

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3410

By: Pae and **Bush** of the House

and

**Garvin** of the Senate

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10                               COMMITTEE SUBSTITUTE

11           An Act relating to children; amending 10A O.S. 2021,  
12           Sections 2-1-103 and 2-2-101, which relate to the  
13           Oklahoma Juvenile Code; modifying definition;  
14           permitting child to be taken into custody under  
15           certain circumstances; providing who may submit  
16           affidavit for child in need of supervision; and  
17           providing an effective date.

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

19           SECTION 1.           AMENDATORY           10A O.S. 2021, Section 2-1-103, is  
20 amended to read as follows:

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

23           1.   "Adjudicatory hearing" means a hearing to determine whether  
24 the allegations of a petition filed pursuant to the provisions of  
Chapter 2 of the Oklahoma Juvenile Code are supported by the

1 evidence and whether a juvenile should be adjudged to be a ward of  
2 the court;

3 2. "Alternatives to secure detention" means those services and  
4 facilities which are included in the State Plan for the  
5 Establishment of Juvenile Detention Services adopted by the Board of  
6 Juvenile Affairs and which are used for the temporary detention of  
7 juveniles in lieu of secure detention in a juvenile detention  
8 facility;

9 3. "Behavioral health" means mental health, substance abuse or  
10 co-occurring mental health and substance abuse diagnoses, and the  
11 continuum of mental health, substance abuse, or co-occurring mental  
12 health and substance abuse treatment;

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

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

17 6. "Child" or "juvenile" means any person under eighteen (18)  
18 years of age, except for any person charged and convicted for any  
19 offense specified in the Youthful Offender Act or against whom  
20 judgment and sentence has been deferred for such offense, or any  
21 person who is certified as an adult pursuant to any certification  
22 procedure authorized in the Oklahoma Juvenile Code for any offense  
23 which results in a conviction or against whom judgment and sentence  
24 has been deferred for such offense;

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

5        8. "Child or juvenile in need of supervision" means a juvenile  
6 who:

- 7            a. has repeatedly disobeyed reasonable and lawful  
8                commands or directives of the parent, legal guardian,  
9                or other custodian,
- 10           b. is willfully and voluntarily absent from his or her  
11                home without the consent of the parent, legal  
12                guardian, or other custodian for a substantial length  
13                of time or without intent to return,
- 14           c. is willfully and voluntarily absent from school, as  
15                specified in Section 10-106 of Title 70 of the  
16                Oklahoma Statutes, if the juvenile is subject to  
17                compulsory school attendance, ~~or~~
- 18           d. has been served with an ex parte or final protective  
19                order pursuant to the Protection from Domestic Abuse  
20                Act,
- 21           e. has been identified as a minor victim of human  
22                trafficking or commercial sexual exploitation, as  
23                specified in Section 748 of Title 21 of the Oklahoma  
24                Statutes,

- 1        f.    has been admitted to a group home, long-term  
2        residential psychiatric facility, or residential  
3        facility licensed by the Department of Human Services  
4        Child Care Licensing Division and whose parent, legal  
5        guardian, or other custodian has failed to  
6        meaningfully participate in services necessary to  
7        ensure the juvenile's success at the group home, long-  
8        term residential psychiatric facility, or residential  
9        facility or has failed to ensure the juvenile's  
10       continued success upon returning home from the group  
11       home or licensed facility, or  
12       g.    is engaging in behaviors that cause the juvenile to be  
13       a danger to self or others;

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

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

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

- 10            a. screening, evaluation and assessment which includes a  
11                    face-to-face screening and evaluation to establish  
12                    problem identification and to determine the risk level  
13                    of a child or adolescent and may result in clinical  
14                    diagnosis or diagnostic impression,
- 15            b. treatment planning which includes preparation of an  
16                    individualized treatment plan which is usually done as  
17                    part of the screening, evaluation and assessment,
- 18            c. treatment plan reviewing which includes a  
19                    comprehensive review and evaluation of the  
20                    effectiveness of the treatment plan,
- 21            d. individual counseling which includes face-to-face,  
22                    one-on-one interaction between a counselor and a  
23                    juvenile to promote emotional or psychological change  
24                    to alleviate the issues, problems, and difficulties

