child shall be provided with adequate food not
13 less than three times in a twenty-four-hour period,
- 14 f. the child shall be provided with adequate bathroom
15 facilities and bedding, and
- 16 g. the child shall be provided with any necessary medical
17 care and treatment.

18 C. For the purposes of this section, a "municipal juvenile
19 facility" shall mean a secure facility which is entirely separate
20 from any jail, adult lockup, or other adult facility, or is
21 spatially separate if contained inside any jail, adult lockup, or
22 other adult facility which is certified by the Office of Juvenile
23 Affairs for the temporary detention of juveniles as authorized by
24 the provisions of this section.

1 1. A municipal juvenile facility shall be certified by the
2 Office of Juvenile Affairs pursuant to the applicable certification
3 standards. The Office of Juvenile Affairs is directed to and shall
4 establish standards for certification of municipal juvenile
5 facilities to include but not be limited to the conditions set forth
6 in subparagraphs a through g of paragraph 4 of subsection B of this
7 section.

8 2. Each member of the staff of the municipal juvenile facility
9 shall have satisfactorily completed a training program provided or
10 approved by the Office of Juvenile Affairs. The Office of Juvenile
11 Affairs is directed to and shall provide or approve an appropriate
12 training program for staff members of such facilities.

13 3. A municipality may contract with an independent public or
14 private facility properly certified by the Office of Juvenile
15 Affairs for performance of the detention services authorized by the
16 provisions of this section.

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

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

22 D. 1. A child less than eighteen (18) years of age may be
23 charged, prosecuted and, if convicted, fined for violating a
24

1 municipal ordinance; provided, that the maximum fine which may be
2 imposed shall not exceed the maximum fine authorized by law.

3 2. When assessing punishment, the court also may require
4 appropriate community service work, not to exceed ninety (90) hours,
5 in lieu of or in addition to a fine if the product of multiplying
6 the number of hours of community service work by the prevailing
7 minimum wage plus any fine imposed does not result in a number which
8 exceeds the maximum fine authorized by law, or restitution, or both
9 community service work and restitution. The court may also impose
10 costs as authorized by law.

11 3. If the child fails to complete the community service, a
12 parent or guardian of the child who knew or should have known that
13 the child failed to complete the community service may be fined an
14 amount equal to the number of community service hours that are not
15 completed by the child multiplied by the hourly minimum wage amount.

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

- 17 a. fails to appear for a court date on more than one
18 occasion,
- 19 b. is convicted of two or more of the municipal offenses,
20 which offenses occurred on different days, or
- 21 c. fails to pay any fine or cost properly assessed by a
22 municipal court,

23 and after the expiration of ninety (90) days, the court clerk shall
24 mail notice of such occurrence to the Department of Public Safety,

1 which Department shall thereafter suspend or deny driving privileges
2 for such child for six (6) months. The suspension may be modified
3 as provided in Section 6-107.2 of Title 47 of the Oklahoma Statutes.
4 In addition, the court may require the child to receive counseling
5 or other community-based services, as necessary.

6 E. If a child is prosecuted for an offense in a municipal
7 court, the child shall not be prosecuted for the offense in the
8 district court.

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

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

1 ~~Municipal conviction records involving children less than eighteen~~
2 ~~(18) years of age convicted of violating municipal ordinances shall~~
3 ~~be open to public inspection.~~

4 H. Funds generated from fines paid pursuant to an interlocal
5 agreement between a municipality and the district court shall be
6 earmarked and used by the municipality only for the following
7 purposes:

8 1. To fund local programs which address problems of juvenile
9 crime;

10 2. To fund the costs of prosecutions authorized pursuant to the
11 provisions of this section;

12 3. To fund the costs of detention authorized pursuant to the
13 provisions of this section;

14 4. To fund administrative costs related to local programs that
15 address problems of juvenile crime or related to the prosecution,
16 detention, or punishment authorized pursuant to the provisions of
17 this section; and

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

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

1 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-2-402, as
2 last amended by Section 1, Chapter 417, O.S.L. 2014 (10A O.S. Supp.
3 2015, Section 2-2-402), is amended to read as follows:

4 Section 2-2-402. A. All cases of children shall be heard
5 separately from the trial of cases against adults. The adjudicative
6 hearings shall be conducted according to the rules of evidence, and
7 may be adjourned from time to time.

