

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

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

4 ENGROSSED SENATE
5 BILL NO. 217

By: Howard of the Senate

and

Moore of the House

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8
9 An Act relating to the Oklahoma Juvenile Code;
10 amending 10A O.S. 2021, Sections 2-5-201, 2-5-202, 2-
11 5-203, 2-5-204, and 2-5-205, which relate to the
12 Youthful Offender Act; removing obsolete
13 implementation date; modifying definitions; stating
14 legislative intent; prohibiting requirement for
15 disclosure of certain information; providing
16 exception; requiring district attorney to provide
17 certain information to the Office of Juvenile Affairs
18 for certification study; requiring person to be
19 charged or prosecuted as an adult under certain
20 circumstances; modifying requirements and procedures
21 for charging as a juvenile delinquent; modifying
22 requirements and procedures for charging as a
23 youthful offender or adult; modifying procedures for
24 appointment of counsel; specifying eligibility for
youthful offender status upon commission of certain
crimes; specifying procedures for charging person as
youthful offender or as an adult; establishing
certain presumption; allowing waiver of certain
preliminary hearing within specified time period;
prohibiting adult sentence under certain
circumstances; providing for waiver of certain right
under certain circumstances; modifying procedures for
certification as a juvenile; establishing procedures
for motions for certification as a juvenile;
requiring certification study; allowing waiver of
certain study; authorizing fee for completion of
certain study; requiring court to consider certain
guidelines; requiring written order for decision on
certain motion; authorizing appeal of certain order

1 to the Court of Criminal Appeals; prohibiting review
2 by trial court of certain certification order;
3 establishing procedures for motions for imposition of
4 adult sentence; requiring certification study;
5 allowing waiver of certain study; authorizing fee for
6 completion of certain study; requiring court to
7 consider certain guidelines; specifying burden of
8 proof for establishing eligibility for imposition of
9 adult sentence; requiring written order for decision
10 on certain motion; authorizing appeal of certain
11 order to the Court of Criminal Appeals; prohibiting
12 review by trial court of certain order; establishing
13 requirements for imposition of sentence for youthful
14 offender; specifying placement options for youthful
15 offender; prohibiting certain sentence from exceeding
16 maximum term; requiring certain filing; requiring
17 rehabilitation plan upon certain placement;
18 specifying required contents of rehabilitation plan;
19 establishing procedures for certain review hearings;
20 requiring certain notice; authorizing certain actions
21 by the court at certain review hearings; requiring
22 certain hearing prior to eighteenth birthday of
23 youthful offender; requiring court to make certain
24 determinations; authorizing extension of jurisdiction
under certain circumstances; providing for final
disposition of youthful offender; authorizing appeal
of certain order to the Court of Criminal Appeals;
defining terms; establishing procedures for transfer
of youthful offender to the custody of the Department
of Corrections; specifying burden of proof for
certain finding; requiring written order for certain
transfer; requiring certain transfer order to be
recorded as an adult conviction; requiring court to
provide certain information to Department of
Corrections upon transfer of custody of a youthful
offender; providing for application of certain
credits; establishing procedures for certain
expungement; defining term; amending 10A O.S. 2021,
Sections 2-5-212 and 2-5-213, which relate to the
Youthful Offender Act; clarifying authority of the
Office of Juvenile Affairs for custody of youthful
offender; clarifying authority of court for certain
reintegration; conforming language for certain
adjudications; modifying statutory references;
repealing 10A O.S. 2021, Sections 2-5-206, 2-5-207,
2-5-208, 2-5-209, and 2-5-210, which relate to the

1 Youthful Offender Act; providing for codification;
2 and providing an effective date.
3

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

5 SECTION 1. AMENDATORY 10A O.S. 2021, Section 2-5-201, is
6 amended to read as follows:

7 Section 2-5-201. Sections 2-5-201 through 2-5-213 of this title
8 shall be known and may be cited as the "Youthful Offender Act". ~~The~~
9 ~~Youthful Offender Act shall be implemented beginning January 1,~~
10 ~~1998.~~

11 SECTION 2. AMENDATORY 10A O.S. 2021, Section 2-5-202, is
12 amended to read as follows:

13 Section 2-5-202. A. For the purposes of the Youthful Offender
14 Act:

15 1. "Youthful offender" means a person:

16 a. thirteen (13) or fourteen (14) years of age who is
17 charged with murder in the first degree and certified
18 as a youthful offender as provided by Section 2-5-205
19 of this title,

20 b. fifteen (15), sixteen (16), or seventeen (17) years of
21 age and charged with a crime listed in subsection A C
22 of Section ~~2-5-206~~ 2-5-205 of this title, and
23
24

1 c. sixteen (16) or seventeen (17) years of age and
2 charged with a crime listed in subsection ~~B~~ E of
3 Section ~~2-5-206~~ 2-5-205 of this title,
4 if the offense was committed on or after ~~January 1, 1998~~ November 1,
5 2022; provided, the state shall not base the timing of the filing of
6 any charges solely on the applicability of the Youthful Offender
7 Act;

8 2. "Sentenced as a youthful offender" means the imposition of a
9 court order making disposition of a youthful offender as provided by
10 Section 2-5-209 of this title which shall constitute an adult
11 criminal sentence if the youthful offender is transferred to the
12 custody or supervision of the Department of Corrections; ~~and~~

13 3. "Next friend" means an individual or executive of an
14 organization who has assumed a parental role without formal legal
15 proceedings, but to all objective observers is readily identified as
16 custodian or guardian in fact;