- 1           that led to a referral, including ongoing assessment  
2           of the status and response of the juvenile to  
3           treatment as well as psychoeducational intervention,  
4       e.   group counseling which includes a method of treating a  
5           group of individuals using the interaction between a  
6           counselor and two or more juveniles or parents or  
7           guardians to promote positive emotional or behavioral  
8           change, not including social skills development or  
9           daily living skills,  
10       f.   family counseling which includes a face-to-face  
11           interaction between a counselor and the family of the  
12           juvenile to facilitate emotional, psychological or  
13           behavior changes and promote successful communication  
14           and understanding,  
15       g.   crisis intervention counseling which includes  
16           unanticipated, unscheduled face-to-face emergency  
17           intervention provided by a licensed level or qualified  
18           staff with immediate access to a licensed provider to  
19           resolve immediate, overwhelming problems that severely  
20           impair the ability of the juvenile to function or  
21           maintain in the community,  
22       h.   crisis intervention telephone support which includes  
23           supportive telephone assistance provided by a licensed  
24           level provider or qualified staff with immediate

1 access to a licensed provider to resolve immediate,  
2 overwhelming problems that severely impair the ability  
3 of the juvenile to function or maintain in the  
4 community,

5 i. case management which includes planned linkage,  
6 advocacy and referral assistance provided in  
7 partnership with a client to support that client in  
8 self-sufficiency and community tenure,

9 j. case management and home-based services which includes  
10 that part of case management services dedicated to  
11 travel for the purpose of linkage, advocacy and  
12 referral assistance and travel to provide counseling  
13 and support services to families of children as needed  
14 to support specific youth and families in self-  
15 sufficiency and community tenure,

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

1. group rehabilitative treatment which includes face-to-face group services provided by qualified staff to maintain or develop skills necessary to perform activities of daily living and successful integration into community life, including educational and supportive services regarding independent living, self-care, social skills regarding development, lifestyle changes and recovery principles and practices,
- m. community-based prevention services which include services delivered in an individual or group setting by a qualified provider designed to meet the services needs of a child or youth and family of the child or youth who has been referred because of identified problems in the family or community. The group prevention planned activities must be focused on reducing the risk that individuals will experience behavioral, substance abuse or delinquency-related problems. Appropriate curriculum-based group activities include, but are not limited to, First Offender groups, prevention and relationship enhancement groups, anger management groups, life skills groups, substance abuse education groups,



1 smoking cessation groups, STD/HIV groups and parenting  
2 groups,

3 n. individual paraprofessional services which include  
4 services delineated in the treatment plan of the  
5 juvenile which are necessary for full integration of  
6 the juvenile into the home and community, but do not  
7 require a professional level of education and  
8 experience. Activities include assisting families  
9 with Medicaid applications, assisting with school and  
10 General Educational Development (GED) enrollment,  
11 assisting youth with independent living arrangements,  
12 providing assistance with educational problems and  
13 deficiencies, acting as a role model for youth while  
14 engaging them in community activities, assisting youth  
15 in seeking and obtaining employment, providing  
16 transportation for required appointments and  
17 activities, participating in recreational activities  
18 and accessing other required community support  
19 services necessary for full community integration and  
20 successful treatment,

21 o. tutoring which includes a tutor and student working  
22 together as a learning team to bring about overall  
23 academic success, improved self-esteem and increased  
24 independence as a learner for the student,