8 1. Except as provided by paragraph 2 of this subsection, ~~the~~
9 all adjudicative hearings shall be private; however, all persons
10 having a direct interest in the case as provided in this paragraph
11 shall be admitted. Any victim, relative, legal guardian of a
12 victim, or a person designated by the victim who is not subject to
13 the rule of sequestration as a witness of a delinquent act shall be
14 considered to have a direct interest in the case, shall be notified
15 of all court hearings involving that particular delinquent act, and
16 shall be admitted to the proceedings. The court shall, however,
17 remove all persons not having a direct interest in the case or that
18 are not the parents or legal guardian of the child from any hearing
19 where evidence of the medical or behavioral health condition of the
20 child or specific instances of deprivation are being presented.
21 Stenographic notes or other transcript of the hearings shall be kept
22 as in other cases, but they shall not be open to inspection except
23 by order of the court or as otherwise provided by law.
24

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

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

23 C. A decision determining a child to come within the purview of
24 the Oklahoma Juvenile Code shall be based on sworn testimony and the

1 child shall have the opportunity for cross-examination unless the
2 facts are stipulated or unless the child enters into a stipulation
3 that the allegations of the petition are true or that sufficient
4 evidence exists to meet the burden of proof required for the court
5 to sustain the allegations of the petition. In proceedings pursuant
6 to the Oklahoma Juvenile Code, the court may allow mileage as in
7 civil actions to witnesses and reimbursement for expert witnesses
8 but such shall not be tendered in advance of the hearing. If a
9 child is alleged to be delinquent and the facts are stipulated, the
10 judge shall ascertain from the child if the child agrees with the
11 stipulation and if the child understands the consequences of
12 stipulating the facts.

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

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

1 F. Any arrest or detention under the Oklahoma Juvenile Code or
2 any adjudication in a juvenile proceeding shall not be considered an
3 arrest, detention or conviction for purposes of employment, civil
4 rights, or any statute, regulation, license, questionnaire,
5 application, or any other public or private purposes, unless
6 otherwise provided by law.

7 SECTION 3. AMENDATORY 10A O.S. 2011, Section 2-2-503, as
8 amended by Section 14, Chapter 404, O.S.L. 2013 (10A O.S. Supp.
9 2015, Section 2-2-503), is amended to read as follows:

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

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

23 2. If it is consistent with the welfare of the child, the child
24 shall be placed with the parent or legal guardian of the child, but

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

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

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

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

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

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

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;
24

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 as defined in paragraph 2 of Section 571 of Title 57
19 of the Oklahoma Statutes, within thirty (30) days of the date of the
20 adjudication either the juvenile bureau in counties which have a
21 juvenile bureau or the Office of Juvenile Affairs in all other
22 counties shall notify the superintendent of the school district in
23 which the child is enrolled or intends to enroll of the delinquency
24 adjudication and the offense for which the child was adjudicated.

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 SECTION 4. AMENDATORY 10A O.S. 2011, Section 2-6-102, as
10 last amended by Section 5, Chapter 54, O.S.L. 2015 (10A O.S. Supp.
11 2015, Section 2-6-102), is amended to read as follows:

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

- 16 1. Juvenile court records;
- 17 2. Agency records;
- 18 3. District attorney's records;
- 19 4. Law enforcement records;
- 20 5. Nondirectory education records; and
- 21 6. Social records.

22 B. The confidentiality limitation of subsection A of this
23 section shall not apply to statistical information or information of
24

1 a general nature obtained pursuant to the provisions of the Oklahoma
2 Juvenile Code.