17 4. "Certification as an adult" means a person for whom the
18 court has granted a motion for the imposition of an adult sentence
19 pursuant to subsection C of Section 7 of this act;

20 5. "Certification as a juvenile" means a person for whom the
21 court has granted a motion for certification as a juvenile pursuant
22 to subsection B of Section 6 of this act;

23 6. "Certification study" means a report prepared for the court
24 by the Office of Juvenile Affairs that includes but is not limited

1 to information related to the circumstances of an offense, any
2 injury that may have occurred, the history of the person in the
3 juvenile justice system, and a psychological evaluation. Such study
4 shall address the guidelines established in subsection B of Section
5 6 of this act; and

6 7. "Juvenile delinquent" means a person who is accused of
7 committing an act which could be prosecuted under subsection A, B,
8 C, D, or E of Section 2-5-205 of this title and against whom the
9 district attorney has chosen to file a petition alleging the person
10 as delinquent.

11 B. It is the purpose of the Youthful Offender Act to better
12 ensure the public safety by holding youths accountable for the
13 commission of serious crimes, while affording courts methods of
14 rehabilitation for those youths the courts determine, at their
15 discretion, may be amenable to such methods. It is the further
16 purpose of the Youthful Offender Act to allow those youthful
17 offenders whom the courts find to be amenable to rehabilitation by
18 the methods prescribed in the Youthful Offender Act to be placed in
19 the custody or under the supervision of the Office of Juvenile
20 Affairs for the purpose of accessing the rehabilitative programs
21 provided by that Office.

22 C. It is the intent of the Legislature to fully utilize the
23 Youthful Offender Act as a means to protect the public while
24 rehabilitating and holding youth accountable for serious crimes.

1 The Legislature finds that eligible seventeen-year-olds should have
2 the opportunity to be processed as youthful offenders as provided by
3 law and held accountable through the provisions of the Youthful
4 Offender Act for custody, institutional placement, supervision,
5 extended jurisdiction within the Office of Juvenile Affairs (OJA),
6 and the ability to transfer youthful offenders to the Department of
7 Corrections when incarceration or additional supervision is required
8 beyond the maximum age allowed in the OJA. No older youth should be
9 deemed ineligible or denied consideration as a youthful offender who
10 is otherwise lawfully eligible based upon the age of the youth being
11 seventeen (17) years, but it is the intent of the Legislature that
12 such youthful offender shall not remain in the custody or under the
13 supervision of the OJA beyond the youthful offender's maximum age of
14 eighteen (18) years and six (6) months or until nineteen (19) years
15 of age if jurisdiction has been extended as provided in subsection D
16 of Section 9 of this act. To deny access to an otherwise eligible
17 older youth without cause is to circumvent the original intent of
18 the Legislature in creating the Youthful Offender Act.

19 D. Unless otherwise provided by law, when a court determines
20 that a youthful offender has successfully completed his or her
21 treatment and rehabilitation plan and is discharged by the court
22 without a court judgment of guilt and the case dismissed with
23 prejudice, the arrest or adjudication record does not have to be
24 disclosed for the purposes of employment, civil rights, or any

1 regulation, license, questionnaire, application, or any other public
2 purpose. Any prohibition regarding possession of firearms pursuant
3 to Section 1283 of Title 21 of the Oklahoma Statutes shall still be
4 applicable.

5 E. In any case for which the court orders a certification
6 study, the district attorney shall provide to the Office of Juvenile
7 Affairs (OJA) a copy of any police report and all other relevant
8 documents or information in the possession of the district attorney
9 or any other law enforcement agency that has reported to the
10 district attorney in the case, which should be considered in
11 preparing the ordered report. The police reports, any report from
12 the Oklahoma State Bureau of Investigation, and any other relevant
13 documents or information as available, shall be provided to the OJA
14 within five (5) business days of the issuance of the order.

15 F. In any case for which the court orders a certification
16 study, the attorney for the youth is ordered to provide to OJA the
17 names and contact information of the youth's parents, guardians, or
18 next friend, along with any relevant documents or information the
19 youth requests OJA to consider in the preparation of the ordered
20 report. The names and contact information and any other documents
21 or information shall be provided to OJA within five (5) business
22 days of the issuance of the order.

23 SECTION 3. AMENDATORY 10A O.S. 2021, Section 2-5-203, is
24 amended to read as follows:

1 Section 2-5-203. A. 1. A child who is charged with having
2 violated ~~any~~ a state statute or municipal ordinance other than as
3 provided in ~~Sections~~ Section 2-5-205 ~~and 2-5-206~~ of this title shall
4 not be tried in a criminal action as an adult or a youthful
5 offender, but in a juvenile proceeding, unless previously
6 adjudicated as a youthful offender or sentenced as an adult under
7 the provisions of the Youthful Offender Act or certified as an adult
8 pursuant to Section 2-2-403 of this title.

9 2. ~~However, when~~ When multiple offenses occur within the same
10 course of conduct within the same county and the person is
11 prosecuted for at least one offense as a youthful offender or as an
12 adult pursuant to subsection A, B, C, D, or E of Section 2-5-205 ~~or~~
13 ~~2-5-206~~ of this title, ~~then~~ all ~~the~~ charges may be prosecuted under
14 the same action pursuant to the provisions of the Youthful Offender
15 Act, if so ordered by the court. The decision to join the cases
16 shall not be appealable as a final order. If the offense or
17 offenses listed in subsection A, B, C, D, or E of Section 2-5-205 ~~or~~
18 ~~Section 2-5-206~~ of this title ~~is~~ are subsequently dismissed for any
19 reason, or if a verdict of not guilty is returned, then any
20 remaining pending charges shall be transferred to the juvenile
21 court.

