

05/21/2012 03:51:00 PM

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB2741

By: Peters of the House and Burrage of the Senate

Title: Children and juvenile code; modifying circumstances that allow taking a child into custody; deleting and modifying exceptions to confidentiality requirements; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recedes from Amendment No. 1.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

HOUSE CONFEREES

Armes

Sears

Earl Sears

Billy

~~W.A.~~

Walker

Ernest D. Walker

Blackwell

Brown

Cox

Douglas G. Cox M.D.

Dank

David M. Dank

DeWitt

Hale DeWitt

Denney

Dorman

Hoskin

Liebmann

Ray Liebmann

Martin (Scott)

Scott C. Martin

McPeak

Nelson

Jason Nelson

Peters

HB2741 CCR A

SENATE CONFEREES

Ballenger



Branan


Brinkley



Burrage



Crain



David



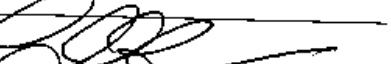
Ford



Griffin



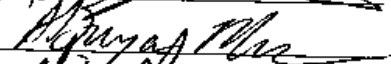
Halligan



Ivester



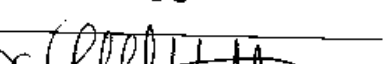
Jolley



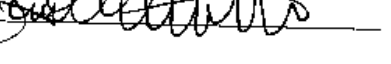
Justice



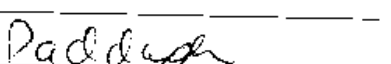
Marlatt



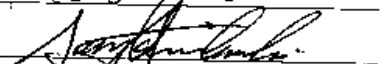
Mazzei



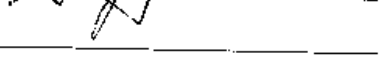
McAffrey



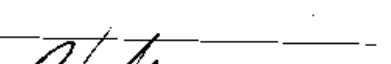
Newberry



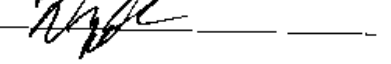
Nichols



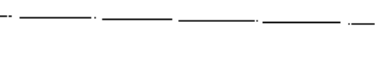
Paddack



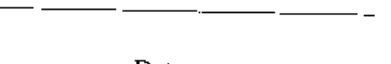
Stanislawski



Sykes



Wilson



Wyrick

House Action _____ Date _____ Senate Action _____ Date _____

House Action _____ Date _____ Senate Action _____ Date _____

STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2741

By: Peters of the House

and

Burrage, Shortey and
Ivester of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to the children and juvenile code;
amending 10A O.S. 2011, Sections 2-1-102 and 2-1-103,
which relate to the Oklahoma Juvenile Code;
clarifying legislative intent; modifying definitions;
amending 10A O.S. 2011, Sections 2-2-101, 2-2-102, 2-
2-104 and 2-2-107, which relate to custody and court
proceedings; modifying circumstances that allow
taking a child into custody; clarifying juvenile
detention requirements and case transfer procedure;
providing preliminary inquiry procedures for intake
workers; authorizing district attorneys to consult
with intake workers regarding complaints or
petitions; making diversion services available for
certain at-risk children; providing for the use of
diversion services after supervision petition filed;
prohibiting the filing of supervision petition while
participating in diversion services; requiring notice
when terminated from diversion services program;
modifying warrant requirements; construing certain
provision; amending 10A O.S. 2011, Section 2-2-301,
which relates to custodial interrogations and
appointment of counsel; providing representation for
indigent children; providing guidelines for
compensating appointed attorneys; modifying guardian
ad litem qualifications; amending 10A O.S. 2011,
Sections 2-2-402 and 2-2-404, which relate to
adjudicative hearings and delinquency proceedings;

clarifying privacy requirements for adjudicative hearings; allowing open hearings under certain circumstances; modifying circumstances that allow for the deferral of delinquency proceedings; amending 10A O.S. 2011, Sections 2-2-501, 2-2-502 and 2-2-503, which relate to treatment, service plans and dispositional hearings and orders; providing time limitation for dispositional hearings; providing guidelines for treatment and service plan assessment and evaluation process; directing the Office of Juvenile Affairs to identify risks and needs assessment instruments for treatment and service plans; construing certain provision; providing list of rights for disposition hearings; authorizing use of sanctions under certain circumstances; deleting certain redisposition guidelines; amending 10A O.S. 2011, Section 2-2-701, which relates to contempt of court violations; authorizing issuance of bench warrants; defining terms; describing contempt of court violations; modifying punishment for contempt; amending 10A O.S. 2011, Section 2-2-803, which relates to reviews and assessments of committed children; prohibiting removal of child; providing exceptions; amending 10A O.S. 2011, Section 2-3-101, which relates to conditions of confinement; modifying secure detention requirements; amending 10A O.S. 2011, Sections 2-6-101, 2-6-102 and 2-6-108, which relate to records of juvenile cases; modifying definitions; deleting and modifying exceptions to confidentiality requirements; directing court to seal records of delinquent proceedings; deleting directive to establish certain records system; amending 10A O.S. 2011, Sections 2-7-303 and 2-7-305, which relate to community-based programs and youth shelters; authorizing the use of school-based prevention programs; allowing the Office of Juvenile Affairs to enter into interlocal agreements with counties; modifying function of community intervention centers; amending 10A O.S. 2011, Section 2-7-501, which relates to probation services; directing the use of common risk and needs assessments; declaring which state officials will be the appointing authority and compact administrator for the Interstate Compact for Juveniles; creating the State Council for Interstate Juvenile Supervision; providing for membership, appointments, quarterly meetings; quorum and travel reimbursement; stating duties; providing staff

1 assistance; amending 21 O.S. 2011, Section 1283,
2 which relates to firearm possession prohibitions;
3 modifying certain prohibited act; amending 43A O.S.
4 2011, Section 5-507, which relates to the admission
5 of deprived children; clarifying manner in which
6 minor children in state custody may be admitted to
7 hospital or treatment facilities; amending 70 O.S.
8 2011, Section 24-101.3, which relates to out-of-
9 school suspensions; modifying list of acts that
10 provide for out-of-school suspensions; repealing 10
11 O.S. 2011, Sections 22 and 24, which relate to
12 personnel of state institutions and the appointment
13 of counsel; repealing 10 O.S. 2011, Sections 130.1,
14 130.2, 130.3, 130.4, 130.5, 130.6, 130.7, 130.8 and
15 130.9, which relate to detention homes for juveniles;
16 repealing 10 O.S. 2011, Sections 531, 532, 533, 534,
17 535, 536 and 537, which relate to Interstate Compact
18 on Juveniles; repealing 10 O.S. 2011, Section 1101.1,
19 which relates to placement of certain children in
20 mental health facilities; repealing 10A O.S. 2011,
21 Section 2-2-806, which relates to construction of
22 certain juvenile custody facility; providing for
23 codification; 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 2-1-102, is
amended to read as follows:

Section 2-1-102. It is the intent of the Legislature that
Article 2 of this title shall be liberally construed, to the end
that its purpose may be carried out.

The purpose of the laws relating to juveniles alleged or
adjudicated to be delinquent is to promote the public safety and
reduce juvenile delinquency. This purpose should be pursued through
means that are fair and just, that:

1. Recognize the unique characteristics and needs of juveniles;

2. Give juveniles access to opportunities for personal and social growth;
3. Maintain the integrity of substantive law prohibiting certain behavior and developing individual responsibility for lawful behavior;
4. Provide a system relying upon individualized treatment and best practices for the rehabilitation and reintegration of juvenile delinquents into society;
5. Preserve and strengthen family ties whenever possible, including improvement of home environment;
6. Remove a juvenile from the custody of parents if the welfare and safety of the juvenile or the protection of the public would otherwise be endangered;
7. Secure for any juvenile removed from the custody of parents the necessary treatment, care, guidance and discipline to assist the juvenile in becoming a responsible and productive member of society; and
8. Provide procedures through which the provisions of the law are executed and enforced and which will assure the parties fair hearings at which their rights as citizens are recognized and protected.

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

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

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

8 2. "Alternatives to secure detention" means those services and
9 facilities which are included in the State Plan for the
10 Establishment of Juvenile Detention Services adopted by the Board of
11 Juvenile Affairs and which are used for the temporary detention of
12 juveniles in lieu of secure detention in a juvenile detention
13 facility;

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

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

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

22 6. "Child" or "juvenile" means any person under eighteen (18)
23 years of age, except for any person charged and convicted for any
24 offense specified in the Youthful Offender Act or against whom

1 judgment and sentence has been deferred for such offense, or any
2 person who is certified as an adult pursuant to any certification
3 procedure authorized in the Oklahoma Juvenile Code for any offense
4 which results in a conviction or against whom judgment and sentence
5 has been deferred for such offense;

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

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

- 12 a. has repeatedly disobeyed reasonable and lawful
13 commands or directives of the parent, legal guardian,
14 or other custodian,
- 15 b. is willfully and voluntarily absent from his home
16 without the consent of the parent, legal guardian, or
17 other custodian for a substantial length of time or
18 without intent to return,
- 19 c. is willfully and voluntarily absent from school, as
20 specified in Section 10-106 of Title 70 of the
21 Oklahoma Statutes, if the juvenile is subject to
22 compulsory school attendance, or
23
24

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

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

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

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

a. screening, evaluation and assessment which includes a face-to-face screening and evaluation to establish

- 1 problem identification and to determine the risk level
2 of a child or adolescent and may result in clinical
3 diagnosis or diagnostic impression,
- 4 b. treatment planning which includes preparation of an
5 individualized treatment plan which is usually done as
6 part of the screening, evaluation and assessment,
- 7 c. treatment plan reviewing which includes a
8 comprehensive review and evaluation of the
9 effectiveness of the treatment plan,
- 10 d. individual counseling which includes face-to-face,
11 one-on-one interaction between a counselor and a
12 juvenile to promote emotional or psychological change
13 to alleviate the issues, problems, and difficulties
14 that led to a referral, including ongoing assessment
15 of the status and response of the juvenile to
16 treatment as well as psychoeducational intervention,
- 17 e. group counseling which includes a method of treating a
18 group of individuals using the interaction between a
19 counselor and two or more juveniles ~~and/or~~ or parents
20 or guardians to promote positive emotional or
21 behavioral change, not including social skills
22 development or daily living skills,
- 23 f. family counseling which includes a face-to-face
24 interaction between a counselor and the family of the

1 juvenile to facilitate emotional, psychological or
2 behavior changes and promote successful communication
3 and understanding,

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

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

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

22 j. case management and home-based services which includes
23 that part of case management services dedicated to
24 travel for the purpose of linkage, advocacy and

1 referral assistance and travel to provide counseling
2 and support services to families of children as needed
3 to support specific youth and families in self-
4 sufficiency and community tenure,

5 k. individual rehabilitative treatment which includes
6 face-to-face service provided one-on-one by qualified
7 staff to maintain or develop skills necessary to
8 perform activities of daily living and successful
9 integration into community life, including educational
10 and supportive services regarding independent living,
11 self-care, social skills regarding development,
12 lifestyle changes and recovery principles and
13 practices,

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

23 m. community-based prevention services which include
24 services delivered in an individual or group setting

1 by a qualified provider designed to meet the services
2 needs of a child or youth and family of the child or
3 youth who has been referred because of identified
4 problems in the family or community. The group
5 prevention planned activities must be focused on
6 reducing the risk that individuals will experience
7 behavioral, substance abuse or delinquency-related
8 problems. Appropriate curriculum-based group
9 activities include, but are not limited to, First
10 Offender groups, prevention and relationship
11 enhancement groups, anger management groups, life
12 skills groups, substance abuse education groups,
13 smoking cessation groups, STD/HIV groups and parenting
14 groups,

15 n. individual paraprofessional services which include
16 services delineated in the treatment plan of the
17 juvenile which are necessary for full integration of
18 the juvenile into the home and community, but do not
19 require a professional level of education and
20 experience. Activities include assisting families
21 with Medicaid applications, assisting with school and
22 General Educational Development (GED) enrollment,
23 assisting youth with independent living arrangements,
24 providing assistance with educational problems and

1 deficiencies, acting as a role model for youth while
2 engaging them in community activities, assisting youth
3 in seeking and obtaining employment, providing
4 transportation for required appointments and
5 activities, participating in recreational activities
6 and accessing other required community support
7 services necessary for full community integration and
8 successful treatment,

9 o. tutoring which includes a tutor and student working
10 together as a learning team to bring about overall
11 academic success, improved self-esteem and increased
12 independence as a learner for the student,

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

18 q. emergency shelter beds and shelter host homes which
19 include emergency shelter care for juveniles referred
20 to the program needing shelter care within the State
21 of Oklahoma,

22 r. transitional living programs which include a
23 structured program to help older homeless youth
24

- 1 achieve self-sufficiency and avoid long-term
2 dependence on social services,
- 3 s. community-at-risk services (C.A.R.S.) which include a
4 program provided to juveniles in custody or under the
5 supervision of the Office of Juvenile Affairs or a
6 juvenile bureau to prevent out-of-home placement and
7 to reintegrate juveniles returning from placements.
8 The program shall include, but not be limited to,
9 treatment plan development, counseling, diagnostic and
10 evaluation services, mentoring, tutoring, and
11 supervision of youth in independent living,
- 12 t. first offender programs which include alternative
13 diversion programs, as defined by Section 2-2-404 of
14 this title, and
- 15 u. other community-based facilities, programs or services
16 designated by the Board as core community-based
17 facilities, programs or services;

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

23 13. "Delinquent child or juvenile" means a juvenile who:
24

1 a. has violated any federal or state law or municipal
2 ordinance except a traffic statute or traffic
3 ordinance or any provision of the Oklahoma Wildlife
4 Conservation Code, the Oklahoma Vessel and Motor
5 Regulation Act or the Oklahoma Boating Safety
6 Regulation Act, or has violated any lawful order of
7 the court made pursuant to the provisions of the
8 Oklahoma Juvenile Code, or

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

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

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

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

22 17. "Graduated sanctions" means a calibrated system of
23 sanctions designed to ensure that juvenile offenders face uniform,
24 immediate, and consistent consequences that correspond to the

1 seriousness of each offender's current offense, prior delinquent
2 history, and compliance with prior interventions;

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

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

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

- 20 a. have a program which includes community participation
21 and community-based services, or
22 b. be a secure facility with a program exclusively
23 designed for a particular category of resident;
24

1 21. "Juvenile detention facility" means a secure facility which
2 meets the certification standards of the Office and which is
3 entirely separate from any prison, jail, adult lockup, or other
4 adult facility, for the temporary care of children. A juvenile
5 detention facility shall not be considered a correctional facility
6 subject to the provisions of Title 57 of the Oklahoma Statutes;

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

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

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

21 25. "Person responsible for a juvenile's health or welfare"
22 includes a parent, a legal guardian, custodian, a foster parent, a
23 person eighteen (18) years of age or older with whom the juvenile's
24 parent cohabitates or any other adult residing in the home of the

1 child, an agent or employee of a public or private residential home,
2 institution or facility, or an owner, operator, or employee of a
3 child care facility as defined by Section 402 of Title 10 of the
4 Oklahoma Statutes;

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

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

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

21 29. "Responsible adult" means a stepparent, foster parent,
22 person related to the juvenile in any manner who is eighteen (18)
23 years of age or older, or any person having an obligation and
24

1 authority to care for or safeguard the juvenile in the absence of
2 another person who is eighteen (18) years of age or older;

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

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

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

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

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

1 33. "Youth Services Agency" means a nonprofit corporation with
2 a local board of directors, officers and staff that has been
3 designated by the Board as a Youth Services Agency, that is peer
4 reviewed annually, and that provides community-based facilities,
5 programs or services to juveniles and their families in the youth
6 services service area in which it is located.