3 C. The confidentiality requirements of subsection A of this
4 section for juvenile court records and law enforcement records shall
5 not apply:

6 1. Upon the ~~charging or~~ certification of a juvenile as an adult
7 ~~or youthful offender;~~

8 2. ~~Upon the charging of an individual pursuant to Section 2-5-~~
9 ~~101 of this title;~~

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

16 4. ~~To a juvenile who is fourteen (14) years of age or older and~~
17 ~~who has been adjudicated delinquent and who subsequently comes~~
18 ~~before the juvenile court on a new delinquency matter after July 1,~~
19 ~~1995;~~

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

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

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

5 ~~8.~~ 3. Whenever a juvenile is accepted for placement or
6 treatment in a facility or private treatment facility within this
7 state as a result of or following a conviction or adjudication for
8 an out-of-state offense ~~that would qualify the juvenile as a~~
9 ~~youthful offender, as defined in Section 2-5-202 of this title, had~~
10 ~~the crime occurred within this state. The, the~~ facility shall
11 provide any law enforcement agency or peace officer all prior
12 criminal offense, conviction, and adjudication information. ~~If a~~ if
13 the juvenile flees or is otherwise absent from the facility without
14 permission, ~~the facility shall provide any law enforcement agency or~~
15 ~~peace officer all prior criminal offense, conviction, and~~
16 ~~adjudication information.~~ Any law enforcement agency or peace
17 officer shall have the authority to review or copy any records
18 concerning the juvenile, including prior criminal offense,
19 conviction, or adjudication information.

20 D. ~~Following the first adjudication as a delinquent, the court~~
21 ~~having jurisdiction shall note on the juvenile court record of the~~
22 ~~person that any subsequent juvenile court records shall not be~~
23 ~~confidential; provided, the child is at least fourteen (14) years of~~
24 ~~age or older. Any juvenile court record which becomes an open~~

1 ~~juvenile record as provided in this subsection may be expunged as~~
2 ~~provided in Section 2-6-109 of this title.~~

3 ~~The provisions of this subsection shall only apply to the~~
4 ~~juvenile court records and law enforcement records of juvenile~~
5 ~~offenders certified, charged or adjudicated on and after July 1,~~
6 ~~1995.~~

7 ~~E.~~ When a delinquent child has escaped or run away from a
8 secure facility or other institutional placement for delinquents,
9 the name and description of the child may be released to the public
10 by the agency having custody of the child as necessary and
11 appropriate for the protection of the public and the apprehension of
12 the delinquent child whether or not the juvenile record is
13 confidential or open.

14 ~~F.~~ E. Except as otherwise required by state or federal law, the
15 confidential records listed in subsection A of this section may only
16 be inspected, released, disclosed, corrected or expunged pursuant to
17 an order of the court. Except as otherwise provided in Section
18 601.6 of Title 10 of the Oklahoma Statutes or any provision of this
19 chapter, no subpoena or subpoena duces tecum purporting to compel
20 disclosure of confidential information or any confidential juvenile
21 record shall be valid.

22 ~~G.~~ F. An order of the court authorizing the inspection,
23 release, disclosure, or correction ~~or expungement~~ of confidential
24 records shall be entered by the court only after a review of the

1 records by the court and a determination by the court, with due
2 regard for the confidentiality of the records and the privacy of
3 persons identified in the records, that a compelling reason exists
4 and such inspection, release or disclosure is necessary for the
5 protection of a legitimate public or private interest.

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

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

20 ~~I.~~ H. Any agency or person may seek an order from the juvenile
21 court prohibiting the release of confidential information subject to
22 disclosure without an order of the court pursuant to Section 620.6
23 of Title 10 of the Oklahoma Statutes or any provision of this
24 chapter. The court may, for good cause shown, prohibit the release

1 of such information or authorize release of the information upon
2 such conditions as the court deems necessary and appropriate.

3 ~~I.~~ I. In accordance with the provisions of the Juvenile
4 Offender Tracking Program and Section 620.6 of Title 10 of the
5 Oklahoma Statutes:

6 1. Information included in the records listed in subsection A
7 of this section may be entered in and maintained in the Juvenile
8 Justice Information System and other automated information systems
9 related to services to children and youth whether or not the record
10 is confidential or open; and

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

13 ~~K.~~ J. The court may authorize a designated person to review
14 juvenile court confidential reports and records and collect
15 statistical information and other abstract information for research
16 purposes. Such authorization shall be in writing and shall state
17 specifically the type of information which may be reviewed and
18 reported.