22 B. If, during the pendency of ~~a criminal or quasi-criminal~~
23 ~~charge against any person~~ action under the Youthful Offender Act, it
24 shall be ascertained that the person was a child at the time of

1 committing the alleged offense and had not reached the age
2 requirement for filing charges under subsection A, B, C, D, or E of
3 Section 2-5-205 of this title, the district court ~~or municipal court~~
4 shall immediately transfer the case, together with all the papers,
5 documents and testimony connected therewith, to the juvenile
6 division ~~of the district court~~. The division making such transfer
7 shall order the child to be taken forthwith to the place of
8 detention designated by the juvenile division, to that division
9 itself, or release such child to the custody of some suitable person
10 to be brought before the juvenile division.

11 C. Nothing in this section shall be construed to prevent the
12 exercise of concurrent jurisdiction by another division of the
13 district court or by municipal courts in cases involving children
14 wherein the child is charged with the violation of a state or
15 municipal traffic law or ordinance.

16 D. 1. If a person commits an act which could have been charged
17 under subsection A, B, C, D, or E of Section 2-5-205 of this title
18 but, through no fault of the state, the crime was not reported or
19 did not become known to the district attorney or law enforcement
20 until the person reached eighteen (18) years of age, the person
21 shall be held accountable for his or her act as an adult and shall
22 not be subject to the provisions of the Youthful Offender Act or the
23 provisions of the Juvenile Code for certification as a juvenile.
24

1 2. In the event a person who is charged as a youthful offender
2 with a crime listed in subsection A, B, C, D, or E of Section 2-5-
3 205 of this title willfully and purposefully avoids arrest after
4 reasonable attempts by law enforcement to apprehend on his or her
5 warrant shall be prosecuted as an adult if apprehended after the
6 person turns eighteen (18) years of age.

7 SECTION 4. AMENDATORY 10A O.S. 2021, Section 2-5-204, is
8 amended to read as follows:

9 Section 2-5-204. A. A child who is arrested for an offense
10 pursuant to ~~subsection A or B of Section 2-5-206 of this title, or~~
11 ~~who is certified as a youthful offender pursuant to~~ subsection A, B,
12 C, D, or E of Section 2-5-205 of this title, shall may, depending on
13 the child's age and alleged crime, be charged by as a juvenile
14 delinquent, youthful offender, or an adult. If charged as a
15 juvenile delinquent, a petition shall be filed. If charged as a
16 youthful offender or adult, an information in the same manner as
17 provided for adults shall be filed. At any time after the child is
18 charged as a youthful offender or adult, the district attorney may
19 dismiss the information and file a juvenile delinquent petition.

20 B. If the child is not otherwise represented by counsel and
21 either the child, his or her parent, guardian, or next friend
22 requests an attorney prior to or during interrogation, or whenever
23 upon being charged by information, as provided in subsection A of
24 this section, the court shall appoint an attorney, who shall not be

1 a district attorney, for the child regardless of any attempted
2 waiver by the parent, ~~legal~~ guardian, or ~~other legal custodian of~~
3 ~~the child~~ next friend of the right ~~of the child~~ to be represented by
4 counsel. ~~Counsel shall be appointed by~~ If the court ~~only upon~~
5 ~~determination by~~ appoints an attorney for a child for the
6 interrogation or at the initial appearance, the court ~~that the~~ shall
7 review the appointment at a subsequent hearing to determine if the
8 child, parent, ~~legal~~ guardian, or legal custodian is found to be
9 indigent next friend qualifies for a court-appointed attorney.

10 C. When a person ~~is certified~~ proceeds to ~~stand~~ trial as either
11 a youthful offender or as an adult ~~or a youthful offender~~ as
12 provided by the Youthful Offender Act, the accused person shall have
13 all the statutory and constitutional rights and protections of an
14 adult accused of a crime. All proceedings shall be as for a
15 criminal action and the provisions of Title 22 of the Oklahoma
16 Statutes shall apply, except as provided for in the Youthful
17 Offender Act.

18 D. All youthful offender court records for a person who is
19 certified to stand trial as an adult or youthful offender shall be
20 considered adult records and shall not be subject to the provisions
21 of Chapter 6 of the Oklahoma Juvenile Code; provided, however, all
22 reports, evaluations, motions, records, exhibits or documents
23 regarding the educational history, mental health or medical
24 treatment or condition of the ~~offender~~ person that are submitted to

1 the court or admitted into evidence during the hearing on the motion
2 for certification as a juvenile or a youthful offender ~~to the~~
3 ~~juvenile system~~ or on the motion for imposition of an adult sentence
4 shall be confidential and shall be filed or admitted under seal,
5 except that such records shall be provided to the Office of Juvenile
6 Affairs. Any testimony regarding the reports, evaluations, motions,
7 records, exhibits or documents shall be given in camera and shall
8 not be open to the general public; provided, all persons having a
9 direct interest in the case as provided in paragraph 1 of subsection
10 A of Section 2-2-402 of this title shall be allowed to be present
11 during the testimony but shall be admonished not to discuss the
12 testimony following the hearing. All reports, evaluations, motions,
13 records, exhibits or documents shall be released from under seal by
14 order of the court if the youthful offender is sentenced to the
15 custody or supervision of the Department of Corrections by the court
16 pursuant to paragraph 1 of subsection B of Section 2-5-209 or
17 ~~paragraph 5 of~~ subsection B of Section 2-5-210 of this title or if
18 the juvenile or youthful offender is later charged as an adult with
19 a felony crime.