7 SECTION 3. AMENDATORY 10A O.S. 2011, Section 2-2-101, is
8 amended to read as follows:

9 Section 2-2-101. A. A child may be taken into custody prior to
10 the filing of a petition alleging that the child is delinquent or in
11 need of supervision:

12 1. By a peace officer, without a court order for any criminal
13 offense for which the officer is authorized to arrest an adult
14 without a warrant, ~~or if the child is willfully and voluntarily~~
15 ~~absent from the home of the child without the consent of the parent,~~
16 ~~legal guardian, legal custodian or other person having custody and~~
17 ~~control of the child for a substantial length of time or without~~
18 ~~intent to return,~~ or if the surroundings of the child are such as to
19 endanger the welfare of the child;

20 2. By a peace officer or an employee of the court without a
21 court order, if the child ~~is willfully and voluntarily absent~~ has
22 run away from the home ~~of the child~~ without the consent of the
23 parent, legal guardian, legal custodian or other person having
24 custody and control of the child for a substantial length of time or

1 ~~without intent to return, or if the surroundings of the child are~~
2 ~~such as to endanger the welfare of the child~~ just cause or, in the
3 reasonable conclusion of the employee of the court or peace officer,
4 appears to have run away from home without just cause. For purposes
5 of this section, a peace officer may reasonably conclude that a
6 child has run away from home when the child refuses to give his or
7 her name or the name and address of a parent or other person legally
8 responsible for the care of the child or when the peace officer has
9 reason to doubt that the name and address given by the child are the
10 actual name and address of the parent or other person legally
11 responsible for the care of the child. A peace officer or court
12 employee is authorized by the court to take a child who has run away
13 from home or who, in the reasonable opinion of the peace officer,
14 appears to have run away from home, to a facility designated for
15 such purposes if the peace officer or court employee is unable to or
16 has determined that it is unsafe to return the child to the home of
17 the child or to the custody of his or her parent or other person
18 legally responsible for the care of the child. Any such facility
19 receiving a child shall inform a parent or other person responsible
20 for the care of the child;

21 3. Pursuant to an order of the district court issued on the
22 application of the office of the district attorney. The application
23 presented by the district attorney shall be supported by a sworn
24 affidavit which may be based upon information and belief. The

1 application shall state facts sufficient to demonstrate to the court
2 that there is probable cause to believe the child has committed a
3 crime or is in violation of the terms of probation, parole or order
4 of the court;

5 4. By order of the district court pursuant to subsection ~~E~~ F of
6 this section when the child is in need of medical or behavioral
7 health treatment or other action in order to protect the health or
8 welfare of the child and the parent, legal guardian, legal custodian
9 or other person having custody or control of the child is unwilling
10 or unavailable to consent to such medical or behavioral health
11 treatment or other action; and

12 5. Pursuant to an emergency ex parte or a final protective
13 order of the district court issued at the request of a parent or
14 legal guardian pursuant to the Protection from Domestic Abuse Act.

15 Any child referred to in this subsection shall not be considered
16 to be in the custody of the Office of Juvenile Affairs.

17 B. Whenever a child is taken into custody as a delinquent child
18 ~~or a child in need of supervision pursuant to subsection A of this~~
19 ~~section~~, the child shall be detained, held temporarily in the
20 custodial care of a peace officer or other person employed by a
21 police department, or be released to the custody of the parent of
22 the child, legal guardian, legal custodian, attorney or other
23 responsible adult, upon the written promise of such person to bring
24 the child to the court at the time fixed if a petition is to be

1 filed and to assume responsibility for costs for damages caused by
2 the child if the child commits any delinquent acts after being
3 released regardless of whether or not a petition is to be filed. It
4 shall be a misdemeanor for any person to sign the written promise
5 and then fail to comply with the terms of the promise. Any person
6 convicted of violating the terms of the written promise shall be
7 subject to imprisonment in the county jail for not more than six (6)
8 months or a fine of not more than Five Hundred Dollars (\$500.00), or
9 by both such fine and imprisonment. In addition, if a parent, legal
10 guardian, legal custodian, attorney or other responsible adult is
11 notified that the child has been taken into custody, it shall be a
12 misdemeanor for such person to refuse to assume custody of the child
13 within a timely manner. If detained, the child shall be taken
14 immediately before a judge of the district court in the county in
15 which the child is sought to be detained, or to the place of
16 detention or shelter designated by the court. If no judge be
17 available locally, the person having the child in custody shall
18 immediately report the detention of the child to the presiding judge
19 of the judicial administrative district, provided that the child
20 shall not be detained in custody beyond the next judicial day or for
21 good cause shown due to problems of arranging for and transporting
22 the child to and from a secure juvenile detention center, beyond the
23 second judicial day unless the court shall so order after a
24 detention hearing to determine if there exists probable cause to

1 detain the child. The child shall be present at the detention
2 hearing or the image of the child may be broadcast to the judge by
3 closed-circuit television or any other electronic means that
4 provides for a two-way communication of image and sound between the
5 child and the judge. If the latter judge cannot be reached, such
6 detention shall be reported immediately to any judge regularly
7 serving within the judicial administrative district. If detained, a
8 reasonable bond for release shall be set. Pending further
9 disposition of the case, a child whose custody has been assumed by
10 the court may be released to the custody of a parent, legal
11 guardian, legal custodian, or other responsible adult or to any
12 other person appointed by the court, or be detained pursuant to
13 Chapter 3 of the Oklahoma Juvenile Code in such place as shall be
14 designated by the court, subject to further order.

15 C. When a child is taken into custody as a child in need of
16 supervision, the child shall be detained and held temporarily in the
17 custodial care of a peace officer or placed within a community
18 intervention center as defined in subsection D of Section 2-7-305 of
19 this title, an emergency shelter, emergency shelter host home, or be
20 released to the custody of the parent of the child, legal guardian,
21 legal custodian, attorney or other responsible adult, upon the
22 written promise of such person to bring the child to court at the
23 time fixed if a petition is to be filed. A child who is alleged or
24 adjudicated to be in need of supervision shall not be detained in

1 any jail, lockup, or other place used for adults convicted of a
2 crime or under arrest and charged with a crime.

3 D. When any child is taken into custody pursuant to this title
4 and it reasonably appears to the peace officer, employee of the
5 court or person acting pursuant to court order that the child is in
6 need of medical treatment to preserve the health of the child, any
7 peace officer, any employee of the court or person acting pursuant
8 to court order shall have the authority to authorize medical
9 examination and medical treatment for any child found to be in need
10 of medical treatment as diagnosed by a competent medical authority
11 in the absence of the parent of the child, legal guardian, legal
12 custodian, or other person having custody and control of the child
13 who is competent to authorize medical treatment. The officer or the
14 employee of the court or person acting pursuant to court order shall
15 authorize said medical treatment only after exercising due diligence
16 to locate the parent of the child, legal guardian, legal custodian,
17 or other person legally competent to authorize said medical
18 treatment. The parent of the child, legal guardian, legal
19 custodian, or other person having custody and control shall be
20 responsible for such medical expenses as ordered by the court. No
21 peace officer, any employee of the court or person acting pursuant
22 to court order authorizing such treatment in accordance with the
23 provisions of this section for any child found in need of such
24

1 medical treatment shall have any liability, civil or criminal, for
2 giving such authorization.

3 ~~D.~~ E. A child who has been taken into custody as otherwise
4 provided by this Code who appears to be a minor in need of
5 treatment, as defined by the Inpatient Mental Health and Substance
6 Abuse Treatment of Minors Act, may be admitted to a behavioral
7 health treatment facility in accordance with the provisions of the
8 Inpatient Mental Health and Substance Abuse Treatment of Minors Act.
9 The parent of the child, legal guardian, legal custodian, or other
10 person having custody and control shall be responsible for such
11 behavioral health expenses as ordered by the court. No peace
12 officer, any employee of the court or person acting pursuant to
13 court order authorizing such treatment in accordance with the
14 provisions of this section for any child found in need of such
15 behavioral health evaluation or treatment shall have any liability,
16 civil or criminal, for giving such authorization.

17 ~~E.~~ F. 1. A child may be taken into custody pursuant to an
18 order of the court specifying that the child is in need of medical
19 treatment or other action to protect the health or welfare of the
20 child and the parent, legal guardian, legal custodian, or other
21 responsible adult having custody or control of a child is unwilling
22 or unavailable to consent to such medical treatment or other action.

23 2. If the child is in need of immediate medical treatment or
24 other action to protect the health or welfare of the child, the

1 court may issue an emergency ex parte order upon application of the
2 district attorney of the county in which the child is located. The
3 application for an ex parte order may be verbal or in writing and
4 shall be supported by facts sufficient to demonstrate to the court
5 that there is reasonable cause to believe that the child is in need
6 of immediate medical treatment or other action to protect the health
7 or welfare of the child. The emergency ex parte order shall be in
8 effect until a full hearing is conducted. A copy of the
9 application, notice for full hearing and a copy of any ex parte
10 order issued by the court shall be served upon such parent, legal
11 guardian, legal custodian, or other responsible adult having custody
12 or control of the child. Within twenty-four (24) hours of the
13 filing of the application the court shall schedule a full hearing on
14 the application, regardless of whether an emergency ex parte order
15 had been issued or denied.

16 3. Except as otherwise provided by paragraph 2 of this
17 subsection, whenever a child is in need of medical treatment to
18 protect the health or welfare of the child, or whenever any other
19 action is necessary to protect the health or welfare of the child,
20 and the parent of the child, legal guardian, legal custodian, or
21 other person having custody or control of the child is unwilling or
22 unavailable to consent to such medical treatment or other action,
23 the court, upon application of the district attorney of the county
24 in which the child is located, shall hold a full hearing within five

1 (5) days of filing the application. Notice of the hearing and a
2 copy of the application shall be served upon the parent, legal
3 guardian, legal custodian, or other person having custody or control
4 of the child.

5 4. At any hearing held pursuant to this subsection, the court
6 may grant any order or require such medical treatment or other
7 action as is necessary to protect the health or welfare of the
8 child.

9 5. a. The parent, legal guardian, legal custodian, or other
10 person having custody or control of the child shall be
11 responsible for such medical expenses as ordered by
12 the court.

13 b. No peace officer, any employee of the court or person
14 acting pursuant to court order authorizing such
15 treatment in accordance with the provisions of this
16 subsection for any child found in need of such medical
17 treatment shall have any liability, civil or criminal.

18 SECTION 4. AMENDATORY 10A O.S. 2011, Section 2-2-102, is
19 amended to read as follows:

20 Section 2-2-102. A. 1. Upon the filing of a petition alleging
21 the child to be in need of supervision, or upon the assumption of
22 custody pursuant to Section 2-2-101 of this title, the district
23 court of the county shall have jurisdiction where a child:

24 a. resides,

1 b. is found, or

2 c. is alleged to be or is found to be in need of
3 supervision.

4 2. The court shall have jurisdiction of the parent, legal
5 custodian, legal guardian, stepparent of the child, or any adult
6 person living in the home of the child regardless of where the
7 parent, legal custodian, legal guardian, stepparent, or adult person
8 living in the home of the child is found.

9 3. When jurisdiction has been obtained over a child who is or
10 is alleged to be in need of supervision, such may be retained until
11 the child becomes eighteen (18) years of age.

12 4. For the convenience of the parties and in the interest of
13 justice, a proceeding under the Oklahoma Juvenile Code, Article 2 of
14 this title, may be transferred to the district court in any other
15 county. However, prior to transferring a case to a different
16 county, the court shall contact the judge in the other county to
17 confirm that the judge will accept the transfer.

18 B. 1. Upon the filing of a petition alleging the child to be
19 delinquent or upon the assumption of custody pursuant to Section 2-
20 2-101 of this title, the district court of the county where the
21 delinquent act occurred shall have jurisdiction of the child and of
22 the parent, legal custodian, legal guardian, stepparent of the child
23 or any adult person living in the home of the child regardless of
24

1 where the parent, legal custodian, legal guardian, stepparent, or
2 adult person living in the home of the child is found.

3 2. When jurisdiction has been obtained over a child who is or
4 is alleged to be a delinquent, jurisdiction may be retained until
5 the child becomes nineteen (19) years of age upon the court's own
6 motion, motion by the district attorney or motion by the Office of
7 Juvenile Affairs, as provided in Section 2-7-504 of this title.

8 3. The juvenile proceeding may be filed before the child
9 becomes eighteen (18) years of age; within one (1) year after the
10 date of the eighteenth birthday of the child if the underlying act
11 would constitute a felony if committed by an adult; or within six
12 (6) months after the date of the eighteenth birthday if the
13 underlying act would constitute a misdemeanor if committed by an
14 adult.

15 C. The district court in which a petition is filed or the
16 district court in which custody has been assumed pursuant to the
17 provisions of Section 2-2-101 of this title may retain jurisdiction
18 of a delinquent child in such proceeding notwithstanding the fact
19 that the child is subject to the jurisdiction of another district
20 court within the state. Any adjudication and disposition made by
21 the court in which said petition is filed shall control over prior
22 orders in regard to the child.