19 Each person granted permission to inspect confidential reports
20 and records for research purposes shall present a notarized
21 statement to the court stating that the names of juveniles, parents
22 and other persons as may be required by the court to be confidential
23 will remain confidential.
24

1 ~~L.~~ K. Nothing contained in the provisions of Section 620.6 of
2 Title 10 of the Oklahoma Statutes or any provision of this chapter
3 shall be construed as:

4 1. Authorizing the inspection of records or the disclosure of
5 information contained in records relating to the provision of
6 benefits or services funded, in whole or in part, with federal
7 funds, except in accord with federal statutes and regulations
8 governing the receipt or use of such funds;

9 2. Authorizing the disclosure of information required to be
10 kept confidential by Section 7505-1.1, 7506-1.1 or 7510-1.5 of Title
11 10 of the Oklahoma Statutes, the Oklahoma Adoption Code or
12 disclosure of any other confidential record pursuant to the
13 provisions of this chapter;

14 3. Abrogating any privilege, including the attorney-client
15 privilege, or affecting any limitation on such privilege found in
16 any other statutes;

17 4. Limiting or otherwise affecting access of parties to a
18 juvenile proceeding to any records filed with or submitted to the
19 court;

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

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

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

13 ~~M. L.~~ The confidential juvenile court records, excluding social
14 records listed in subsection A of this section may be inspected and
15 their contents disclosed without a court order to the Oklahoma
16 School for the Blind, Oklahoma School for the Deaf, or a school
17 district in which the child who is the subject of the record is
18 currently enrolled or has been presented for enrollment. The
19 inspection of records and disclosure authorized by this subsection
20 may be limited to summaries or to information directly necessary for
21 the purpose of such inspection or disclosure. Upon request by the
22 Oklahoma School for the Blind, Oklahoma School for the Deaf, or a
23 school district, the agency in possession of the records shall
24 provide in writing, digitally, or by delivery to a secure facsimile

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

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

9 SECTION 5. AMENDATORY 10A O.S. 2011, Section 2-6-104, is
10 amended to read as follows:

11 Section 2-6-104. A. In accordance with the Juvenile Offender
12 Tracking Program and Section 620.6 of Title 10 of the Oklahoma
13 Statutes, the confidential records listed in subsection A of Section
14 2-6-102 of this title may be inspected and their contents disclosed
15 without a court order to:

16 1. Participating agencies;

17 2. The following, provided that the inspection of records and
18 disclosure authorized by this paragraph may be limited to summaries
19 or to information directly necessary for the purpose of such
20 inspection or disclosure:

21 a. pursuant to the provisions of this title, a person,
22 agency, hospital or clinic authorized or directed by
23 the court or by the Office of Juvenile Affairs to care
24 for, treat, examine, evaluate or supervise a child or

1 to treat, examine or evaluate the parent, legal
2 guardian or other adult person living in the home of
3 the child,

4 b. a legally recognized school that is not a
5 participating agency in which the child who is the
6 subject of the record is currently enrolled, for the
7 purpose of the development of an educational plan, and

8 c. individuals or agencies engaged in legitimate research
9 for educational, scientific or public purposes or for
10 the purpose of an audit authorized by law. No
11 information identifying the subjects of the records
12 shall be made available or disclosed unless it is
13 essential to the research or audit purpose.

14 B. Records and their contents disclosed without an order of the
15 court as provided by this section shall remain confidential. The
16 use of any information shall be limited to the purposes for which
17 disclosure is authorized. It shall be unlawful for any person to
18 furnish any confidential record or disclose any confidential
19 information contained in any juvenile record for commercial,
20 political or any other unauthorized purpose. Any person violating
21 the provisions of this subsection shall, upon conviction, be guilty
22 of a misdemeanor.

1 SECTION 6. This act shall become effective November 1, 2016.

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