20 E. Proceedings against a youthful offender shall be heard by
21 any judge of the district court.

22 F. Upon arrest and detention of a person subject to the
23 provisions of ~~Section 2-5-205 or 2-5-206 of this title~~ the Youthful
24

1 Offender Act, the person has the same right to be released on bail
2 as would an adult in the same circumstances.

3 G. Upon ~~certification for the imposition of an adult sentence~~,
4 a verdict of guilty or entry of a plea of guilty or nolo contendere
5 by a youthful offender who has been certified for the imposition of
6 an adult sentence as provided by Section ~~2-5-208~~ 2-5-207 of this
7 title, the person may be detained in an adult jail, adult lockup,
8 adult detention facility or other adult facility if that facility is
9 licensed by the State Department of Health to detain children under
10 eighteen (18) years of age while the person is awaiting housing by
11 the Department of Corrections.

12 H. A child or youthful offender shall be tried as an adult in
13 all subsequent criminal prosecutions, and shall not be subject to
14 the jurisdiction of the juvenile court as a juvenile delinquent or
15 youthful offender processes in any further proceedings if:

16 1. The child or youthful offender has been certified to stand
17 trial as an adult pursuant to any certification procedure provided
18 by law and is subsequently convicted of the alleged offense or
19 against whom the imposition of judgment and sentence has been
20 deferred; or

21 2. The youthful offender has been certified for the imposition
22 of an adult sentence as provided by Section ~~2-5-208~~ 2-5-207 of this
23 title and is subsequently convicted of the alleged offense or
24

1 against whom the imposition of judgment and sentencing has been
2 deferred.

3 I. Except as otherwise provided in the Youthful Offender Act, a
4 person who has been certified as a youthful offender shall be
5 prosecuted as a youthful offender in all subsequent criminal
6 proceedings until the youthful offender has attained eighteen (18)
7 years of age.

8 All proceedings for the commission of a crime committed after a
9 youthful offender has reached eighteen (18) years of age shall be
10 adult proceedings.

11 SECTION 5. AMENDATORY 10A O.S. 2021, Section 2-5-205, is
12 amended to read as follows:

13 Section 2-5-205. A. Any person thirteen (13) or fourteen (14)
14 years of age who is charged with murder in the first degree shall be
15 held accountable for the act as if the person were an adult;
16 provided, the person may be certified as a youthful offender or a
17 juvenile as provided by this section, unless the person is subject
18 to the provisions of subsection H of Section 2-5-204 of this title.

19 B. Any person fifteen (15), sixteen (16) or seventeen (17)
20 years of age who is charged with murder in the first degree ~~or rape~~
21 ~~in the first degree or attempt thereof at that time~~ shall be held
22 accountable for his or her act as if the person was an adult and
23 shall not be subject to the provisions of the Youthful Offender Act
24 or the provisions of the Juvenile Code for certification as a

1 juvenile. The person shall have all the statutory rights and
2 protections of an adult accused of a crime. All proceedings shall
3 be as for a criminal action and the provisions of Title 22 of the
4 Oklahoma Statutes shall apply. A person having been convicted as an
5 adult pursuant to this paragraph shall be tried as an adult for
6 every subsequent offense.

7 C. ~~1.~~ Any person fifteen (15), sixteen (16) or seventeen (17)
8 years of age who is charged with:

9 1. Murder in the second degree;

10 2. Kidnapping or attempt thereof;

11 3. Manslaughter in the first degree;

12 4. Robbery with a dangerous weapon or a firearm or attempt
13 thereof;

14 5. Robbery in the first degree or attempt thereof;

15 6. Robbery committed by two or more persons;

16 7. Rape by instrumentation or attempt thereof;

17 8. Forcible sodomy;

18 9. Lewd acts or proposals to a child under sixteen (16) years
19 of age or any offense in violation of subsection A of Section 1123
20 of Title 21 of the Oklahoma Statutes;

21 10. Domestic abuse by strangulation;

22 11. Arson in the first degree or attempt thereof; or

23 12. Any offense in violation of Section 652 of Title 21 of the
24 Oklahoma Statutes,

1 shall be held accountable for such acts as a youthful offender;
2 provided, the person may be certified as a juvenile or as an adult
3 as provided by the provisions of the Youthful Offender Act.

4 D. At the sole discretion of the district attorney, any person
5 fifteen (15), sixteen (16) or seventeen (17) years of age who is
6 charged with rape in the first degree or attempt thereof may be held
7 accountable for his or her act as if the person was an adult or as a
8 youthful offender. When charged as an adult, the person shall have
9 all the statutory rights and protections of an adult accused of a
10 crime. All proceedings shall be as for a criminal action and the
11 provisions of Title 22 of the Oklahoma Statutes shall apply. A
12 person having been convicted as an adult pursuant to this subsection
13 shall be tried as an adult for every subsequent offense. When
14 charged as a youthful offender, the person shall be held accountable
15 for such acts as a youthful offender; provided, the person may be
16 certified as a juvenile or as an adult as provided by the Youthful
17 Offender Act.