- 1           p.   community relations which include public or community  
2           relations activities directed toward the community or  
3           public at large or any segment of the public to  
4           encourage understanding, accessibility and use of  
5           community-based facilities, programs or services,  
6           q.   children's emergency resource centers that are  
7           community-based and that may provide emergency care  
8           and a safe and structured homelike environment or a  
9           host home for children providing food, clothing,  
10          shelter and hygiene products to each child served;  
11          after-school tutoring; counseling services; life-  
12          skills training; transition services; assessments;  
13          family reunification; respite care; transportation to  
14          or from school, doctors' appointments, visitations and  
15          other social, school, court or other activities when  
16          necessary; and a stable environment for children who  
17          have been detained as delinquent or in need of  
18          supervision and temporarily placed by a court, or  
19          children in crisis who are in custody of the Office of  
20          Juvenile Affairs if permitted under the Office's  
21          policies and regulations or who have been voluntarily  
22          placed by a parent or custodian during a temporary  
23          crisis,

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

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

1       13. "Delinquent child or juvenile" means a juvenile who:

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

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

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

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

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

23       17. "Graduated sanctions" means a calibrated system of  
24       sanctions designed to ensure that juvenile offenders face uniform,

1 immediate, and consistent consequences that correspond to the  
2 seriousness of each offender's current offense, prior delinquent  
3 history, and compliance with prior interventions;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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 2.        AMENDATORY        10A O.S. 2021, 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 from  
22 the home of the child without the consent of the parent, legal  
23 guardian, legal custodian or other person having custody and control  
24 of the child if the surroundings of the child are such as to

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

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

1 that there is probable cause to believe the child has committed a  
2 crime or is in violation of the terms of probation, parole or order  
3 of the court;

4 4. Pursuant to an order of the district court issued on the  
5 application of the office of the district attorney if a request for  
6 a child in need of supervision is submitted to the district attorney  
7 in the form of a sworn affidavit. The sworn affidavit shall state  
8 facts sufficient to demonstrate to the district attorney and the  
9 court specific details of the behaviors or information available  
10 that form the basis for the request and shall demonstrate how the  
11 child meets the criteria of a child in need of supervision pursuant  
12 to paragraph 8 of Section 2-1-103 of this title. The sworn  
13 affidavit may be submitted to the district attorney by:

- 14 a. a representative of the Child Welfare Services  
15 Division of the Department of Human Services,
- 16 b. a representative of the Office of Juvenile Affairs,
- 17 c. a representative of a juvenile services unit,
- 18 d. a representative of a juvenile bureau, or
- 19 e. the director of a group home, long-term residential  
20 psychiatric facility, or residential facility licensed  
21 by the Department of Human Services Child Care  
22 Licensing Division;

23 5. By order of the district court pursuant to subsection F of  
24 this section when the child is in need of medical or behavioral

1 health treatment or other action in order to protect the health or  
2 welfare of the child and the parent, legal guardian, legal custodian  
3 or other person having custody or control of the child is unwilling  
4 or unavailable to consent to such medical or behavioral health  
5 treatment or other action; and

6 ~~5.~~ 6. Pursuant to an emergency ex parte or a final protective  
7 order of the district court issued at the request of a parent or  
8 legal guardian pursuant to the Protection from Domestic Abuse Act.

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

11 B. Whenever a child is taken into custody as a delinquent  
12 child, the child shall be detained, held temporarily in the  
13 custodial care of a peace officer or other person employed by a  
14 police department, or be released to the custody of the parent of  
15 the child, legal guardian, legal custodian, attorney or other  
16 responsible adult, upon the written promise of such person to bring  
17 the child to the court at the time fixed if a petition is to be  
18 filed and to assume responsibility for costs for damages caused by  
19 the child if the child commits any delinquent acts after being  
20 released regardless of whether or not a petition is to be filed. It  
21 shall be a misdemeanor for any person to sign the written promise  
22 and then fail to comply with the terms of the promise. Any person  
23 convicted of violating the terms of the written promise shall be  
24 subject to imprisonment in the county jail for not more than six (6)

