

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1835

By: Osborn (Leslie)

7  
8                               COMMITTEE SUBSTITUTE

9           An Act relating to children and juvenile code;  
10          amending 10A O.S. 2011, Section 2-2-503, as last  
11          amended by Section 1, Chapter 234, O.S.L. 2016 (10A  
12          O.S. Supp. 2016, Section 2-2-503), which relates to  
13          juvenile disposition orders; authorizing secure  
14          detention placement under certain circumstances;  
15          deleting indirect contempt offense and penalty;  
16          amending 10A O.S. 2011, Section 2-3-101, as last  
17          amended by Section 2, Chapter 234, O.S.L. 2016 (10A  
18          O.S. Supp. 2016, Section 2-3-101), which relates to  
19          conditions of detention; authorizing detention of  
20          runaway child deemed in need of supervision; and  
21          declaring an emergency.

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

23           SECTION 1.           AMENDATORY           10A O.S. 2011, Section 2-2-503, as  
24          last amended by Section 1, Chapter 234, O.S.L. 2016 (10A O.S. Supp.  
25          2016, Section 2-2-503), is amended to read as follows:

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

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

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

22            a. If it is consistent with the welfare of the child, in  
23 cases where the child has been adjudicated to be in  
24 need of supervision due to repeated absence from

1 school, the court may order counseling and treatment  
2 for the child and the parents of the child to be  
3 provided by the local school district, the county, the  
4 Office or a private individual or entity. Prior to  
5 final disposition, the court shall require that it be  
6 shown by the appropriate school district that a child  
7 found to be truant has been evaluated for learning  
8 disabilities, hearing and visual impairments and other  
9 impediments which could constitute an educational  
10 handicap or has been evaluated to determine whether  
11 the child has a disability if it is suspected that the  
12 child may require special education services in  
13 accordance with the Individuals with Disabilities  
14 Education Act (IDEA). The results of such tests shall  
15 be made available to the court for use by the court in  
16 determining the disposition of the case.

17 b. In issuing orders to a parent, guardian, legal  
18 guardian, stepparent or other adult person living in  
19 the home of a child adjudicated to be a delinquent  
20 child or in making other disposition of said  
21 delinquent child, the court may consider the testimony  
22 of said parent, guardian, legal guardian, stepparent  
23 or other adult person concerning the behavior of the  
24

juvenile and the ability of such person to exercise parental control over the behavior of the juvenile.

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

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

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

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

1 another state, by the analogous department of that state. Whenever  
2 the court shall commit a child to any institution or agency, it  
3 shall transmit with the order of commitment a summary of its  
4 information concerning the child, and such institution or agency  
5 shall give to the court such information concerning the child as the  
6 court may at any time require;

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

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

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

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

- 23 a. for acts involving criminally injurious conduct as  
24 defined in Section 142.3 of Title 21 of the Oklahoma

1 Statutes, order the child to pay a victim compensation  
2 assessment in an amount not to exceed that amount  
3 specified in Section 142.18 of Title 21 of the  
4 Oklahoma Statutes. The court shall forward a copy of  
5 the adjudication order to the Crime Victims  
6 Compensation Board for purposes of Section 142.11 of  
7 Title 21 of the Oklahoma Statutes. Except as  
8 otherwise provided by law, such adjudication order  
9 shall be kept confidential by the Board,

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

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

23 (1) The court shall notify the victim of the  
24 dispositional hearing. The court may consider a

1 verified statement from the victim concerning  
2 damages for injury or loss of property and actual  
3 expenses of medical treatment for personal  
4 injury, excluding pain and suffering. If  
5 contested, a restitution hearing to determine the  
6 liability of the child, the parent or parents of  
7 the child, or legal guardian shall be held not  
8 later than thirty (30) days after the disposition  
9 hearing and may be extended by the court for good  
10 cause. The parent or parents of the child or  
11 legal guardian may be represented by an attorney  
12 in the matter of the order for remittance of the  
13 restitution by the parent or parents of the child  
14 or legal guardian. The burden of proving that  
15 the amount indicated on the verified statement is  
16 not fair and reasonable shall be on the person  
17 challenging the fairness and reasonableness of  
18 the amount.

- 19 (2) Restitution may consist of monetary reimbursement  
20 for the damage or injury in the form of a lump  
21 sum or installment payments after the  
22 consideration of the court of the nature of the  
23 offense, the age, physical and mental condition  
24 of the child, the earning capacity of the child,

1 the parent or parents of the child, or legal  
2 guardian, or the ability to pay, as the case may  
3 be. The payments shall be made to such official  
4 designated by the court for distribution to the  
5 victim. The court may also consider any other  
6 hardship on the child, the parent or parents of  
7 the child, or legal guardian and, if consistent  
8 with the welfare of the child, require community  
9 service in lieu of restitution or require both  
10 community service and full or partial restitution  
11 for the acts of delinquency by the child.

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

21 (4) If the restitution is not being paid as ordered,  
22 the official designated by the court to collect  
23 and disburse the restitution ordered shall file a  
24 written report of the violation with the court.



1 The report shall include a statement of the  
2 amount of the arrearage and any reasons for the  
3 arrearage that are known by the official. A copy  
4 of the report shall be provided to all parties  
5 and the court shall promptly take any action  
6 necessary to compel compliance.