18 E. Any person sixteen (16) or seventeen (17) years of age who
19 is charged with:

20 1. Burglary in the first degree or attempted burglary in the
21 first degree;

22 2. Battery or assault and battery on a state employee or
23 contractor while in the custody or supervision of the Office of
24 Juvenile Affairs;

1 3. Aggravated assault and battery of a police officer;

2 4. Intimidating a witness;

3 5. Trafficking in or manufacturing illegal drugs;

4 6. Assault and battery with a deadly weapon;

5 7. Maiming;

6 8. Residential burglary in the second degree after two or more
7 adjudications that are separated in time for delinquency for
8 committing burglary in the first degree or residential burglary in
9 the second degree;

10 9. Rape in the second degree; or

11 10. Use of a firearm while in commission of a felony,
12 may be held accountable for such acts as a youthful offender;
13 provided, the person may be certified as a juvenile or as an adult
14 as provided by the Youthful Offender Act.

15 F. 1. For any charges listed in Sections A, C, D, or E of this
16 section, the district attorney may elect to file a petition alleging
17 the person to be delinquent or may file an information charging the
18 person as a youthful offender. The district attorney shall
19 immediately notify the Office of Juvenile Affairs upon the filing of
20 any youthful offender charges.

21 2. After an information has been filed charging a person as a
22 youthful offender under Sections A, C, D, or E of this section, or
23 as an adult under subsection B of this section, the district
24

1 attorney may elect to amend or dismiss the information and refile
2 any or all charges in a delinquent petition.

3 3. Upon the filing of an information, the person's complete
4 juvenile record shall be made available to the district attorney and
5 the person's attorney.

6 G. 1. Upon the filing of an ~~adult criminal~~ information against
7 ~~such accused~~ a person, a warrant shall be issued which shall set
8 forth the rights of the accused ~~person~~, and the rights of the
9 parents, guardian, or next friend of the accused ~~person~~ to be
10 present at the preliminary hearing, and to have an attorney ~~present~~
11 ~~and to make application for certification of such accused person as~~
12 ~~a youthful offender to the district court for the purpose of~~
13 ~~prosecution as a youthful offender.~~

14 2. The warrant shall be personally served together with a
15 certified copy of the information on the accused ~~person~~ and on a
16 custodial parent, guardian, or next friend of the accused ~~person~~.
17 The court may inquire of the accused as to the whereabouts of his or
18 her parents, guardian, or next friend in order to avoid unnecessary
19 delay in the proceedings.

20 3. When personal service of a custodial parent, guardian, or
21 next friend of the accused ~~person~~ cannot be ~~effected~~ completed,
22 service may be made by certified mail to ~~such~~ the person's last-
23 known address, requesting a return receipt from the addressee only.
24 If delivery is refused, notice may be given by mailing ~~the warrant~~

1 ~~and~~ a copy of the accused's warrant information ~~on the accused~~
2 ~~person~~ by regular first-class mail to the address where the person
3 to be notified refused delivery of the notice sent by certified
4 mail. Where the address of a custodial parent, guardian or next
5 friend is not known, or if the mailed copy of the accused's warrant
6 ~~and copy of the information on the accused person~~ is returned for
7 any reason other than refusal of the addressee to accept delivery,
8 after a thorough search of all reasonably available sources to
9 ascertain the whereabouts of a custodial parent, guardian, or next
10 friend has been conducted, the court may order that notice of the
11 hearing be given by publication one time in a newspaper of general
12 circulation in the county. ~~In addition, the~~ The court may also
13 order other means of service of notice that the court deems
14 advisable or in the interests of justice.

15 4. Before service by publication is ordered, the court shall
16 conduct an inquiry to determine whether a thorough search has been
17 made of all reasonably available sources to ascertain the
18 whereabouts of any ~~party~~ person for whom notice by publication is
19 sought.

20 ~~D. 1. The accused person shall file any motions for~~
21 ~~certification as a youthful offender or a juvenile before the start~~
22 ~~of the criminal preliminary hearing. If both a motion for~~
23 ~~certification as a youthful offender and a motion for certification~~
24 ~~as a juvenile are filed, they shall both be heard at the same time.~~

1 ~~No motion for certification as a youthful offender or certification~~
2 ~~as a juvenile may be filed after the time specified in this~~
3 ~~subsection. Upon the filing of such motion, the complete juvenile~~
4 ~~record of the accused shall be made available to the district~~
5 ~~attorney and the accused person. All reports, evaluations, motions,~~
6 ~~records, exhibits or documents regarding the educational history,~~
7 ~~mental health or medical treatment or condition of the offender that~~
8 ~~are submitted to the court or admitted into evidence during the~~
9 ~~hearing on the motion for certification as a youthful offender to~~
10 ~~the juvenile system or motion for imposition of an adult sentence~~
11 ~~are confidential and shall be filed or admitted under seal, except~~
12 ~~that such records shall be provided to the Office of Juvenile~~
13 ~~Affairs. Any testimony regarding the reports, evaluations, motions,~~
14 ~~records, exhibits or documents shall be given in camera and shall~~
15 ~~not be open to the general public; provided, all persons having a~~
16 ~~direct interest in the case as provided in paragraph 1 of subsection~~
17 ~~A of Section 2-2-402 of this title shall be allowed to be present~~
18 ~~during the testimony but shall be admonished not to discuss the~~
19 ~~testimony following the hearing. All reports, evaluations, motions,~~
20 ~~records, exhibits or documents shall be released from under seal by~~
21 ~~order of the court if the youthful offender is sentenced to the~~
22 ~~custody or supervision of the Department of Corrections by the court~~
23 ~~pursuant to either paragraph 1 of subsection B of Section 2-5-209 or~~
24 ~~paragraph 5 of subsection B of Section 2-5-210 of this title or if~~

1 ~~the juvenile or youthful offender is later charged as an adult with~~
2 ~~a felony crime.~~

3 ~~2.~~ 5. The person is presumed to be a youthful offender, and the
4 proceedings shall continue under such presumption unless the court
5 grants the person's motion for certification as a juvenile pursuant
6 to Section 6 of this act or grants the district attorney's motion
7 for imposition of an adult sentence pursuant to Section 7 of this
8 act.