23 D. Except as otherwise provided in the Oklahoma Juvenile Code,
24 a child who is charged with having violated any state statute or

1 municipal ordinance, other than those enumerated in Section 2-5-101,
2 2-5-205 or 2-5-206 of this title, shall not be tried in a criminal
3 action but in a juvenile proceeding.

4 E. If, during the pendency of a criminal charge against any
5 person, it shall be ascertained that the person was a child at the
6 time of committing the alleged offense, the district court or
7 municipal court shall transfer the case, together with all the
8 papers, documents and testimony connected therewith, to the juvenile
9 division of the district court. The division making the transfer
10 shall order the child to be taken forthwith to the place of
11 detention designated by the juvenile division, to that division
12 itself, or release the child to the custody of a suitable person to
13 be brought before the juvenile division.

14 F. Nothing in this act shall be construed to prevent the
15 exercise of concurrent jurisdiction by another division of the
16 district court or by the municipal courts in cases involving
17 children wherein the child is charged with the violation of a state
18 or municipal traffic law or ordinance.

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

21 Section 2-2-104. A. A preliminary inquiry shall be conducted
22 to determine whether the interests of the public or of the child who
23 is within the purview of the Oklahoma Juvenile Code require that
24 further court action be taken. If it is determined by the

1 preliminary inquiry that no further action be taken and if agreed to
2 by the district attorney, the intake worker may make such informal
3 adjustment without a petition.

4 B. In the course of the preliminary inquiry, the intake worker
5 shall:

6 1. Hold conferences with the child and the parents, guardian or
7 custodian of the child for the purpose of discussing the disposition
8 of the referral made;

9 2. Interview such persons as are necessary to determine whether
10 the filing of a petition would be in the best interests of the child
11 and the community;

12 3. Check existing records of any district court or tribal
13 court, law enforcement agencies, Office of Juvenile Affairs, and
14 Department of Human Services;

15 4. Obtain existing mental health, medical and educational
16 records of the child only with the consent of the child, the
17 parents, guardian or custodian of the child or by court order; and

18 5. Administer any screening and assessment instruments or refer
19 for necessary screening and assessments to assist in the
20 determination of any immediate needs of the child as well as the
21 immediate risks to the community. All screening and assessment
22 instruments shall be uniformly used by all intake workers, including
23 those employed by juvenile bureaus, and shall be instruments
24 specifically prescribed by the Office of Juvenile Affairs.

1 C. Upon review of any information presented in the preliminary
2 inquiry, the district attorney may consult with the intake worker to
3 determine whether the interests of the child and the public will be
4 best served by the dismissal of the complaint, the information
5 adjustment of the complaint, or the filing of the petition.

6 Informal adjustment may be provided to the child by the intake
7 worker only where the facts reasonably appear to establish prima
8 facie jurisdiction and are admitted and where consent is obtained
9 from the district attorney, the parent of the child, legal guardian,
10 legal custodian, or legal counsel, if any, and the child. The
11 informal adjustment is an agreement whereby the child agrees to
12 fulfill certain conditions in exchange for not having a petition
13 filed against the child. The informal adjustment shall be completed
14 within a period of time not to exceed six (6) months and shall:

15 1. Be voluntarily entered into by all parties;

16 2. Be revocable by the child at any time by a written
17 revocation;

18 3. Be revocable by the intake worker in the event there is
19 reasonable cause to believe the child has failed to carry out the
20 terms of the informal adjustment or has committed a subsequent
21 offense;

22 4. Not be used as evidence against the child at any
23 adjudication hearing;

1 5. Be executed in writing and expressed in language
2 understandable to the persons involved; and

3 6. Become part of the juvenile record of the child.

4 ~~C.~~ D. The informal adjustment agreement under this section may
5 include, among other suitable methods, programs and procedures, the
6 following:

7 1. Participation in or referral to counseling, a period of
8 community service, drug or alcohol education or treatment,
9 vocational training or any other legal activity which in the opinion
10 of the intake officer would be beneficial to the child and family of
11 the child;

12 2. Require the child to undergo a behavioral health evaluation
13 and, if warranted, undergo appropriate care or treatment;

14 3. Restitution providing for monetary payment by the parents or
15 child to the victim who was physically injured or who suffered loss
16 of or damage to property as a result of the conduct alleged. Before
17 setting the amount of restitution, the intake officer shall consult
18 with the victim concerning the amount of damages; or

19 4. Informal adjustment projects, programs and services may be
20 provided through public or private agencies.

21 If the intake worker has reasonable cause to believe that the child
22 has failed to carry out the terms of the adjustment agreement or has
23 committed a subsequent offense, in lieu of revoking the agreement,
24 the intake worker may modify the terms of the agreement and extend

1 the period of the agreement for an additional six (6) months from
2 the date on which the modification was made with the consent of the
3 child or counsel of the child, if any.

4 ~~D.~~ E. If an informal adjustment is agreed to pursuant to
5 subsection ~~B~~ C of this section, the informal adjustment agreement
6 may require the child to pay a fee equal to no more than what the
7 court costs would have been had a petition been filed. The child
8 shall remit the fee directly to the agency responsible for the
9 monitoring and supervision of the child. If the supervising agency
10 is a juvenile bureau, then the fee shall be remitted to a revolving
11 fund of the county in which the juvenile bureau is located to be
12 designated the "Juvenile Deferral Fee Revolving Fund" and shall be
13 used by the juvenile bureau to defray costs for the operation of the
14 juvenile bureau. In those counties without juvenile bureaus and in
15 which the Office of Juvenile Affairs or one of their contracting
16 agencies provides the monitoring and supervision of the juvenile,
17 the fee shall be paid directly to the Office of Juvenile Affairs and
18 shall be used to defray the costs for the operation of the Office of
19 Juvenile Affairs.

20 SECTION 6. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2-2-104.1 of Title 10A, unless
22 there is created a duplication in numbering, reads as follows:

23 A. Diversion services shall be offered to children who are at
24 risk of being the subject of a child-in-need-of-supervision

1 petition. Diversion services shall be designed to provide an
2 immediate response to families in crisis and to divert children from
3 court proceedings. Diversion services may be provided by outside
4 agencies as designated by the district courts, juvenile bureaus,
5 court employees, or a combination thereof.

6 B. Diversion services shall clearly document diligent attempts
7 to provide appropriate services to the child and the family of the
8 child unless it is determined that there is no substantial
9 likelihood that the child and family of the child will benefit from
10 further diversion attempts.

11 C. Where the primary issue is truancy, steps taken by the
12 school district to improve the attendance or conduct of the child in
13 school shall be reviewed by the diversion service provider with the
14 child and family of the child, and attempts to engage the school
15 district in further diversion attempts shall be made if it appears
16 that such attempts will be beneficial to the child.

17 D. Efforts to prevent the filing of the petition may extend
18 until it is determined that there is no substantial likelihood that
19 the child and family of the child will benefit from further
20 attempts. Efforts at diversion may continue after the filing of the
21 petition where it is determined that the child and family of the
22 child will benefit therefrom.

23 E. A child-in-need-of-supervision petition shall not be filed
24 during the period that the designated agency, juvenile bureau, or

1 court employee is providing the diversion services. A finding that
2 the case has been successfully diverted shall constitute presumptive
3 evidence that the underlying allegations have been successfully
4 resolved.

5 F. Where possible, the designated agency, juvenile bureau, or
6 court employee shall promptly give written notice to the child and
7 family of the child whenever attempts to prevent the filing of the
8 petition have terminated and shall indicate in the notice whether
9 the efforts were successful or whether a child-in-need-of-
10 supervision petition should be filed with the court. A petition
11 shall not be filed where diversion services have been terminated
12 because the parent or other person legally responsible for the child
13 failed to consent to the diversion plan or failed to actively
14 participate in the services provided.

15 SECTION 7. AMENDATORY 10A O.S. 2011, Section 2-2-107, is
16 amended to read as follows:

17 Section 2-2-107. A. After a petition shall have been filed,
18 unless the parties provided for in this section shall voluntarily
19 appear, a summons shall be issued which shall recite briefly the
20 nature of the proceeding with the phrase "as described more fully in
21 the attached petition" and requiring the person or persons who have
22 the custody or control of the child to appear personally and bring
23 the child before the court at a time and place stated. The summons
24 shall state the relief requested, and shall set forth the right of

1 the child, parents and other interested parties to have an attorney
2 present at the hearing on the petition.

3 B. The summons shall be served on the person who has actual
4 custody of the child, and if the child has reached the age of twelve
5 (12) years, a copy shall be served on the child. If the person who
6 has actual custody of the child shall be other than a parent or
7 guardian of the child, a copy of the summons shall be served on the
8 parent or guardian, or both. A copy of the summons shall be served
9 on a custodial parent, guardian or next friend. If no parent or
10 guardian can be found, a summons shall be served on such other
11 person or persons as the court shall designate.

12 Summons may be issued requiring the appearance of any other
13 person whose presence is necessary.

14 C. If it subsequently appears that a person who should have
15 been served was not served and has not entered an appearance, the
16 court shall immediately order the issuance of a summons which shall
17 be served on said person.

18 D. Service of summons shall be made as provided for service in
19 civil actions.

20 1. The court shall not hold the hearing until at least forty-
21 eight (48) hours after the service of the summons, except with the
22 consent of the parent or guardian of the child.

23 2. If the parent of the child is not served within the state,
24 the court shall not hold the hearing until at least five (5) days

1 after the date of mailing the summons, except with the consent of
2 the parent.

3 E. If after a petition has been filed, it appears that the
4 child is in such condition or surroundings that the welfare of the
5 child requires that custody be immediately assumed by the court, the
6 judge may immediately issue a detention order or warrant authorizing
7 the taking of said child into emergency custody. Any such child
8 shall not be considered to be in the custody of the Office of
9 Juvenile Affairs.

10 F. In a delinquency proceeding, whenever a warrant for the
11 arrest of a child shall issue, it shall state the offense the child
12 is being charged with having committed; ~~in a child in need of~~
13 ~~supervision proceeding, whenever a warrant for detention of a child~~
14 ~~shall issue, it shall state the reason for detention.~~ Warrants for
15 the arrest or detention of a child shall comport with all other
16 requirements of issuance of arrest warrants for adult criminal
17 offenders.

18 G. In case the summons cannot be served, or the parties served
19 fail to obey the same, or in any case when it shall be made to
20 appear to the judge that the service will be ineffectual or that the
21 welfare of the child requires that the child should be brought into
22 the custody of the court, a warrant may be issued against the parent
23 or guardian or against the child. Nothing in this section shall be
24 construed to authorize placement of a child in secure detention who

1 is not eligible for secure detention pursuant to Section 2-3-101 of
2 this title.

3 SECTION 8. AMENDATORY 10A O.S. 2011, Section 2-2-301, is
4 amended to read as follows:

5 Section 2-2-301. A. No information gained by a custodial
6 interrogation of a youthful offender under sixteen (16) years of age
7 or a child nor any evidence subsequently obtained as a result of
8 such interrogation shall be admissible into evidence against the
9 youthful offender or child unless the custodial interrogation about
10 any alleged offense by any law enforcement officer or investigative
11 agency, or employee of the court, or employee of the Office of
12 Juvenile Affairs is done in the presence of the parents, guardian,
13 attorney, adult relative, adult caretaker, or legal custodian of the
14 youthful offender or child. No such custodial interrogation shall
15 commence until the youthful offender or child and the parents,
16 guardian, attorney, adult relative, adult caretaker, or legal
17 custodian of the youthful offender or child have been fully advised
18 of the constitutional and legal rights of the youthful offender or
19 child, including the right to be represented by counsel at every
20 stage of the proceedings, and the right to have counsel appointed by
21 the court if the parties are without sufficient financial means;
22 provided, however, that no legal aid or other public or charitable
23 legal service shall make claim for compensation as contemplated
24 herein. It is further provided that where private counsel is

1 appointed in such cases, the court shall set reasonable compensation
2 and order the payment out of the court fund. As used in this
3 section, "custodial interrogation" means questioning of a youthful
4 offender under sixteen (16) years of age or child while that
5 youthful offender or child is in law enforcement custody or while
6 that youthful offender or child is being deprived of freedom of
7 action in any significant way by a law enforcement officer, employee
8 of the court, or employee of the Office. Custodial interrogation
9 shall conform with all requirements for interrogation of adult
10 criminal offenders. The term "custodial interrogation" shall not be
11 deemed to mean questioning of a youthful offender or child by a
12 public school administrator or teacher, so long as such questioning
13 is not being conducted on behalf of a law enforcement officer, an
14 employee of the court or an employee of the Office. Any information
15 gained from noncustodial questioning of a child or youthful offender
16 by a public school administrator or teacher concerning a wrongful
17 act committed on public school property shall be admissible into
18 evidence against the youthful offender or child.

19 B. A custodial interrogation of a youthful offender over
20 sixteen (16) years of age shall conform with all the requirements
21 for the interrogation of an adult.

22 C. If the youthful offender or child is not otherwise
23 represented by counsel, whenever a petition is filed pursuant to the
24 provisions of Section 2-2-104 of this title, the court shall appoint

1 an attorney, who shall not be a district attorney, for the youthful
2 offender or child regardless of any attempted waiver by the parent
3 or other legal custodian of the youthful offender or child of the
4 right of the youthful offender or child to be represented by
5 counsel. Counsel shall be appointed by the court only upon
6 determination by the court that the parent, legal guardian or legal
7 custodian is found to be indigent. If indigency is established, the
8 Oklahoma Indigent Defense System shall represent the child in
9 accordance with Section 1355.6 of Title 22 of the Oklahoma Statutes
10 or the applicable office of the county indigent defender shall
11 represent the child in accordance with Section 138.5 of Title 19 of
12 the Oklahoma Statutes. Provided, if the parent or legal guardian of
13 a child is not indigent but refuses to employ counsel, the court
14 shall appoint counsel to represent the child at detention hearings
15 until counsel is provided. Costs of representation shall be imposed
16 on the parent or other legal custodian as provided by Section 138.10
17 of Title 19 of the Oklahoma Statutes. Thereafter, the court shall
18 not appoint counsel for a child with a nonindigent parent or legal
19 custodian and shall order the parent or legal custodian to obtain
20 private counsel. A parent or legal custodian of a nonindigent child
21 who has been ordered to obtain private counsel for the child and who
22 willfully fails to follow the court order shall be subject to
23 indirect contempt of court.