1 months or a fine of not more than Five Hundred Dollars (\$500.00), or  
2 by both such fine and imprisonment. In addition, if a parent, legal  
3 guardian, legal custodian, attorney or other responsible adult is  
4 notified that the child has been taken into custody, it shall be a  
5 misdemeanor for such person to refuse to assume custody of the child  
6 within a timely manner. If detained, the child shall be taken  
7 immediately before a judge of the district court in the county in  
8 which the child is sought to be detained, or to the place of  
9 detention or a children's emergency resource center or host home  
10 designated by the court. If no judge ~~be~~ is available locally, the  
11 person having the child in custody shall immediately report the  
12 detention of the child to the presiding judge of the judicial  
13 administrative district, provided that the child shall not be  
14 detained in custody beyond the next judicial day or for good cause  
15 shown due to problems of arranging for and transporting the child to  
16 and from a secure juvenile detention center, beyond the second  
17 judicial day unless the court shall so order after a detention  
18 hearing to determine if there exists probable cause to detain the  
19 child. The child shall be present at the detention hearing or the  
20 image of the child may be broadcast to the judge by closed-circuit  
21 television or any other electronic means that provides for a two-way  
22 communication of image and sound between the child and the judge.  
23 If the latter judge cannot be reached, such detention shall be  
24 reported immediately to any judge regularly serving within the

1 judicial administrative district. If detained, a reasonable bond  
2 for release shall be set. Pending further disposition of the case,  
3 a child whose custody has been assumed by the court may be released  
4 to the custody of a parent, legal guardian, legal custodian, or  
5 other responsible adult or to any other person appointed by the  
6 court, or be detained pursuant to Chapter 3 of the Oklahoma Juvenile  
7 Code in such place as shall be designated by the court, subject to  
8 further order.

9 C. When a child is taken into custody as a child in need of  
10 supervision, the child shall be detained and held temporarily in the  
11 custodial care of a peace officer or placed within a community  
12 intervention center as defined in subsection D of Section 2-7-305 of  
13 this title, a children's emergency resource center or host home, or  
14 be released to the custody of the parent of the child, legal  
15 guardian, legal custodian, attorney or other responsible adult, upon  
16 the written promise of such person to bring the child to court at  
17 the time fixed if a petition is to be filed. A child who is alleged  
18 or adjudicated to be in need of supervision shall not be detained in  
19 any jail, lockup, or other place used for adults convicted of a  
20 crime or under arrest and charged with a crime.

21 D. When any child is taken into custody pursuant to this title  
22 and it reasonably appears to the peace officer, employee of the  
23 court or person acting pursuant to court order that the child is in  
24 need of medical treatment to preserve the health of the child, any

1 peace officer, any employee of the court or person acting pursuant  
2 to court order shall have the authority to authorize medical  
3 examination and medical treatment for any child found to be in need  
4 of medical treatment as diagnosed by a competent medical authority  
5 in the absence of the parent of the child, legal guardian, legal  
6 custodian, or other person having custody and control of the child  
7 who is competent to authorize medical treatment. The officer or the  
8 employee of the court or person acting pursuant to court order shall  
9 authorize said medical treatment only after exercising due diligence  
10 to locate the parent of the child, legal guardian, legal custodian,  
11 or other person legally competent to authorize said medical  
12 treatment. The parent of the child, legal guardian, legal  
13 custodian, or other person having custody and control shall be  
14 responsible for such medical expenses as ordered by the court. No  
15 peace officer, any employee of the court or person acting pursuant  
16 to court order authorizing such treatment in accordance with the  
17 provisions of this section for any child found in need of such  
18 medical treatment shall have any liability, civil or criminal, for  
19 giving such authorization.