9 H. The court shall commence ~~a~~ the preliminary hearing within
10 ninety (90) days of the filing of the information, pursuant to
11 Section 258 of Title 22 of the Oklahoma Statutes, to determine
12 whether ~~the~~ a crime was committed and ~~whether~~ if there is probable
13 cause to believe the accused ~~person~~ committed ~~a~~ the crime. ~~If the~~
14 The requirement for the preliminary hearing to be held within ninety
15 (90) days may be waived by the accused.

16 1. For a person charged under subsection A or B of Section 2-5-
17 205 of this title, if the preliminary hearing is not commenced
18 within ninety (90) days of the filing date of the ~~accused person is~~
19 ~~charged~~ information, the district court shall hold a hearing to
20 determine the reasons for delay utilizing the procedure set out in
21 Section 812.2 of Title 22 of the Oklahoma Statutes, to ensure the
22 preliminary hearing is expedited, unless the ninety-day requirement
23 has been waived by the accused.

1 2. For a person charged under subsection C, D, or E of Section
2 2-5-205 of this title, if the preliminary hearing is not commenced
3 within ninety (90) days of the filing of the information, the
4 district attorney shall be prohibited from seeking an adult sentence
5 unless the ninety-day requirement has been waived by the accused.

6 ~~if~~

7 3. For an accused person charged under subsection A, B, C, D,
8 or E of Section 2-5-205 of this title, if the whereabouts of the
9 accused are unknown at the time of the filing of the information or
10 if the accused is a fugitive, the State of Oklahoma shall make
11 reasonable efforts to locate the accused in order to commence the
12 proceedings. An accused who flees the jurisdiction of the court or
13 purposely avoids apprehension for the charges, waives the right to
14 have the preliminary hearing commenced within ninety (90) days of
15 the filing of the information. ~~An accused who fails to cooperate~~
16 ~~with providing information in locating the parents of the accused,~~
17 ~~guardian, or next friend for purpose of notice waives the right to~~
18 ~~have the preliminary hearing commence within ninety (90) days of the~~
19 ~~filing of the information.~~ If the preliminary hearing ~~did~~ does not
20 commence within ninety (90) days from the filing of the information
21 due to the absence or inability to locate the accused, the
22 preliminary hearing shall commence within ninety (90) days after the
23 state has actual notice of the in-state location of the accused. If
24 the accused is found out of state, the court shall set the hearing

1 within ninety (90) days after the accused has been returned to the
2 State of Oklahoma. An accused who fails to cooperate with providing
3 information in locating his or her parent, guardian, or next friend
4 for purposes of notice waives the right to have the preliminary
5 hearing commence within ninety (90) days of the filing of the
6 information.

7 ~~3.~~ I. At the conclusion of the state's case at the ~~criminal~~
8 preliminary hearing, ~~the state and~~ if the accused has filed a motion
9 for certification as a juvenile pursuant to subsection A of this
10 section, or if the district attorney has filed a motion for the
11 imposition of an adult sentence pursuant to Section 7 of this act,
12 both the accused person and the district attorney may offer evidence
13 to in support or oppose in opposition of the pending motion or
14 motions for certification as a youthful offender or an alleged
15 juvenile delinquent.

16 ~~E.~~ J. The court shall rule on any ~~motions~~ properly filed motion
17 for certification as a ~~youthful offender or an alleged juvenile~~
18 ~~delinquent~~ or motion for the imposition of an adult sentence before
19 ruling on whether to bind the accused over for trial. ~~When ruling~~
20 ~~on a motion for certification as a youthful offender or juvenile,~~
21 ~~the court shall give consideration to the following guidelines with~~
22 ~~greatest weight to be given to paragraphs 1, 2 and 3:~~

23 ~~1. Whether the alleged offense was committed in an aggressive,~~
24 ~~violent, premeditated or willful manner;~~

1 ~~2. Whether the offense was against persons, and, if personal~~
2 ~~injury resulted, the degree of personal injury, and the statements~~
3 ~~of the victim or victims;~~

4 ~~3. The record and past history of the accused person including~~
5 ~~previous contacts with law enforcement agencies and juvenile or~~
6 ~~criminal courts, prior periods of probation and commitments to~~
7 ~~juvenile institutions;~~

8 ~~4. The sophistication and maturity of the accused person and~~
9 ~~the capability of distinguishing right from wrong as determined by~~
10 ~~consideration of the person's psychological evaluation, home,~~
11 ~~environmental situation, emotional attitude and pattern of living;~~

12 ~~5. The prospects for adequate protection of the public if the~~
13 ~~accused person is processed through the youthful offender system or~~
14 ~~the juvenile system;~~

15 ~~6. The reasonable likelihood of rehabilitation of the accused~~
16 ~~person if such person is found to have committed the alleged~~
17 ~~offense, by the use of procedures and facilities currently available~~
18 ~~to the juvenile court; and~~

19 ~~7. Whether the offense occurred while the accused person was~~
20 ~~escaping or on escape status from an institution for youthful~~
21 ~~offenders or delinquent children.~~