1 D. ~~Whenever a petition is filed alleging that a child is a~~
2 ~~delinquent child or a child in need of supervision, the court may~~
3 ~~appoint a guardian ad litem for the child at any time subsequent to~~
4 ~~the filing of the petition and shall appoint a guardian ad litem~~
5 ~~upon the request of the child or the attorney of the child. The~~
6 ~~guardian ad litem shall not be a district attorney, an employee of~~
7 ~~the office of the district attorney, an employee of the court, an~~
8 ~~employee of a juvenile bureau, or an employee of any public agency~~
9 ~~having duties or responsibilities towards the child~~ In all cases of
10 juvenile delinquency proceedings and appeals, adult certification
11 proceedings and appeals, reverse certification proceedings and
12 appeals, youthful offender proceedings and appeals, and any other
13 proceedings and appeals pursuant to the Oklahoma Juvenile Code,
14 except mental health proceedings and appeals, in-need-of-supervision
15 proceedings and appeals, and any other juvenile proceedings that are
16 civil in nature, and other than in counties where the office of the
17 county indigent defender is appointed, the Oklahoma Indigent Defense
18 System shall be appointed to represent indigent juveniles as
19 provided for in the Indigent Defense Act. In all other cases
20 pursuant to this title, including juvenile proceedings that are
21 civil in nature, juvenile mental health proceedings and appeals, and
22 in-need-of-supervision proceedings and appeals, with the exception
23 of proceedings in counties where the office of the county indigent
24 defender is appointed, the court shall, if counsel is appointed and

1 assigned, allow and direct to be paid from the local court fund a
2 reasonable and just compensation to the attorney or attorneys for
3 such services as they may render; provided, that any attorney
4 appointed pursuant to this subsection shall not be paid a sum in
5 excess of One Hundred Dollars (\$100.00) for services rendered in
6 preliminary proceedings, Five Hundred Dollars (\$500.00) for services
7 rendered during trial, and One Hundred Dollars (\$100.00) for
8 services rendered at each subsequent post-disposition hearing.

9 E. Counsel for the child shall advise the child and advocate
10 the expressed wishes of the child, as much as reasonably possible,
11 under the same ethical obligations as if the client were an adult.
12 Upon motion by the state, the child, the attorney for the child, or
13 a parent or legal custodian of the child, the court shall appoint a
14 guardian ad litem.

15 F. The guardian ad litem shall not be a district attorney, an
16 employee of the office of the district attorney, an employee of the
17 court, an employee of a juvenile bureau, or an employee of any
18 public agency having duties or responsibilities towards the child.

19 The guardian ad litem shall be given access to the court file and
20 access to all records and reports relevant to the case and to any
21 records and reports of examination of the child's parent or other
22 custodian, made pursuant to this section or Section ~~846~~ 1-2-101 of
23 ~~Title 21 of the Oklahoma Statutes~~ this title. Provided, nothing in
24

1 this subsection shall obligate counsel for the child to breach
2 attorney-client confidentiality with the child.

3 SECTION 9. AMENDATORY 10A O.S. 2011, Section 2-2-402, is
4 amended to read as follows:

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

9 1. Except as provided by paragraph 2 of this subsection, ~~the~~
10 all hearings shall be private ~~unless specifically ordered by the~~
11 ~~judge to be conducted in public, and;~~ however, all persons having a
12 direct interest in the case as provided in this paragraph shall be
13 admitted. Any victim, relative, legal guardian of a victim, or a
14 person designated by the victim who is not subject to the rule of
15 sequestration as a witness of a delinquent act shall be considered
16 to have a direct interest in the case ~~and,~~ shall be notified of all
17 court hearings involving that particular delinquent act ~~as provided~~
18 ~~by Section 215.33 of Title 19 of the Oklahoma Statutes,~~ and shall be
19 admitted to the proceedings. The court shall, however, remove all
20 persons having a direct interest in the case that are not the
21 parents or legal guardian of the child from any hearing, other than
22 an adjudicatory hearing, where evidence of the medical or behavioral
23 health condition of the child or specific instances of deprivation
24 are being presented. Stenographic notes or other transcript of the

1 hearings shall be kept as in other cases, but they shall not be open
2 to inspection except by order of the court or as otherwise provided
3 by law.

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

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

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

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

1 E. If the court finds that the allegations of the petition are
2 not supported by the evidence, the court shall order the petition
3 dismissed and shall order the child discharged from any detention or
4 restriction previously ordered. The parents, legal guardian or
5 other legal custodian of the child shall also be discharged from any
6 restriction or other previous temporary order.

7 SECTION 10. AMENDATORY 10A O.S. 2011, Section 2-2-404,
8 is amended to read as follows:

9 Section 2-2-404. A. A court may defer delinquency adjudication
10 proceedings or proceedings to determine if a child is in need of
11 supervision for one hundred eighty (180) days if the child:

12 1. Is alleged to have committed or attempted to commit a
13 delinquent offense ~~that if committed by an adult would be a~~
14 ~~misdemeanor or that if committed by an adult would be grand larceny~~
15 ~~of property valued at One Hundred Dollars (\$100.00) or less;~~

16 2. ~~Waives the privilege against self-incrimination and~~
17 ~~testifies, under oath,~~ Enters into a stipulation that the
18 allegations are true or that sufficient evidence exists to meet the
19 burden of proof required for the court to sustain the allegations of
20 the petition; and

21 3. Has not been previously adjudicated a delinquent.

22 B. During such period of deferral, the court may require the
23 following:
24

1 1. Participation in or referral to counseling, a period of
2 community service, drug or alcohol education or treatment,
3 vocational training or any other legal activity which would be
4 beneficial to the child and the family of the child;

5 2. Require the child to undergo a behavioral health evaluation
6 and, if warranted by the mental condition of the child, undergo
7 appropriate care or treatment;

8 3. Restitution providing for monetary payment by the parents or
9 child, or both, to the victim who was physically injured or who
10 suffered loss of or damage to property as a result of the conduct
11 alleged;

12 4. An alternative diversion program; or

13 5. Any other programs and services that may be provided through
14 public or private agencies and as approved by the court.

15 C. The court shall dismiss the case with prejudice at the
16 conclusion of the deferral period if the child presents satisfactory
17 evidence that the requirements of the court have been successfully
18 completed.

19 D. As used in this section, "alternative diversion program"
20 means a program for juveniles who have been identified by law
21 enforcement personnel, the district attorney, or the court as having
22 committed acts which are not serious enough to warrant adjudication
23 through the juvenile court process, but which do indicate a need for
24 intervention to prevent further development toward juvenile

1 delinquency. The program shall be administered, pursuant to
2 contract with the Office of Juvenile Affairs, by organizations
3 designated as youth services agencies by law.

4 SECTION 11. AMENDATORY 10A O.S. 2011, Section 2-2-501,
5 is amended to read as follows:

6 Section 2-2-501. A. ~~After~~ No later than forty (40) days after
7 making an order of adjudication, the court shall hold a
8 dispositional hearing, at which all evidence helpful in determining
9 the proper disposition best serving the interest of the child and
10 the public, including but not limited to oral and written reports,
11 may be admitted and may be relied upon to the extent of its
12 probative value, even though not competent for the purposes of the
13 adjudicatory hearing.

14 B. Before making an order of disposition, the court shall
15 advise the district attorney, the parents, guardian, custodian or
16 responsible relative, and their counsel, of the factual contents and
17 the conclusion of reports prepared for the use of the court and
18 considered by it, and afford fair opportunity, if requested, to
19 controvert them. An order of disposition shall include a specific
20 finding and order of the court relative to the liability and
21 accountability of the parents for the care and maintenance of the
22 child as authorized by Section 2-2-706 of this title, unless custody
23 is placed with the parent or parents of the child.

1 C. On its own motion or that of the district attorney, or of
2 the parent, guardian, custodian, responsible relative or counsel,
3 the court may adjourn the hearing for a reasonable period to receive
4 reports or other evidence and, in such event, shall make an
5 appropriate order for detention of the child, or release of the
6 child from detention subject to supervision by the court, during the
7 period of the continuance.

8 D. In scheduling investigations and hearings, the court shall
9 give priority to proceedings in which a child is in detention, or
10 has otherwise been removed from his home, before an order of
11 disposition has been made.

12 SECTION 12. AMENDATORY 10A O.S. 2011, Section 2-2-502,
13 is amended to read as follows:

14 Section 2-2-502. A. ~~An individual treatment and service plan~~
15 ~~shall be filed with the court within the~~ Within thirty (30) days
16 ~~after any child has been adjudicated to be delinquent or in need of~~
17 ~~supervision. Said plan shall be filed~~ adjudication, the person,
18 department or agency responsible for the supervision of the case
19 shall provide a recommendation, based upon the comprehensive
20 assessment and evaluation process, for disposition to the court and
21 counsel. The recommendation shall include, but not be limited to,
22 the child's eligibility for probation, placement in community
23 residential treatment, or commitment with the Office of Juvenile
24 Affairs.

1 B. If the recommendation is for probation, an individual
2 treatment and service plan shall be provided to the court and
3 counsel for the parties at the same time as the recommendation
4 provided for in subsection A of this section. If the recommendation
5 is for custody with the Office of Juvenile Affairs or court-ordered
6 placement in other residential treatment, the individual treatment
7 and service plan shall be provided to the court and counsel for the
8 parties within thirty (30) days after disposition. Said plan shall
9 be prepared by the person, department or agency responsible for the
10 supervision of the case or by the legal custodian if the child has
11 been removed from the custody of its lawful parent or parents. The
12 treatment and service plan shall be based on a comprehensive
13 assessment and evaluation of the child and family ~~and~~ that
14 identifies the priority needs of the child for rehabilitation and
15 treatment and identifies any needs of the parent or legal guardian
16 of the child for services that would enhance their ability to
17 provide adequate support, guidance, and supervision of the child.
18 This process may take into account the detention risk assessment
19 decision, the intake preliminary assessment, any comprehensive
20 assessment for substance abuse treatment services, behavioral health
21 services, intellectual disabilities, literary services, and other
22 educational and treatment services as components. The completed
23 assessment process shall result in an individual treatment and
24 service plan which shall include, but not be limited to:

1 1. A history of the child and family, including identification
2 of the problems leading to the adjudication;

3 2. Identification of the specific services available to the
4 child to remediate or alleviate the conditions that led to the
5 adjudication, including but not limited to educational, vocational-
6 educational, medical, drug or alcohol abuse treatment or counseling
7 or other treatment services;

8 3. Identification of the services to be provided to the parent,
9 legal guardian, legal custodian, stepparent, other adult person
10 living in the home or other family members, to remediate or
11 alleviate the conditions that led to the adjudication, including
12 services needed to assist the family to provide proper care and
13 supervision of the child;

14 4. Performance criteria that will measure the progress of the
15 child and family toward completion of the treatment and service
16 plan;

17 5. A projected date for the completion of the treatment and
18 service plan; and

19 6. The name and business address of the attorney representing
20 the child, if any.

21 ~~B.~~ C. The court shall make orders as may be necessary to ensure
22 compliance with a treatment plan adopted by the court.

23 D. The Office of Juvenile Affairs shall establish the
24 appropriate risk and needs assessment instruments used to develop

1 the individual treatment and service plan. The person, department
2 or agency responsible for supervision of the case shall be
3 responsible for making informed decisions and recommendations to
4 other agencies, the district attorney, and the courts so that the
5 child and family of the child may receive the least intrusive
6 service alternative throughout the court process.

7 E. The individual treatment and service plan shall be amended
8 as necessary and appropriate to reflect ~~the~~ any modified
9 disposition of the court that removes the child from probation
10 supervision and places the child in the custody of the Office of
11 Juvenile Affairs or any other court-ordered residential treatment.

12 The amended plan shall be ~~filed with~~ provided to the court by the
13 person, department or agency responsible for supervision of the case
14 within thirty (30) days of the order ~~of~~ modifying disposition
15 ~~removing the child from the home~~ and shall state:

16 1. The reasons for such placement and a statement as to the
17 unavailability or inappropriateness of local placement, or other
18 good cause, for any placement more than fifty (50) miles from the
19 home of the child;

20 2. The services to be provided to the child while in such
21 placement and the projected date of discharge;

22 3. The services necessary to assist the child to reintegrate
23 with the family of the child or other community-based placement; and
24

1 4. If the child is age sixteen (16) or older, the services
2 necessary to make the transition from community placement to
3 independent living.

4 ~~C.~~ F. Whenever a child who is subject to the provisions of this
5 section is committed for inpatient mental health or substance abuse
6 treatment pursuant to the Inpatient Mental Health and Substance
7 Abuse Treatment of Minors Act, the individual treatment and service
8 plan shall be amended as necessary and appropriate, ~~including to~~
9 include but not be limited to identification of the treatment and
10 services to be provided to the child and ~~his~~ the family of the child
11 upon discharge of the child from inpatient mental health or
12 substance abuse treatment.

13 SECTION 13. AMENDATORY 10A O.S. 2011, Section 2-2-503,
14 is amended to read as follows:

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

18 1. The court may place the child on probation with or without
19 supervision in the home of the child, or in the custody of a
20 suitable person, upon such conditions as the court shall determine.
21 If the child is placed on probation, the court may impose a
22 probation fee of not more than Twenty-five Dollars (\$25.00) per
23 month, if the court finds that the child or parent or legal guardian
24 of the child has the ability to pay the fee. In counties having a

1 juvenile bureau, the fee shall be paid to the juvenile bureau; in
2 all other counties, the fee shall be paid to the Office of Juvenile
3 Affairs-;

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

15 a. If it is consistent with the welfare of the child, in
16 cases where the child has been adjudicated to be in
17 need of supervision due to repeated absence from
18 school, the court may order counseling and treatment
19 for the child and the parents of the child to be
20 provided by the local school district, the county, the
21 Office or a private individual or entity. Prior to
22 final disposition, the court shall require that it be
23 shown by the appropriate school district that a child
24 found to be truant has been evaluated for learning

1 disabilities, hearing and visual impairments and other
2 impediments which could constitute an educational
3 handicap or has been evaluated to determine whether
4 the child has a disability if it is suspected that the
5 child may require special education services in
6 accordance with the Individuals with Disabilities
7 Education Act (IDEA). The results of such tests shall
8 be made available to the court for use by the court in
9 determining the disposition of the case.