20 E. A child who has been taken into custody as otherwise  
21 provided by this Code who appears to be a minor in need of  
22 treatment, as defined by the Inpatient Mental Health and Substance  
23 Abuse Treatment of Minors Act, may be admitted to a behavioral  
24 health treatment facility in accordance with the provisions of the

1 Inpatient Mental Health and Substance Abuse Treatment of Minors Act.  
2 The parent of the child, legal guardian, legal custodian, or other  
3 person having custody and control shall be responsible for such  
4 behavioral health expenses as ordered by the court. No peace  
5 officer, any employee of the court or person acting pursuant to  
6 court order authorizing such treatment in accordance with the  
7 provisions of this section for any child found in need of such  
8 behavioral health evaluation or treatment shall have any liability,  
9 civil or criminal, for giving such authorization.

10 F. 1. A child may be taken into custody pursuant to an order  
11 of the court specifying that the child is in need of medical  
12 treatment or other action to protect the health or welfare of the  
13 child and the parent, legal guardian, legal custodian, or other  
14 responsible adult having custody or control of a child is unwilling  
15 or unavailable to consent to such medical treatment or other action.

16 2. If the child is in need of immediate medical treatment or  
17 other action to protect the health or welfare of the child, the  
18 court may issue an emergency ex parte order upon application of the  
19 district attorney of the county in which the child is located. The  
20 application for an ex parte order may be verbal or in writing and  
21 shall be supported by facts sufficient to demonstrate to the court  
22 that there is reasonable cause to believe that the child is in need  
23 of immediate medical treatment or other action to protect the health  
24 or welfare of the child. The emergency ex parte order shall be in



1 effect until a full hearing is conducted. A copy of the  
2 application, notice for full hearing and a copy of any ex parte  
3 order issued by the court shall be served upon such parent, legal  
4 guardian, legal custodian, or other responsible adult having custody  
5 or control of the child. Within twenty-four (24) hours of the  
6 filing of the application the court shall schedule a full hearing on  
7 the application, regardless of whether an emergency ex parte order  
8 had been issued or denied.

9 3. Except as otherwise provided by paragraph 2 of this  
10 subsection, whenever a child is in need of medical treatment to  
11 protect the health or welfare of the child, or whenever any other  
12 action is necessary to protect the health or welfare of the child,  
13 and the parent of the child, legal guardian, legal custodian, or  
14 other person having custody or control of the child is unwilling or  
15 unavailable to consent to such medical treatment or other action,  
16 the court, upon application of the district attorney of the county  
17 in which the child is located, shall hold a full hearing within five  
18 (5) days of filing the application. Notice of the hearing and a  
19 copy of the application shall be served upon the parent, legal  
20 guardian, legal custodian, or other person having custody or control  
21 of the child.

22 4. At any hearing held pursuant to this subsection, the court  
23 may grant any order or require such medical treatment or other  
24

1 action as is necessary to protect the health or welfare of the  
2 child.

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

7 b. No peace officer, any employee of the court or person  
8 acting pursuant to court order authorizing such  
9 treatment in accordance with the provisions of this  
10 subsection for any child found in need of such medical  
11 treatment shall have any liability, civil or criminal.

12 G. As a part of the intake process, an employee of the Office  
13 of Juvenile Affairs or a county juvenile bureau shall inquire as to  
14 whether there is any American Indian lineage or ancestry that would  
15 make the child eligible for membership or citizenship in a federally  
16 recognized American Indian tribe or nation. If the employee of the  
17 Office of Juvenile Affairs or a county juvenile bureau determines  
18 that the child may have American Indian lineage or ancestry, the  
19 employee shall notify the primary tribe or nation of membership or  
20 citizenship within three (3) judicial days of completing an intake  
21 of such determination. Any information or records related to taking  
22 the child into custody shall be confidential, shall not be open to  
23 the general public, and shall not be inspected or their contents  
24 disclosed.

SECTION 3. This act shall become effective November 1, 2022.

COMMITTEE REPORT BY: COMMITTEE ON CHILDREN, YOUTH AND FAMILY  
SERVICES, dated 02/16/2022 - DO PASS, As Amended and Coauthored.