22 ~~The court, in its decision on a motion for certification as a~~
23 ~~youthful offender or juvenile, shall detail findings of fact and~~
24 ~~conclusions of law to each of the above considerations, and shall~~

1 ~~state that the court has considered each of the guidelines in~~
2 ~~reaching its decision.~~

3 ~~F. The order certifying a person as a youthful offender or an~~
4 ~~alleged juvenile delinquent or denying the request for certification~~
5 ~~as either a youthful offender or an alleged juvenile delinquent~~
6 ~~shall be a final order, appealable to the Court of Criminal Appeals~~
7 ~~when entered.~~

8 ~~G. An order certifying the accused person as a youthful~~
9 ~~offender or an alleged juvenile delinquent shall not be reviewable~~
10 ~~by the trial court.~~

11 ~~H. If the accused person is prosecuted as an adult and is~~
12 ~~subsequently convicted of the alleged offense or against whom the~~
13 ~~imposition of judgment and sentencing has been deferred, the person~~
14 ~~may be incarcerated with the adult population and shall be~~
15 ~~prosecuted as an adult in all subsequent criminal proceedings.~~

16 SECTION 6. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 2-5-206A of Title 10A, unless
18 there is created a duplication in numbering, reads as follows:

19 A. 1. When the attorney for the accused person determines
20 there is good cause to believe the accused should have been charged
21 as a delinquent and not as youthful offender, the attorney for the
22 accused shall file a motion for certification as a juvenile. The
23 motion for certification as a juvenile shall be filed prior to the
24

1 start of the preliminary hearing. No motion for certification as a
2 juvenile may be filed after the preliminary hearing has begun.

3 2. If a motion for certification as a juvenile has been filed,
4 the court shall order a certification study to be conducted, unless
5 waived by the accused with the approval of the court. Any such
6 certification study shall be completed by the Office of Juvenile
7 Affairs. Upon ordering the certification study, the court shall
8 order the parent, guardian, next friend, or other person legally
9 obligated to care for and support the child, to pay a fee to the
10 Office of Juvenile Affairs of not less than One Hundred Dollars
11 (\$100.00), nor more than One Thousand Dollars (\$1,000.00). The
12 court shall set a reasonable date for the payment of the fee due to
13 the Office of Juvenile Affairs for the completion of the
14 certification study. In hardship cases, the court may establish a
15 payment schedule.

16 B. When ruling on a motion for certification as a juvenile, the
17 court shall consider the following guidelines with greatest weight
18 to be given to paragraphs 1, 2, and 3:

19 1. Whether the alleged offense was committed in an aggressive,
20 violent, premeditated, or willful manner, and the accused person's
21 level of involvement in the offense;

22 2. Whether the offense was against persons and if personal
23 injury resulted, the degree of personal injury, and the statement or
24 statements of the victim or victims;

1 3. The record and past history of the accused person including
2 previous contacts with law enforcement agencies and juvenile or
3 criminal courts, prior periods of probation, and commitments to
4 juvenile institutions;

5 4. The sophistication, age, and maturity of the person and the
6 capability of distinguishing right from wrong as determined by
7 consideration of the person's psychological evaluation, home,
8 environmental situation, emotional attitude, and pattern of living;

9 5. The prospects for adequate protection of the public if the
10 accused is processed through the juvenile justice system as either a
11 delinquent or youthful offender;

12 6. The reasonable likelihood of rehabilitation if the accused
13 is found to have committed the offense, by the use of programs and
14 facilities currently available to the court through the juvenile
15 justice system; and

16 7. Whether the offense occurred while the accused was escaping
17 or on escape status from a facility or placement for youthful
18 offenders or delinquent children.

19 C. The court, in its decision on a motion for certification as
20 a juvenile, shall issue a written order and prepare detailed
21 findings of fact and conclusions of law as to each of the
22 considerations in subsection B of this section, and shall state that
23 the court has considered each of the guidelines in reaching its
24 decision.

1 D. The order granting or denying the motion for certification
2 as a juvenile shall be a final order, appealable to the Court of
3 Criminal Appeals when entered.

4 E. An order certifying the accused person as a juvenile shall
5 not be reviewable by the trial court.

6 SECTION 7. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2-5-207A of Title 10A, unless
8 there is created a duplication in numbering, reads as follows:

9 A. Whenever the district attorney determines there is good
10 cause to believe that the person charged as a youthful offender
11 would not reasonably complete a plan of rehabilitation or the public
12 would not be adequately protected if the person were to be sentenced
13 as a youthful offender, the district attorney may file a motion for
14 the imposition of an adult sentence. The district attorney may
15 elect when to file the motion for the imposition of an adult
16 sentence as set forth as follows:

17 1. The district attorney may file the motion for the imposition
18 of an adult sentence no later than fourteen (14) days prior to the
19 start of the preliminary hearing. If the motion is properly filed
20 prior to preliminary hearing, the court shall rule on such motion
21 prior to a ruling to bind the person over for trial. Once the
22 motion for imposition of an adult sentence is heard by the court,
23 such motion cannot be filed again and argued to the trial court
24 after arraignment.

1 2. The district attorney may file the motion for the imposition
2 of an adult sentence no later than thirty (30) days following formal
3 arraignment. If the motion is properly filed, such motion will be
4 heard and ruled upon by the trial court.

5 3. If the accused's attorney indicates to the court that the
6 accused wishes to plead guilty or nolo contendere to the charge or
7 charges, the court shall notify the district attorney. The district
8 attorney shall have ten (10) days after notification to file the
9 motion for the imposition of an adult sentence. If the motion is
10 properly filed, such motion will be heard and ruled upon by the
11 trial court.