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

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

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

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

11 3. The court may commit the child to the custody of a private
12 institution or agency, including any institution established and
13 operated by the county, authorized to care for children or to place
14 them in family homes. In committing a child to a private
15 institution or agency, the court shall select one that is licensed
16 by any state department supervising or licensing private
17 institutions and agencies; or, if such institution or agency is in
18 another state, by the analogous department of that state. Whenever
19 the court shall commit a child to any institution or agency, it
20 shall transmit with the order of commitment a summary of its
21 information concerning the child, and such institution or agency
22 shall give to the court such information concerning the child as the
23 court may at any time require;
24

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

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

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

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

- 17 a. for acts involving criminally injurious conduct as
18 defined in Section 142.3 of Title 21 of the Oklahoma
19 Statutes, order the child to pay a victim compensation
20 assessment in an amount not to exceed that amount
21 specified in Section 142.18 of Title 21 of the
22 Oklahoma Statutes. The court shall forward a copy of
23 the adjudication order to the Crime Victims
24 Compensation Board for purposes of Section 142.11 of

1 Title 21 of the Oklahoma Statutes. Except as
2 otherwise provided by law, such adjudication order
3 shall be kept confidential by the Board,

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

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

17 (1) The court shall notify the victim of the
18 dispositional hearing. The court may consider a
19 verified statement from the victim concerning
20 damages for injury or loss of property and actual
21 expenses of medical treatment for personal
22 injury, excluding pain and suffering. If
23 contested, a restitution hearing to determine the
24 liability of the child, the parent or parents of

1 the child, or legal guardian shall be held not
2 later than thirty (30) days after the disposition
3 hearing and may be extended by the court for good
4 cause. The parent or parents of the child or
5 legal guardian may be represented by an attorney
6 in the matter of the order for remittance of the
7 restitution by the parent or parents of the child
8 or legal guardian. The burden of proving that
9 the amount indicated on the verified statement is
10 not fair and reasonable shall be on the person
11 challenging the fairness and reasonableness of
12 the amount.

13 (2) Restitution may consist of monetary reimbursement
14 for the damage or injury in the form of a lump
15 sum or installment payments after the
16 consideration of the court of the nature of the
17 offense, the age, physical and mental condition
18 of the child, the earning capacity of the child,
19 the parent or parents of the child, or legal
20 guardian, or the ability to pay, as the case may
21 be. The payments shall be made to such official
22 designated by the court for distribution to the
23 victim. The court may also consider any other
24 hardship on the child, the parent or parents of

1 the child, or legal guardian and, if consistent
2 with the welfare of the child, require community
3 service in lieu of restitution or require both
4 community service and full or partial restitution
5 for the acts of delinquency by the child.

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

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

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

21 d. order the child to pay the fine which would have been
22 imposed had such child been convicted of such crime as
23 an adult. Any such fine collected pursuant to this
24 paragraph shall be deposited in a special Work

1 Restitution Fund to be established by the court to
2 allow children otherwise unable to pay restitution to
3 work in community service projects in the private or
4 public sector to earn money to compensate their
5 victims,

6 e. order the cancellation or denial of driving privileges
7 as provided by Sections 6-107.1 and 6-107.2 of Title
8 47 of the Oklahoma Statutes,

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

16 g. impose ~~sanctions~~ consequences, including detention as
17 provided for in subparagraph f of this paragraph, for
18 ~~the violation of preadjudicatory or postadjudicatory~~
19 ~~violations of probation~~;;

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

22 9. The court may dismiss the petition or otherwise terminate
23 its jurisdiction at any time for good cause shown~~;~~ and
24

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

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

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

8 D. ~~No~~ A child who has been adjudicated in need of supervision
9 and has not been adjudicated a delinquent child may not be placed in
10 a secure facility.

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

21 F. The court may revoke or modify a disposition order and may
22 order redispotion. The child whose disposition is being
23 considered for revocation or modification at said hearing shall ~~have~~
24 ~~the right to be represented by counsel, to present evidence on~~

1 ~~behalf of the child and to be confronted by witnesses against the~~
2 ~~child. Any revocation, modification or redispotion of the court~~
3 ~~in whole or in part shall be subject to review on appeal, as in~~
4 ~~other appeals of criminal cases. Bail may be allowed pending appeal~~
5 be afforded the following rights:

6 1. Notice by the filing of a motion for redispotion by the
7 district attorney. The motion shall be served on the child and the
8 parent or legal guardian of the child at least one (1) business day
9 prior to the hearing;

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

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

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

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

22 6. In determining whether the court should enter an order
23 removing the child from the custody of a parent or legal guardian
24 pursuant to this section, the court shall consider whether:

- 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,
- d. immediate placement of the child is in the best interests of the child, and
- e. reasonable efforts have been made to maintain the family unit to 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.

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

1 SECTION 14. AMENDATORY 10A O.S. 2011, Section 2-2-701,
2 is amended to read as follows:

3 Section 2-2-701. ~~A willful violation of any provision of an~~
4 ~~order of the court issued under the provisions of the Oklahoma~~
5 ~~Juvenile Code shall constitute~~ A. When it is determined to be in
6 the best interests of the child, the court may order a parent, legal
7 custodian, legal guardian, stepparent, or any adult person living in
8 the home to be present at or bring the child to any proceeding under
9 the provisions of the Oklahoma Juvenile Code. The court may issue a
10 bench warrant for any parent, guardian, or custodian who, without
11 good cause, fails to appear at any proceeding.

12 B. In any proceeding under the Oklahoma Juvenile Code, the
13 court may enter an order specifically requiring a parent, legal
14 custodian, legal guardian, stepparent, or any adult person living in
15 the home to participate in the rehabilitation process of a child
16 including, but not limited to, mandatory attendance at a juvenile
17 proceeding, parenting class, counseling, treatment, or an education
18 program.

19 1. Any parent, legal custodian, legal guardian, stepparent, or
20 any adult person living in the home willfully failing to comply with
21 an order issued under this section without good cause may be found
22 in indirect contempt of court.

23 2. The court may issue a bench warrant for any parent, legal
24 custodian, legal guardian, stepparent, or any adult person living in

1 the home who, without good cause, fails to appear at any juvenile
2 proceeding or court-ordered program.

3 3. For purposes of this section, "good cause" shall include,
4 but not be limited to, a situation where a parent, legal custodian,
5 legal guardian, stepparent, or any adult person:

6 a. has employment obligations that would result in the
7 loss of said employment,

8 b. does not have physical custody of the child and
9 resides outside the county of residence of the child,
10 and

11 c. resides in the county of the residence of the child
12 but is outside that county at the time of the juvenile
13 proceeding or court-ordered program for reasons other
14 than avoiding participation or appearance before the
15 court and participating or appearing in the court will
16 result in undue hardship to such parent or guardian.

17 4. Nothing in this section shall be construed to create a right
18 for any child to have his or her parent, legal custodian, legal
19 guardian, stepparent, or any adult person living in the home present
20 at any juvenile proceeding or court-ordered program at which such
21 child is present.

22 C. A parent, legal custodian, legal guardian, stepparent, or
23 any adult person living in the home may be ordered by the court to:
24

1 1. Report any probation, parole or conditional release
2 violations; or

3 2. Aid in enforcing terms and conditions of probation, parole
4 or conditional release or other orders of the court.

5 Any person placed under an order to report any probation, parole
6 or conditional release violations or aid in enforcing terms and
7 conditions of probation, parole or conditional release or other
8 orders of the court and who fails to do as ordered may be proceeded
9 against for indirect contempt of court and shall be punishable as
10 such. Punishment for any such act of contempt shall not exceed a
11 fine of Three Hundred Dollars (\$300.00), or imprisonment for not
12 more than thirty (30) days in the county jail if the violator is an
13 adult, ~~or placement in a juvenile detention center for not more than~~
14 ~~ten (10) days if the violator is a juvenile,~~ or both such fine and
15 imprisonment ~~or detention.~~ A willful violation of any provision of
16 an order of the court issued under the provisions of the Oklahoma
17 Juvenile Code by a juvenile shall constitute indirect contempt of
18 court for which punishment for any such act of contempt shall not
19 exceed a fine of Three Hundred Dollars (\$300.00), or placement in a
20 juvenile detention center for not more than ten (10) days. The
21 pursuit and prosecution of an indirect contempt of court judgment
22 shall be initiated by the district attorney.

23 D. As used in this section, "guardian" or "custodian" shall not
24 include any private or public agency having temporary or permanent

1 custody of the child. Provided, nothing in this subsection shall
2 allow said agency to fail to comply with a writ of habeas corpus
3 issued by the court.

4 SECTION 15. AMENDATORY 10A O.S. 2011, Section 2-2-803,
5 is amended to read as follows:

6 Section 2-2-803. A. The Office of Juvenile Affairs shall
7 review and assess each child committed to the Office to determine
8 the type of placement consistent with the treatment needs of the
9 child in the nearest geographic proximity to the home of the child
10 and, in the case of delinquent children, the protection of the
11 public. Such review and assessment shall include an investigation
12 of the personal and family history of the child, and his
13 environment, and any physical or mental examinations considered
14 necessary.

15 B. In making such review, the Office may use any facilities,
16 public or private, which offer aid to it in the determination of the
17 correct placement of the child.

18 C. The court shall not remove a child committed to the Office
19 of Juvenile Affairs from any placement unless it also relieves the
20 Office of Juvenile Affairs of temporary legal custody. If the court
21 relieves the Office of Juvenile Affairs of temporary legal custody,
22 the court may place the child under the supervision of the Office of
23 Juvenile Affairs.

1 SECTION 16. AMENDATORY 10A O.S. 2011, Section 2-3-101,
2 is amended to read as follows:

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

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

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

1 period of such an order for an additional period not
2 to exceed fifteen (15) days after such hearing. The
3 total period of preadjudicatory or predisposition
4 shall not exceed the ninety-day limitation as
5 specified in subparagraph a of this paragraph. The
6 child shall be present at the hearing on the
7 application for extension unless, as authorized and
8 approved by the court, the attorney for the child is
9 present at the hearing and the child is available to
10 participate in the hearing via telephone conference
11 communication. For the purpose of this paragraph,
12 "telephone conference communication" means use of a
13 telephone device that allows all parties, including
14 the child, to hear and be heard by the other parties
15 at the hearing. After the hearing, the court may
16 order continued detention in a juvenile detention
17 center, may order the child detained in an alternative
18 to secure detention or may order the release of the
19 child from detention.

20 2. No child alleged or adjudicated to be deprived or in need of
21 supervision or who is or appears to be a minor in need of treatment
22 as defined by the Inpatient Mental Health and Substance Abuse
23 Treatment of Minors Act, shall be confined in any jail, adult
24 lockup, or adult detention facility. No child shall be transported

1 or detained in association with criminal, vicious, or dissolute
2 persons.

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

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

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

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

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

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

- 4 a. is on probation or parole on a prior delinquent
5 offense,
- 6 b. is on preadjudicatory community supervision, or
- 7 c. is currently on release status on a prior delinquent
8 offense,~~or~~
- 9 ~~d.~~;

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

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

- 14 a. the child is absent from court-ordered placement
15 without approval by the court,
- 16 b. the child is absent from designated placement by the
17 Office of Juvenile Affairs without approval by the
18 Office of Juvenile Affairs, or
- 19 c. there is reason to believe the child will not remain
20 at said placement.

21 C. A child who has violated a court order and has had the order
22 revoked or modified pursuant to Section 2-2-503 of this title may be
23 placed into an Office-of-Juvenile-Affairs-designated sanction
24

1 detention bed or an Office-of-Juvenile-Affairs-approved sanction
2 program.

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

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

- 14 a. the child is detained for the commission of a crime
15 that would constitute a felony if committed by an
16 adult, and
- 17 b. the child is awaiting an initial court appearance, and
- 18 c. the initial court appearance of the child is scheduled
19 within twenty-four (24) hours after being taken into
20 custody, excluding weekends and holidays, and
- 21 d. the court of jurisdiction is outside of the Standard
22 Metropolitan Statistical Area as defined by the Bureau
23 of Census, and

- 1 e. there is no existing acceptable alternative placement
2 for the child, and
- 3 f. the jail, adult lockup or adult detention facility
4 provides sight and sound separation for juveniles,
5 pursuant to standards required by subsection E of
6 Section 2-3-103 of this title, or
- 7 g. the jail, adult lockup or adult detention facility
8 meets the requirements for licensure of juvenile
9 detention facilities, as adopted by the Office of
10 Juvenile Affairs, is appropriately licensed, and
11 provides sight and sound separation for juveniles,
12 which includes:
- 13 (1) total separation between juveniles and adult
14 facility spatial areas such that there could be
15 no haphazard or accidental contact between
16 juvenile and adult residents in the respective
17 facilities,
- 18 (2) total separation in all juvenile and adult
19 program activities within the facilities,
20 including recreation, education, counseling,
21 health care, dining, sleeping and general living
22 activities, and
23
24

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

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

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

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

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

5 3. Nothing in this section shall preclude detaining in a county
6 jail or other adult detention facility an eighteen-year old charged
7 in a juvenile petition for whom certification to stand trial as an
8 adult is prayed.

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

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

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

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

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

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

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

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

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

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

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

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

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

12 SECTION 17. AMENDATORY 10A O.S. 2011, Section 2-6-101,
13 is amended to read as follows:

14 Section 2-6-101. A. The court shall make and keep records of
15 all cases brought before the court pursuant to the Oklahoma Juvenile
16 Code. The court shall devise and cause to be printed such forms for
17 social and legal records and such other papers as may be required.