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

1 to be a criminal penalty for the purposes of a  
2 federal bankruptcy involving the child,

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

12 e. order the cancellation or denial of driving privileges  
13 as provided by Sections 6-107.1 and 6-107.2 of Title  
14 47 of the Oklahoma Statutes,

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

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

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

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

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

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

1 copy of the written, joint agreement to that effect between the  
2 school administrator of the school district where the child attends  
3 school and the parent, guardian, or custodian of the child.

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

11 D. No child who has been adjudicated in need of supervision may  
12 be placed in a secure facility; provided, a child who has been  
13 adjudicated in need of supervision and who has willfully violated a  
14 valid court order including, but not limited to, an order to appear  
15 before the court after having been properly served with a summons or  
16 an order issued by the court to appear before said court may be  
17 placed in secure detention.

18 E. No child charged in a state or municipal court with a  
19 violation of state or municipal traffic laws or ordinances, or  
20 convicted therefor, may be incarcerated in jail for the violation  
21 unless the charge for which the arrest was made would constitute a  
22 felony if the child were an adult. Nothing contained in this  
23 subsection shall prohibit the detention of a juvenile for traffic-  
24 related offenses prior to the filing of a petition in the district

1 court alleging delinquency as a result of the acts and nothing  
2 contained in this section shall prohibit detaining a juvenile  
3 pursuant to Section 2-2-102 of this title.

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

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

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

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

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

22 5. If the child is placed in secure detention, bail may be  
23 allowed pending appeal; and  
24

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

- 7           a. such removal is necessary to protect the public,
- 8           b. the child is likely to sustain harm if not immediately  
9 removed from the home,
- 10          c. allowing the child to remain in the home is contrary  
11 to the welfare of the child, or
- 12          d. immediate placement of the child is in the best  
13 interests of the child.

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

20       ~~G. A willful violation of any provision of an order of the~~  
21 ~~court issued under the provisions of the Oklahoma Juvenile Code~~  
22 ~~shall constitute indirect contempt of court and shall be punishable~~  
23 ~~by a fine not to exceed Three Hundred Dollars (\$300.00) or, as to a~~  
24

1 ~~delinquent child, placement in a juvenile detention center for not~~  
2 ~~more than ten (10) days, or by both such fine and detention.~~

3 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-3-101, as  
4 last amended by Section 2, Chapter 234, O.S.L. 2016 (10A O.S. Supp.  
5 2016, Section 2-3-101), is amended to read as follows:

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

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

21 b. Whenever the court orders a child to be held in a  
22 juvenile detention facility, an order for secure  
23 detention shall remain in force and effect for not  
24 more than fifteen (15) days after such order. Upon an

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

23 2. No child alleged or adjudicated to be deprived or in need of  
24 supervision or who is or appears to be a minor in need of treatment



1 as defined by the Inpatient Mental Health and Substance Abuse  
2 Treatment of Minors Act, shall be confined in any jail, adult  
3 lockup, or adult detention facility. No child shall be transported  
4 or detained in association with criminal, vicious, or dissolute  
5 persons.

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

16 4. When a child is taken into custody as a child in need of  
17 supervision as a result of being a runaway, the court may order the  
18 child placed in a juvenile detention facility pending court  
19 proceedings if the court finds the detention to be essential for the  
20 safety of the child. Runaway juveniles from other states, with or  
21 without delinquent status, ~~to~~ shall be held in a detention facility  
22 in accordance with the Interstate Compact for Juveniles in Sections  
23 2-9-101 through 2-9-116 of this title and rules promulgated by the  
24 Interstate Commission.

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

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

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

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

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

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

13 b. is on preadjudicatory community supervision, or

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

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

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

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

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

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

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

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

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

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

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

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

- 1           c.    the initial court appearance of the child is scheduled  
2                within twenty-four (24) hours after being taken into  
3                custody, excluding weekends and holidays, and
- 4           d.    the court of jurisdiction is outside of the Standard  
5                Metropolitan Statistical Area as defined by the Bureau  
6                of Census, and
- 7           e.    there is no existing acceptable alternative placement  
8                for the child, and
- 9           f.    the jail, adult lockup or adult detention facility  
10               provides sight and sound separation for juveniles,  
11               pursuant to standards required by subsection E of  
12               Section 2-3-103 of this title, or
- 13          g.    the jail, adult lockup or adult detention facility  
14               meets the requirements for licensure of juvenile  
15               detention facilities, as adopted by the Office of  
16               Juvenile Affairs, is appropriately licensed, and  
17               provides sight and sound separation for juveniles,  
18               which includes:
- 19               (1)   total separation between juveniles and adult  
20                      facility spatial areas such that there could be  
21                      no haphazard or accidental contact between  
22                      juvenile and adult residents in the respective  
23                      facilities,
- 24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 I. Whenever a juvenile is placed in any jail, adult lockup, or  
21 other detention facility, the Office of Juvenile Affairs shall have  
22 access to all facilities which detain such juveniles and shall have  
23 access to any data regarding such juveniles. The Office of Juvenile  
24 Affairs shall have access to all jails, adult lockups, or other



1 adult facilities in this state, including all data maintained by  
2 such facilities, to assure compliance with this section. The Board  
3 of Juvenile Affairs shall promulgate rules as necessary to implement  
4 the provisions of this section.

5 SECTION 3. It being immediately necessary for the preservation  
6 of the public peace, health or safety, an emergency is hereby  
7 declared to exist, by reason whereof this act shall take effect and  
8 be in full force from and after its passage and approval.

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10 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL AND  
11 ENVIRONMENTAL, dated 02/09/2017 - DO PASS, As Amended.  
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