18 B. As used in the Oklahoma Juvenile Code:

19 1. "Records" or "record" shall include but not be limited to
20 written or printed documents, papers, logs, reports, files, case
21 notes, films, photographs, audio or visual tape recordings
22 pertaining to a juvenile proceeding or a child, and shall include
23 information entered into and maintained in an automated or
24 computerized information system;

1 2. "Juvenile court record" means legal and social records other
2 than adoption records, including but not limited to agency, law
3 enforcement and district attorney's records, filed with the court
4 that are related to a child who is the subject of a court proceeding
5 pursuant to the Oklahoma Juvenile Code;

6 3. "Agency record" means records prepared, obtained or
7 maintained by a public or private agency with regard to a child who
8 is or has been under its care, custody or supervision or with regard
9 to a family member or other person living in the home of such child
10 and shall include but not be limited to:

11 a. any study, plan, recommendation, assessment or report
12 made or authorized to be made by such agency for the
13 purpose of determining or describing the history,
14 diagnosis, custody, condition, care or treatment of
15 such child, or

16 b. any records made in the course of any investigation or
17 inquiry conducted by an agency to determine whether a
18 child is a delinquent child or a child in need of
19 supervision;

20 4. "District attorney's records" means any records prepared or
21 obtained by an office of a district attorney relating to a juvenile
22 case and any records prepared or obtained for the prosecution of
23 crimes against children that constitute a legal or social record of
24 a child;

1 5. "Law enforcement records" means any contact, incident or
2 similar reports, arrest records, disposition records, detention
3 records, fingerprints, or photographs related to a child and shall
4 include but not be limited to reports of investigations or inquiries
5 conducted by a law enforcement agency to determine whether a child
6 is or may be subject to the provisions of this chapter as a
7 delinquent child or a child in need of supervision. Law enforcement
8 records pertaining to juveniles shall be maintained separately from
9 records pertaining to adults;

10 6. "Nondirectory education records" means any records
11 maintained by a public or private school, including a technology
12 center school, regarding a child who is or has been a student at the
13 school which are categorized as private or confidential records
14 pursuant to the federal Family Educational Rights and Privacy Act of
15 1974 and any rules promulgated pursuant to the act;

16 7. "Legal record" means any petition, docket, motion, finding,
17 order, judgment, pleading, certification study, paper or other
18 document, other than social records, filed with the court;

19 8. "Social record" means family social histories, medical
20 reports, psychological and psychiatric evaluations or assessments,
21 clinical or other treatment reports, educational records, or home
22 studies, even if attached to court reports prepared by the agency;
23 and
24

1 9. "Participating agency" means any public or private agency
2 that has entered into a contract or an interagency agreement under
3 the Interlocal Cooperation Act in accordance with the rules and
4 guidelines adopted pursuant to Section 620.6 of Title 10 of the
5 Oklahoma Statutes or the Juvenile Offender Tracking Program for the
6 purpose of accessing and sharing information necessary for the care,
7 treatment, and supervision of children and youth.

8 SECTION 18. AMENDATORY 10A O.S. 2011, Section 2-6-102,
9 is amended to read as follows:

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

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

20 B. The confidentiality limitation of subsection A of this
21 section shall not apply to statistical information or information of
22 a general nature obtained pursuant to the provisions of the Oklahoma
23 Juvenile Code.

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

4 1. Upon the ~~charging or~~ certification or sentencing of a
5 juvenile as an adult or youthful offender;

6 2. ~~Upon the charging of an individual pursuant to Section 2-5-~~
7 ~~101 of this title;~~

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

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

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

22 6. ~~To arrest records of a juvenile arrested for committing an~~
23 ~~act, which if committed by an adult, would be a felony offense;~~
24

1 ~~7.~~ 3. To a violation of the Prevention of Youth Access to
2 Tobacco Act; or

3 ~~8.~~ 4. Whenever a juvenile is accepted for placement or
4 treatment in a facility or private treatment facility within this
5 state as a result of or following a conviction or adjudication for
6 an out-of-state offense that would qualify the juvenile as a
7 youthful offender, as defined in Section 2-5-202 of this title, had
8 the crime occurred within this state. The facility shall provide
9 any law enforcement agency or peace officer all prior criminal
10 offense, conviction, and adjudication information. If ~~a~~ the
11 juvenile flees or is otherwise absent from the facility without
12 permission, the facility shall provide any law enforcement agency or
13 peace officer all prior criminal offense, conviction, and
14 adjudication information. Any law enforcement agency or peace
15 officer shall have the authority to review or copy any records
16 concerning the juvenile, including prior criminal offense,
17 conviction, or adjudication information.

18 D. Following the first adjudication as a delinquent, the court
19 having jurisdiction shall note on the juvenile court record of the
20 person that any subsequent juvenile court records shall not be
21 confidential; provided, the child is at least fourteen (14) years of
22 age or older. Any juvenile court record which becomes an open
23 juvenile record as provided in this subsection may be expunged as
24 provided in Section 7307-1.8 of this title.

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

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

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

G. An order of the court authorizing the inspection, release, disclosure, correction or expungement of confidential records shall be entered by the court only after a review of the records by the court and a determination by the court, with due regard for the confidentiality of the records and the privacy of persons identified

1 in the records, that a compelling reason exists and such inspection,
2 release or disclosure is necessary for the protection of a
3 legitimate public or private interest.

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

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

18 I. Any agency or person may seek an order from the juvenile
19 court prohibiting the release of confidential information subject to
20 disclosure without an order of the court pursuant to Section 620.6
21 of Title 10 of the Oklahoma Statutes or any provision of this
22 chapter. The court may, for good cause shown, prohibit the release
23 of such information or authorize release of the information upon
24 such conditions as the court deems necessary and appropriate.

1 J. In accordance with the provisions of the Juvenile Offender
2 Tracking Program and Section 620.6 of Title 10 of the Oklahoma
3 Statutes:

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

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

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

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

22 L. Nothing contained in the provisions of Section 620.6 of
23 Title 10 of the Oklahoma Statutes or any provision of this chapter
24 shall be construed as:

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

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

11 3. Abrogating any privilege, including the attorney-client
12 privilege, or affecting any limitation on such privilege found in
13 any other statutes;

14 4. Limiting or otherwise affecting access of parties to a
15 juvenile proceeding to any records filed with or submitted to the
16 court;

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

21 6. Prohibiting the Office of Juvenile Affairs from summarizing
22 the outcome of an investigation to the person who reported a known
23 or suspected instance of child abuse or neglect; or
24

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

10 M. The confidential records listed in subsection A of this
11 section may be inspected and their contents disclosed without a
12 court order to a school district in which the child who is the
13 subject of the record is currently enrolled or has been presented
14 for enrollment. The inspection of records and disclosure authorized
15 by this subsection may be limited to summaries or to information
16 directly necessary for the purpose of such inspection or disclosure.
17 Upon request by the school district, the agency in possession of the
18 records shall provide in writing, digitally, or by delivery to a
19 secure facsimile line, the requested information to the school
20 district within five (5) business days upon receipt of the request.
21 Any records disclosed as provided by this subsection shall remain
22 confidential. The use of any information shall be limited to the
23 purposes for which disclosure is authorized.

1 N. The records of a case for which a petition is not filed
2 shall be subject to the provisions of Chapter 6 of the Oklahoma
3 Juvenile Code.

4 O. The provisions of this section shall only apply to the
5 juvenile court records and law enforcement records of juvenile
6 delinquents or youthful offenders charged or adjudicated on or after
7 November 1, 2012.

8 SECTION 19. AMENDATORY 10A O.S. 2011, Section 2-6-108,
9 is amended to read as follows:

10 Section 2-6-108. A. No adjudication by the court upon the
11 status of a child in a juvenile proceeding shall operate to impose
12 any of the civil disabilities ordinarily resulting from conviction
13 of a crime, nor shall a child be deemed a criminal by reason of a
14 juvenile adjudication.

15 B. The court may sua sponte, upon motion by the state or upon
16 motion by the alleged delinquent, order the records of a person
17 alleged to be delinquent to be sealed as follows:

18 1. When the person has been alleged to be delinquent and:

19 a. one (1) year has elapsed from the later of:

20 (1) dismissal or closure of the case by the court, or

21 (2) notice to the court by the Office of Juvenile

22 Affairs or a juvenile bureau of final discharge

23 of such person from the supervision of the Office

24 of Juvenile Affairs or juvenile bureau, and

1 b. the person has not been found guilty of or admitted to
2 the commission of a subsequent criminal offense in
3 either a juvenile or adult proceeding, and

4 c. no juvenile or adult proceeding for a criminal offense
5 is pending;

6 2. When a juvenile court intake has been completed and:

7 a. the case has been dismissed, or

8 b. no petition has been filed pending fulfillment of
9 conditions of a voluntary probation, or

10 c. a petition has been filed but no adjudication has
11 occurred pending the fulfillment of conditions of a
12 preadjudicatory probation;

13 3. When a juvenile participates in a court-approved alternative
14 diversion program for first-time offenders and:

15 a. the juvenile presents satisfactory evidence to the
16 court that the juvenile has successfully completed the
17 program, and

18 b. the court dismisses the case at the conclusion of the
19 deferral period; or

20 4. When a juvenile participates in a court-approved military
21 mentor program and:

22 a. the juvenile presents satisfactory evidence to the
23 court that the juvenile has successfully completed the
24 program, and

1 b. the court dismisses the case at the conclusion of the
2 deferral period.

3 The records may be sealed one (1) year after such dismissal or
4 completion of the conditions of a voluntary or preadjudicatory
5 probation, alternative diversion program for first-time offenders,
6 or military mentor program or upon the person attaining the age of
7 eighteen (18) years in the discretion of the court. Upon the
8 sealing of any record of a person alleged to be delinquent pursuant
9 to this title, the record and official actions subject to the order
10 shall be deemed never to have occurred, and the person who is the
11 subject of the record and all juvenile justice agencies may properly
12 reply upon any inquiry in the matter that no such action ever
13 occurred and no such record exists with respect to such person.

14 C. The Administrative Office of the Courts shall establish on
15 or before January 1, 1994, a system for sealing records as required
16 by subsection B of this section and records shall be sealed in
17 accordance with the procedures established pursuant to said system.

18 D. ~~Upon the sealing of any record of a person alleged to be~~
19 ~~delinquent pursuant to this title, the record and official actions~~
20 ~~subject to the order shall be deemed never to have occurred, and the~~
21 ~~person who is the subject of the record and all juvenile justice~~
22 ~~agencies may properly reply upon any inquiry in the matter that no~~
23 ~~such action ever occurred and no such record exists with respect to~~
24 ~~such person.~~

1 ~~E.~~ 1. ~~Upon the entry of an order to seal a juvenile court~~
2 ~~record, the~~ The court clerk shall seal the juvenile court record
3 indicated in the court's order, except that a confidential index
4 shall be maintained for the purpose of locating records subject to
5 inspection or release pursuant to subsection ~~G~~ F of this section.

6 2. When notified by the court clerk of a court order sealing a
7 juvenile court record, the law enforcement agency having records
8 pertaining to the person shall seal the records as ordered, except
9 basic identification information shall be maintained.

10 3. Except where such documents are necessary to maintain state
11 or federal funding, the juvenile court personnel records pertaining
12 to the person shall be sealed.

13 ~~F.~~ E. Members of the judiciary, district attorneys, the
14 defendant, the defendant's counsel and employees of juvenile
15 bureaus, the Office of Juvenile Affairs assigned juvenile court
16 intake responsibilities, and the Department of Corrections may
17 access records that have been sealed pursuant to this section
18 without a court order for the purpose of determining whether to
19 dismiss an action, seek a voluntary probation, file a petition, or
20 for purposes of sentencing or placement in a case where the person
21 who is the subject of the sealed record is alleged to have committed
22 a subsequent juvenile delinquent act or any adult criminal offense.
23 Provided, any record sealed pursuant to this section may be used in
24

1 a subsequent juvenile delinquent or adult prosecution only after the
2 issuance of a court order unsealing the record.

3 ~~G.~~ F. The court may issue an order unsealing sealed juvenile
4 court records, for use for the following purposes:

5 1. In subsequent cases against the same child pursuant to this
6 title;

7 2. In an adult criminal proceeding pursuant to Section 2-2-403
8 or 2-5-101 of this title;

9 3. Upon conviction of a criminal offense in an adult
10 proceeding, in connection with the sentencing of such person;

11 4. If the person is placed in the custody or under the
12 supervision of the Department of Corrections;

13 5. In accordance with the guidelines adopted pursuant to the
14 Juvenile Offender Tracking Program and Section 620.6 of Title 10 of
15 the Oklahoma Statutes, for maintaining juvenile justice and criminal
16 justice statistical information;

17 6. For the purpose of a criminal investigation; or

18 7. When the court finds that there is a compelling reason and
19 it is in the interest of justice to order the record unsealed.

20 ~~H.~~ G. Any person or agency having a legitimate interest in a
21 delinquency case or proceeding may petition the court for an order
22 unsealing a juvenile court record. Upon the filing of a petition to
23 unseal any juvenile court record, the court shall set a date for a
24 hearing and shall provide thirty (30) days' notice to all interested

1 parties. The hearing may be closed at the ~~court's~~ discretion of the
2 court. If, after a hearing, the court determines that there is any
3 reason enumerated in subsection ~~G~~ F of this section and it is
4 necessary for the protection of a legitimate public or private
5 interest to unseal the records, the court shall order the record
6 unsealed.

7 ~~I.~~ H. Any record ordered to be sealed pursuant to this section,
8 if not unsealed within ten (10) years of the order, shall be
9 obliterated or destroyed at the end of the ten-year period.

10 SECTION 20. AMENDATORY 10A O.S. 2011, Section 2-7-303,
11 is amended to read as follows:

12 Section 2-7-303. The Office of Juvenile Affairs, in its role as
13 planner and coordinator for juvenile justice and delinquency
14 prevention services, is hereby authorized to and shall enter into
15 contracts for the establishment and maintenance of community-based
16 facilities, services and programs which may include, but are not
17 limited to: Emergency shelter, diagnosis, crisis intervention,
18 counseling, group work, case supervision, job placement, school-
19 based prevention programs, alternative diversion programs for first-
20 time offenders and for youth alleged or adjudicated to be in need of
21 supervision, recruitment and training of volunteers, consultation,
22 case management services, and agency coordination with emphasis on
23 keeping youth with a high potential for delinquency out of the
24 traditional juvenile justice process and community intervention

1 centers. The Office of Juvenile Affairs shall enter into contracts
2 with Youth Services Agencies for core community-based facilities,
3 programs and services based on need as indicated in its State Plan
4 for Youth Services Agencies.

5 SECTION 21. AMENDATORY 10A O.S. 2011, Section 2-7-305,
6 is amended to read as follows:

7 Section 2-7-305. A. The Office of Juvenile Affairs is
8 authorized to enter into contracts to establish or maintain
9 community-based youth service programs, shelters and community
10 intervention centers out of local, state and federal monies.

11 B. The Office of Juvenile Affairs shall take all necessary
12 steps to develop and implement a diversity of community services and
13 community-based residential care as needed to provide for adequate
14 and appropriate community-based care, treatment and rehabilitation
15 of children in the care, custody, and supervision of the Office of
16 Juvenile Affairs. Such community services and residential care
17 shall be consistent with the treatment needs of the child and the
18 protection of the public.

19 1. The Office of Juvenile Affairs shall, to the extent
20 reasonable and practicable, provide community-based services,
21 community residential care and community intervention centers to
22 children in the custody of the Office of Juvenile Affairs through
23 financial agreements, as authorized in Sections 2-7-303 and 2-7-304
24 of this title.

1 2. The Office of Juvenile Affairs shall establish procedures
2 for the letting of grants or contracts, and the conditions and
3 requirements for the receipt of such grants or contracts, for
4 community-based services, community residential care and community
5 intervention centers. A copy of such procedures shall be made
6 available to any member of the general public upon request.

7 C. Any state agency letting grants or contracts for the
8 establishment of community residential care or treatment facilities
9 for children shall require, as a condition for receipt of such
10 grants or contracts, documented assurance from the agency or
11 organization establishing such facility that appropriate
12 arrangements have been made for providing the educational services
13 to which residents of the facility are entitled pursuant to state
14 and federal law.

15 D. 1. The Office of Juvenile Affairs shall implement programs
16 for establishment and continued operation of community intervention
17 centers. The centers shall be established pursuant to interlocal
18 agreements between one or more municipalities or one or more
19 counties and the Office of Juvenile Affairs pursuant to rules
20 promulgated by the Office. The municipality or county may enter
21 into subcontracts with one or more service providers, subject to the
22 approval by the Office of Juvenile Affairs. The service provider,
23 whether a municipality, county or other entity, must have access to
24 the management information system provided for in Section 2-7-308 of

1 this title and must employ qualified staff, as determined by the
2 Office of Juvenile Affairs.

3 2. The community intervention center shall serve as a short-
4 term reception facility to receive and hold juveniles who have been
5 taken into custody by law enforcement agencies for the alleged
6 violation of a municipal ordinance or state law or who are alleged
7 to be in need of supervision and for whom detention is inappropriate
8 or unavailable. The community intervention center may be a secure
9 facility. Juveniles held in the community intervention facility
10 shall not be isolated from common areas other than for short-term
11 protective holding for combative or self-destructive behavior, as
12 defined by the Office of Juvenile Affairs.

13 3. Juveniles shall not be held in a community intervention
14 center for more than twenty-four (24) hours.

15 4. The community intervention center shall perform the
16 following functions:

- 17 a. enter demographic information into the management
18 information system provided for in Section 2-7-308 of
19 this title,
- 20 b. immediately notify the parents or parent, guardian, or
21 other person legally responsible for the juvenile's
22 care, or if such legally responsible person is
23 unavailable the adult with whom the juvenile resides,

1 that the juvenile has been taken into custody and to
2 pick up the juvenile, ~~and~~

3 c. hold juveniles until they can be released to a parent,
4 guardian, or other responsible adult or until a
5 temporary placement can be secured, but in no event
6 for longer than twenty-four (24) hours, and

7 d. ensure that a written promise is executed by the
8 parent, guardian, or other responsible adult to bring
9 the child to court at the time fixed if a petition is
10 to be filed.

11 5. The community intervention center may perform the following
12 functions:

13 a. gather information to determine if the juvenile is in
14 need of immediate medical attention,

15 b. conduct an initial assessment pursuant to rules
16 promulgated by the Office of Juvenile Affairs. Such
17 initial assessment may be given without parental
18 consent if the juvenile agrees to participate in the
19 assessment, and

20 c. conduct an assessment pursuant to a Problem Behavior
21 Inventory or a Mental Status Checklist or an
22 equivalent assessment instrument authorized by rules
23 promulgated by the Office of Juvenile Affairs, if
24 written permission to do so is obtained from the

1 parent, guardian or other person legally responsible
2 for the care of the juvenile. Such person and the
3 juvenile may review the assessment instrument prior to
4 the assessment process, must be informed that
5 participation in the assessment is voluntary and that
6 refusal to participate shall not result in any
7 penalty, and must sign a written acknowledgment that
8 they were given an opportunity to review the
9 assessment instrument. The assessment shall be used
10 to develop recommendations to correct the behavior of
11 the juvenile, to divert the progression of the
12 juvenile into the juvenile justice system, to
13 determine if the juvenile is in need of nonemergency
14 medical treatment, and to determine if the juvenile is
15 the victim of violence. Information derived from the
16 assessment shall not be used in any phase of
17 prosecution but may be used by the court following
18 adjudication for the dispositional order and may be
19 used for referrals to social services.

20 6. A juvenile alleged to have committed an offense which would
21 be a felony if committed by an adult may be fingerprinted at a
22 community intervention center. No other juveniles shall be
23 fingerprinted at community intervention centers.
24

1 7. Community intervention centers shall be certified pursuant
2 to standards established and rules promulgated by the Office of
3 Juvenile Affairs.

4 SECTION 22. AMENDATORY 10A O.S. 2011, Section 2-7-501,
5 is amended to read as follows:

6 Section 2-7-501. A. The Office of Juvenile Affairs shall
7 provide intake and probation services for juveniles in all counties
8 not having a juvenile bureau and parole services in all counties of
9 the state and may enter into agreements to supplement probationary
10 services to juveniles in any county. The Office of Juvenile Affairs
11 may participate in federal programs for juvenile probation officers,
12 and may apply for, receive, use and administer federal funds for
13 such purpose.

14 B. A pre-adjudicatory substance abuse assessment of a child may
15 be conducted in conjunction with a court intake or preliminary
16 inquiry pursuant to an alleged delinquent act or upon admission to a
17 juvenile detention facility through the use of diagnostic tools
18 including, but not limited to, urinalysis, structured interviews or
19 substance abuse projective testing instruments.

20 1. Information gained from the substance abuse assessment
21 pursuant to this subsection shall be used only for substance abuse
22 treatment and for no other purpose. The results shall not be used
23 in any evidentiary or fact-finding hearing in a juvenile proceeding
24

1 or as the sole basis for the revocation of a community-based
2 placement or participation in a community-based program.

3 2. The results of the substance abuse assessment may be given
4 to the intake, probation or parole counselor of the child, the
5 parent or guardian of the child or to the attorney of the child. In
6 accordance with the Juvenile Offender Tracking Program and Section
7 620.6 of Title 10 of the Oklahoma Statutes, the counselor may also
8 provide the results of the substance abuse assessment to medical
9 personnel, therapists, school personnel or others for use in the
10 treatment and rehabilitation of the child.

11 C. The Office of Juvenile Affairs and the juvenile bureaus
12 shall implement:

13 1. ~~Court~~ Use of a common court intake risk-assessment risk and
14 needs assessment for children alleged or adjudicated to be
15 delinquent;

16 2. The imposition of administrative sanctions for the violation
17 of a condition of probation or parole;

18 3. A case management system for ensuring appropriate:

- 19 a. diversion of youth from the juvenile justice system,
- 20 b. services for and supervision of all youth on pre-
21 adjudicatory or postadjudicatory probation or on
22 parole, and for juvenile offenders in the custody of
23 the Office of Juvenile Affairs, and
24

1 c. intensive supervision of juvenile offenders and
2 communication between law enforcement and juvenile
3 court personnel and others regarding such offenders;
4 and

5 4. Guidelines for juvenile court personnel recommendations to
6 district attorneys regarding the disposition of individual cases by
7 district attorneys.

8 D. 1. The Office of Juvenile Affairs shall establish directly
9 and by contract, services including, but not limited to:

- 10 a. misdemeanor and nonserious first-time offender
11 programs,
12 b. tracking and mentor services,
13 c. weekend detention,
14 d. five-day out-of-home sanction placements,
15 e. short-term thirty-day intensive, highly structured
16 placements,
17 f. transitional programs,
18 g. substance abuse treatment and diagnostic and
19 evaluation programs, and
20 h. day treatment programs.

21 2. In implementing these services, the Office of Juvenile
22 Affairs shall give priority to those areas of the state having the
23 highest incidences of juvenile crime and delinquency.
24

1 E. 1. The following entities shall conduct, upon adjudication
2 of a child as a delinquent or in need of supervision unless such
3 child has been previously assessed within the six (6) months prior
4 to such intake, a literacy skills assessment:

- 5 a. the Office of Juvenile Affairs,
- 6 b. a first-time offender program within a designated
7 youth services agency,
- 8 c. any metropolitan county juvenile bureau, or
- 9 d. any county operating a juvenile bureau.

10 2. Such assessment shall be conducted through the use of
11 diagnostic tools which include, but are not limited to:

- 12 a. structured interviews,
- 13 b. standardized literacy testing instruments which
14 measure the educational proficiency of the child, and
- 15 c. any other measure used to determine:
 - 16 (1) whether a child is reading at an age-appropriate
17 level, and
 - 18 (2) the capacity of the child to read at such level.

19 3. The results of the literacy skills assessment required
20 pursuant to this subsection shall be made available to the court by
21 the district attorney for use in the disposition phase; provided,
22 however, the results shall not be used in any evidentiary or fact-
23 finding hearing in a juvenile proceeding to determine whether a
24 juvenile should be adjudicated. Provided, further, such results

1 shall not be used as the sole basis for the revocation of a
2 community-based placement or participation in a community-based
3 program.

4 4. a. Upon request, the results of the literacy skills
5 assessment shall be given to the following:

- 6 (1) the child's intake, probation or parole
7 counselor,
8 (2) the parent or guardian of the child, or
9 (3) the child's attorney.

10 b. In accordance with the Juvenile Offender Tracking
11 Program and Section 620.6 of Title 10 of the Oklahoma
12 Statutes, the counselor may also provide the results
13 of the literacy skills assessment to therapists,
14 school personnel or others for use in the training and
15 rehabilitation of the child.

16 5. a. If the child is a juvenile placed in an institution or
17 facility operated by the Office of Juvenile Affairs,
18 the child shall be assessed and a literacy improvement
19 program shall be implemented in accordance with
20 Sections 2-7-601 and 2-7-603 of this title.

21 b. If the child is adjudicated delinquent or in need of
22 supervision or is being detained as part of a deferral
23 of prosecution agreement, deferral to file agreement
24 or a deferral sentence agreement, and the results of

1 the literacy skills assessment show that the child is
2 not reading at an age-appropriate level but has the
3 capacity to improve his or her reading skills, the
4 child shall be required to actively participate in a
5 literacy skills improvement program which may include,
6 but not be limited to, a program of instruction
7 through a public or private school, including any
8 technology center school, of this state or any other
9 state. The child shall provide documentation of
10 substantial quantifiable literacy improvement,
11 sufficient to demonstrate reading proficiency at an
12 age-appropriate or developmentally appropriate level;
13 provided, however, failure to demonstrate substantial
14 quantifiable literacy improvement shall not be the
15 sole basis for not dismissing a case against a child.

16 SECTION 23. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2-9-115 of Title 10A, unless
18 there is created a duplication in numbering, reads as follows:

19 A. The Governor shall be the appointing authority pursuant to
20 the Interstate Compact for Juveniles.

21 B. The Executive Director of the Office of Juvenile Affairs
22 shall serve as the Compact Administrator pursuant to the Interstate
23 Compact for Juveniles.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-9-116 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. Pursuant to the provisions set forth in Article IX of the Interstate Compact for Juveniles Act, Section 2-9-110 of Title 10A of the Oklahoma Statutes, there is hereby created the "State Council for Interstate Juvenile Supervision". The State Council for Interstate Juvenile Supervision shall consist of ten (10) members as follows:

1. One member shall be the Compact Administrator of the Interstate Compact for Juveniles;

2. Two members shall be presiding judges of a court having juvenile law jurisdiction to be appointed by the President of the Oklahoma Judicial Conference;

3. One member who is an employee of the Office of Juvenile Affairs to be appointed by the Executive Director of the Office of Juvenile Affairs;

4. One member who is an employee of the Department of Human Services to be appointed by the Director of Human Services;

5. One member of the Oklahoma House of Representatives to be appointed by the Speaker of the House of Representatives;

6. One member of the Oklahoma State Senate to be appointed by the President Pro Tempore of the State Senate;

1 7. One member representing an Oklahoma nonprofit victims
2 organization to be appointed by the President Pro Tempore of the
3 State Senate;

4 8. One member who is a district attorney or assistant district
5 attorney who has experience in juvenile cases to be appointed by the
6 Executive Coordinator of the District Attorneys Council; and

7 9. One member who is a licensed, practicing attorney that
8 regularly represents juveniles charged with crimes or delinquent
9 acts to be appointed by the Executive Director of the Oklahoma Bar
10 Association.

11 B. Appointments to the state council shall be made by December
12 1, 2012. Members shall serve at the pleasure of their appointing
13 authorities. Members appointed to the state council shall serve for
14 terms of three (3) years. Any vacancies and unexpired terms shall
15 be filled in the same manner as the original appointment and within
16 sixty (60) days of the vacancy.

17 C. The state council may meet quarterly and at such other times
18 as may be set by the Compact Administrator. The Compact
19 Administrator or designee shall preside at all meetings of the state
20 council. A majority of the members present at a meeting shall
21 constitute a quorum to transact business and a majority present may
22 act for the state council.

1 D. Members of the state council shall receive no compensation
2 for their service, but shall be reimbursed for their actual and
3 necessary travel expenses as follows:

4 1. Legislative members shall be reimbursed for their necessary
5 travel expenses incurred in the performance of their duties in
6 accordance with the provisions of Section 456 of Title 74 of the
7 Oklahoma Statutes;

8 2. Nonlegislative members who are state officers or employees
9 shall be reimbursed by their respective agencies for their necessary
10 travel expenses incurred in the performance of their duties in
11 accordance with the provisions of the State Travel Reimbursement
12 Act; and

13 3. Members who are not legislators or officers or employees of
14 the state shall be reimbursed by their appointing authorities in
15 accordance with the provisions of the State Travel Reimbursement
16 Act.

17 E. The State Council for Interstate Juvenile Supervision shall
18 advise and may exercise oversight and advocacy concerning the
19 participation of Oklahoma in Interstate Commission activities and
20 other duties including, but not limited to, development of policy
21 concerning operations and procedures of the Interstate Compact for
22 Juveniles in this state.

23 F. The Office of Juvenile Affairs shall provide staff
24 assistance to the State Council for Interstate Juvenile Supervision

1 as necessary to assist the state council in the performance of its
2 duties.

3 SECTION 25. AMENDATORY 21 O.S. 2011, Section 1283, is
4 amended to read as follows:

5 Section 1283. A. Except as provided in subsection B of this
6 section, it shall be unlawful for any person convicted of any felony
7 in any court of this state or of another state or of the United
8 States to have in his or her possession or under his or her
9 immediate control, or in any vehicle which the person is operating,
10 or in which the person is riding as a passenger, or at the residence
11 where the convicted person resides, any pistol, imitation or
12 homemade pistol, altered air or toy pistol, machine gun, sawed-off
13 shotgun or rifle, or any other dangerous or deadly firearm.

14 B. Any person who has previously been convicted of a nonviolent
15 felony in any court of this state or of another state or of the
16 United States, and who has received a full and complete pardon from
17 the proper authority and has not been convicted of any other felony
18 offense which has not been pardoned, shall have restored the right
19 to possess any firearm or other weapon prohibited by subsection A of
20 this section, the right to apply for and carry a concealed handgun
21 pursuant to the Oklahoma Self-Defense Act and the right to perform
22 the duties of a peace officer, gunsmith, or for firearms repair.

23 C. It shall be unlawful for any person supervised by the
24 Department of Corrections or any division thereof to have in his or

1 her possession or under his or her immediate control, or at his or
2 her residence, or in any passenger vehicle which the supervised
3 person is operating or is riding as a passenger, any pistol, shotgun
4 or rifle, including any imitation or homemade pistol, altered air or
5 toy pistol, shotgun or rifle, while such person is subject to
6 supervision, probation, parole or inmate status.

7 D. It shall be unlawful for any person previously adjudicated
8 as a delinquent child or a youthful offender for the commission of
9 ~~an any offense, which would have constituted a felony offense if~~
10 ~~committed by an adult,~~ listed in paragraph 2 of Section 571 of Title
11 57 of the Oklahoma Statutes, Section 13.1 of this title or Section
12 2-5-206 of Title 10A of the Oklahoma Statutes to have in the
13 person's possession or under the person's immediate control, or have
14 in any vehicle which he or she is driving or in which the person is
15 riding as a passenger, or at the person's residence, any pistol,
16 imitation or homemade pistol, altered air or toy pistol, machine
17 gun, sawed-off shotgun or rifle, or any other dangerous or deadly
18 firearm within ten (10) years after such adjudication; provided,
19 that nothing in this subsection shall be construed to prohibit the
20 placement of the person in a home with a full-time duly appointed
21 peace officer who is certified by the Council on Law Enforcement
22 Education and Training (CLEET) pursuant to the provisions of Section
23 3311 of Title 70 of the Oklahoma Statutes.

1 E. Any person having been issued a concealed handgun license
2 pursuant to the provisions of the Oklahoma Self-Defense Act and who
3 thereafter knowingly or intentionally allows a convicted felon or
4 adjudicated delinquent or a youthful offender as prohibited by the
5 provisions of subsection A, C, or D of this section to possess or
6 have control of any pistol authorized by the Oklahoma Self-Defense
7 Act shall, upon conviction, be guilty of a felony punishable by a
8 fine not to exceed Five Thousand Dollars (\$5,000.00). In addition,
9 the person shall have the handgun license revoked by the Oklahoma
10 State Bureau of Investigation after a hearing and determination that
11 the person has violated the provisions of this section.

12 F. Any convicted or adjudicated person violating the provisions
13 of this section shall, upon conviction, be guilty of a felony
14 punishable as provided in Section 1284 of this title.

15 G. For purposes of this section, "sawed-off shotgun or rifle"
16 shall mean any shotgun or rifle which has been shortened to any
17 length.

18 H. For purposes of this section, "altered toy pistol" shall
19 mean any toy weapon which has been altered from its original
20 manufactured state to resemble a real weapon.

21 I. For purposes of this section, "altered air pistol" shall
22 mean any air pistol manufactured to propel projectiles by air
23 pressure which has been altered from its original manufactured
24 state.

1 SECTION 26. AMENDATORY 43A O.S. 2011, Section 5-507, is
2 amended to read as follows:

3 Section 5-507. A. No minor who is ~~taken~~ placed into emergency,
4 temporary or permanent custody of a state agency pursuant to ~~Section~~
5 ~~1-4-201~~ of Title 10A of the Oklahoma Statutes ~~as an alleged deprived~~
6 ~~child, or who has been adjudicated a ward of the court~~ shall be
7 admitted to a hospital or mental health or substance abuse treatment
8 facility:

9 1. On an emergency basis except as provided by this section;

10 2. For inpatient treatment except upon a commitment order of
11 the court pursuant to the provisions of subsection D of this section
12 and after a finding that the minor requires such services as
13 provided by Section 5-512 of this title.

14 B. After an initial assessment and a determination that a minor
15 is a minor in need of treatment, the minor may be admitted to a
16 hospital or mental health or substance abuse treatment facility on
17 an emergency basis for a period not to exceed five (5) days from the
18 time of admission, excluding weekends and holidays. On the next
19 business day following admission, notice of such admission shall be
20 given by the person responsible for the supervision of the case, as
21 applicable, to the minor's attorney, Court Appointed Special
22 Advocate (CASA) or guardian ad litem, the court and district
23 attorney.

1 C. A minor admitted on an emergency basis pursuant to this
2 section shall be evaluated and the mental health evaluation
3 submitted to the district attorney within forty-eight (48) hours of
4 admission, excluding weekends and holidays. The mental health
5 evaluation shall be performed by a licensed mental health
6 professional at the facility.

7 D. If after an inpatient or outpatient mental health evaluation
8 it appears that the minor may require inpatient treatment, the
9 district attorney shall file a petition as provided by Section 5-509
10 of this title within three (3) days after receiving the mental
11 health evaluation requesting an order committing the minor to a
12 facility for inpatient treatment. After the filing of a petition
13 and upon issuance of a prehearing detention order, the minor may be
14 detained in the facility for no longer than necessary for a hearing
15 on the petition as provided by Section 5-510 of this title or
16 further order of the court.

17 E. Nothing in this section shall be interpreted to preclude or
18 prohibit a parent having physical custody of a minor who is a ward
19 of the court from arranging for an emergency admission of the minor.
20 In such cases, the parent shall immediately notify the person
21 responsible for the supervision of the case of the admission.

22 SECTION 27. AMENDATORY 70 O.S. 2011, Section 24-101.3,
23 is amended to read as follows:
24

1 Section 24-101.3 A. Any student who is guilty of an act
2 described in paragraph 1 of subsection C of this section may be
3 suspended out-of-school in accordance with the provisions of this
4 section. Each school district board of education shall adopt a
5 policy with procedures which provides for out-of-school suspension
6 of students. The policy shall address the term of the out-of-school
7 suspension, provide an appeals process as described in subsection B
8 of this section, and provide that before a student is suspended out-
9 of-school, the school or district administration shall consider and
10 apply, if appropriate, alternative in-school placement options that
11 are not to be considered suspension, such as placement in an
12 alternative school setting, reassignment to another classroom, or
13 in-school detention. The policy shall address education for
14 students subject to the provisions of subsection D of this section
15 and whether participation in extracurricular activities shall be
16 permitted.

17 B. 1. Students suspended out-of-school for ten (10) or fewer
18 days shall have the right to appeal the decision of the
19 administration as provided in the policy required in subsection A of
20 this section. The policy shall specify whether appeals for short-
21 term suspensions as provided in this subsection shall be to a local
22 committee composed of district administrators or teachers or both,
23 or to the district board of education. Upon full investigation of
24 the matter, the committee or board shall determine the guilt or

1 innocence of the student and the reasonableness of the term of the
2 out-of-school suspension. If the policy requires appeals for short-
3 term suspensions to a committee, the policy adopted by the board
4 may, but is not required to, provide for appeal of the committee's
5 decision to the board.

6 2. Students suspended out-of-school for more than ten (10) days
7 and students suspended pursuant to the provisions of paragraph 2 of
8 subsection C of this section may request a review of the suspension
9 with the administration of the district. If the administration does
10 not withdraw the suspension, the student shall have the right to
11 appeal the decision of the administration to the district board of
12 education. Except as otherwise provided for in paragraph 2 of
13 subsection C of this section, no out-of-school suspension shall
14 extend beyond the current semester and the succeeding semester.
15 Upon full investigation of the matter, the board shall determine the
16 guilt or innocence of the student and the reasonableness of the term
17 of the out-of-school suspension. A board of education may conduct
18 the hearing and render the final decision or may appoint a hearing
19 officer to conduct the hearing and render the final decision. The
20 decision of the district board of education or the hearing officer,
21 if applicable, shall be final.

22 C. 1. Students who are guilty of any of the following acts may
23 be suspended out-of-school by the administration of the school or
24 district:

1 a. violation of a school regulation,

2 b. ~~immorality,~~

3 ~~c. adjudication as a delinquent for an offense that is~~

4 ~~not a violent offense. For the purposes of this~~

5 ~~section, "violent offense" shall include those~~

6 ~~offenses listed as the exceptions to the term~~

7 ~~"nonviolent offense" as specified in Section 571 of~~

8 ~~Title 57 of the Oklahoma Statutes. "Violent offense"~~

9 ~~shall include the offense of assault with a dangerous~~

10 ~~weapon but shall not include the offense of assault,~~

11 ~~d.~~ possession of an intoxicating beverage, low-point

12 beer, as defined by Section 163.2 of Title 37 of the

13 Oklahoma Statutes, or missing or stolen property if

14 the property is reasonably suspected to have been

15 taken from a student, a school employee, or the school

16 during school activities, and

17 ~~e.~~ c. possession of a dangerous weapon or a controlled

18 dangerous substance, as defined in the Uniform

19 Controlled Dangerous Substances Act. Possession of a

20 firearm shall result in out-of-school suspension as

21 provided in paragraph 2 of this subsection.

22 2. Any student found in possession of a firearm while on any
23 public school property or while in any school bus or other vehicle
24 used by a public school for transportation of students or teachers

1 shall be suspended out-of-school for a period of not less than one
2 (1) year, to be determined by the district board of education
3 pursuant to the provisions of this section. The term of the
4 suspension may be modified by the district superintendent on a case-
5 by-case basis. For purposes of this paragraph the term "firearm"
6 shall mean and include all weapons as defined by 18 U.S.C., Section
7 921.

8 3. Any student in grades six through twelve found to have
9 assaulted, attempted to cause physical bodily injury, or acted in a
10 manner that could reasonably cause bodily injury to a school
11 employee or a person volunteering for a school as prohibited
12 pursuant to Section ~~81~~ 6-146 of this ~~act~~ title shall be suspended
13 for the remainder of the current semester and the next consecutive
14 semester, to be determined by the board of education pursuant to the
15 provisions of this section. The term of the suspension may be
16 modified by the district superintendent on a case-by-case basis.

17 D. At its discretion a school district may provide an education
18 plan for students suspended out-of-school for five (5) or fewer days
19 pursuant to the provisions of this subsection. The following
20 provisions shall apply to students who are suspended out-of-school
21 for more than five (5) days and who are guilty of acts listed in
22 subparagraphs a, and b, ~~c and d~~ of paragraph 1 of subsection C of
23 this section. Upon the out-of-school suspension, the parent or
24 guardian of a student suspended out-of-school pursuant to the

provisions of this subsection shall be responsible for the provision of a supervised, structured environment in which the parent or guardian shall place the student and bear responsibility for monitoring the student's educational progress until the student is readmitted into school. The school administration shall provide the student with an education plan designed for the eventual reintegration of the student into school which provides only for the core units in which the student is enrolled. A copy of the education plan shall also be provided to the student's parent or guardian. For the purposes of this section, the core units shall consist of the minimum English, mathematics, science, social studies and art units required by the State Board of Education for grade completion in grades kindergarten through eight and for high school graduation in grades nine through twelve. The plan shall set out the procedure for education and shall address academic credit for work satisfactorily completed.

E. A student who has been suspended out-of-school from a public or private school in the State of Oklahoma or another state for a violent act or an act showing deliberate or reckless disregard for the health or safety of faculty or other students shall not be entitled to enroll in a public school of this state, and no public school shall be required to enroll the student, until the terms of the suspension have been met or the time of suspension has expired.

1 F. No public school of this state shall be required to provide
2 education services in the regular school setting to any student who
3 has been adjudicated as a delinquent for an offense defined in
4 Section 571 of Title 57 of the Oklahoma Statutes as an exception to
5 a nonviolent offense or convicted as an adult of an offense defined
6 in Section 571 of Title 57 of the Oklahoma Statutes as an exception
7 to a nonviolent offense, who has been removed from a public or
8 private school in the State of Oklahoma or another state by
9 administrative or judicial process for a violent act or an act
10 showing deliberate or reckless disregard for the health or safety of
11 faculty or other students, or who has been suspended as provided for
12 in paragraph 3 of subsection C of this section until the school in
13 which the student is subsequently enrolled determines that the
14 student no longer poses a threat to self, other students or school
15 district faculty or employees. Until the school in which such
16 student subsequently enrolls or re-enrolls determines that the
17 student no longer poses a threat to self, other students or school
18 district faculty or employees, the school may provide education
19 services through an alternative school setting, home-based
20 instruction, or other appropriate setting. If the school provides
21 education services to such student at a district school facility,
22 the school shall notify any student or school district faculty or
23 employee victims of such student, when known, and shall ensure that
24 the student will not be allowed in the general vicinity of or

1 contact with a victim of the student, provided such victim notifies
2 the school of the victim's desire to refrain from contact with the
3 offending student.

4 G. Students suspended out-of-school who are on an
5 individualized education plan pursuant to the Individuals with
6 Disabilities Education Act, P.L. No. 101-476, or who are subject to
7 the provisions of subsection F of this section and who are on an
8 individualized education plan shall be provided the education and
9 related services in accordance with the student's individualized
10 education plan.

11 H. A student who has been suspended for a violent offense which
12 is directed towards a classroom teacher shall not be allowed to
13 return to that teacher's classroom without the approval of that
14 teacher.

15 I. No school board, administrator or teacher may be held
16 civilly liable for any action taken in good faith which is
17 authorized by this section.

18 SECTION 28. REPEALER 10 O.S. 2011, Sections 22 and 24,
19 are hereby repealed.

20 SECTION 29. REPEALER 10 O.S. 2011, Sections 130.1,
21 130.2, 130.3, 130.4, 130.5, 130.6, 130.7, 130.8 and 130.9, are
22 hereby repealed.

23 SECTION 30. REPEALER 10 O.S. 2011, Sections 531, 532,
24 533, 534, 535, 536 and 537, are hereby repealed.

1 SECTION 31. REPEALER 10 O.S. 2011, Section 1101.1, is
2 hereby repealed.

3 SECTION 32. REPEALER 10A O.S. 2011, Section 2-2-806, is
4 hereby repealed.

5 SECTION 33. This act shall become effective November 1, 2012.

6

7 53-2-10479 GRS 05/11/12

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24