12 B. If a motion for imposition of an adult sentence was properly
13 filed, the court shall order a certification study to be prepared by
14 the Office of Juvenile Affairs, unless waived by the accused with
15 approval of the court unless previously prepared pursuant to Section
16 6 of this act. Upon ordering the certification study, the court
17 shall order the parent, guardian, next friend, or other person
18 legally obligated to care for and support the accused, to pay a fee
19 to the Office of Juvenile Affairs of not less than One Hundred
20 Dollars (\$100.00), nor more than One Thousand Dollars (\$1000.00).
21 The court shall set a reasonable date for the payment of the fee due
22 to the Office of Juvenile Affairs for the completion of the
23 certification study. In hardship cases, the court may establish a
24 payment schedule.

1 C. When ruling on a motion for the imposition of an adult
2 sentence, the court shall consider the following guidelines with
3 greatest weight to be given to paragraphs 1, 2, and 3:

4 1. Whether the alleged offense was committed in an aggressive,
5 violent, premeditated, or willful manner, and the accused's level of
6 involvement in the offense;

7 2. Whether the offense was against persons and, if personal
8 injury resulted, the degree of personal injury, and the statement or
9 statements of the victim or victims;

10 3. The record and past history of the accused person including
11 previous contacts with law enforcement agencies and juvenile or
12 criminal courts, prior periods of probation, and commitments to
13 juvenile facilities or placements;

14 4. The sophistication, age, and maturity of the person and the
15 capability of distinguishing right from wrong as determined by
16 consideration of the person's psychological evaluation, home,
17 environmental situation, emotional attitude, and pattern of living;

18 5. The prospects for adequate protection of the public if the
19 accused person is processed through the juvenile justice system as
20 either a delinquent or youthful offender;

21 6. The reasonable likelihood of rehabilitation if the accused
22 is found to have committed the offense, using programs and
23 facilities currently available to the court through the juvenile
24 justice system; and

1 7. Whether the offense occurred while the accused person was
2 escaping or on escape status from a facility or placement for
3 youthful offenders or delinquent children.

4 D. After the hearing and consideration of the report of the
5 investigation, the court shall certify the person as eligible for
6 the imposition of an adult sentence only if the court finds by clear
7 and convincing evidence that there is good cause to believe that the
8 accused would not reasonably complete a plan of rehabilitation or
9 that the public would not be adequately protected if the accused
10 were to be sentenced as a youthful offender.

11 E. The court, in its decision on a motion for the imposition of
12 an adult sentence, shall issue a written order and prepare detailed
13 findings of fact and conclusions of law as to each of the
14 considerations in subsections C and D of this section, and shall
15 state that the court has considered each of the guidelines in
16 reaching its decision.

17 F. The order granting or denying the motion for the imposition
18 of an adult sentence shall be a final order, appealable to the Court
19 of Criminal Appeals when entered.

20 G. An order granting the district attorney's motion for the
21 imposition of an adult sentence shall not be reviewable by the trial
22 court.
23
24

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-5-208A of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. After consideration of the evidence and argument presented, the court shall impose a sentence. The court may sentence the youthful offender to the same range of punishment, except for capital offenses, as an adult who was convicted of the same offense or offenses. Any sentence imposed upon a youthful offender may be served in the supervision or custody of the Office of Juvenile Affairs until one of the following occurs:

1. The expiration of the sentence;

2. The youthful offender is discharged from supervision or custody of the Office of Juvenile Affairs by the court; or

3. The court transfers the youthful offender to the custody or supervision of the Department of Corrections.

In addition to the placement of the youthful offender in the supervision or custody of the Office of Juvenile Affairs, the court may issue orders regarding the youthful offender as provided by law for the disposition of an adjudicated juvenile delinquent as long as the age of the youthful offender does not exceed nineteen (19) years of age.

B. A youthful offender adjudication is not an adult conviction, nor shall any youthful offender adjudication prevent the youthful offender from exercising any right or privilege under law.

1 C. The sentence imposed by the court on a youthful offender who
2 is transferred to the custody or supervision of the Department of
3 Corrections shall not exceed the maximum term of the original
4 sentence.

5 D. Upon adjudicating a youthful offender, the court shall file
6 a Judgment of Adjudication as a Youthful Offender. The Judgment of
7 Adjudication shall reflect the date of adjudication, the adjudicated
8 crimes, and the youthful offender sentence imposed.

9 E. Whenever a youthful offender is placed in the custody or
10 under the supervision of the Office of Juvenile Affairs, the Office
11 of Juvenile Affairs shall, within thirty (30) days of receiving
12 notification of the placement, prepare and file with the court the
13 written rehabilitation plan for the youthful offender. The
14 rehabilitation plan shall ensure the protection of the public and
15 shall include but not be limited to:

16 1. The placement decision, such as community, group home,
17 secure care, or specialized placement;

18 2. The youthful offender's treatment and educational needs;

19 3. The measurable objectives required for the youthful
20 offender's successful completion of the rehabilitation plan;

21 4. The treatment objectives for the youthful offender's parent,
22 guardian, or next friend; and
23
24

1 5. If the youthful offender is placed in a group home, secure
2 care, or specialized placement, the preconditions for reintegration
3 into the community.

4 SECTION 9. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 2-5-209A of Title 10A, unless
6 there is created a duplication in numbering, reads as follows:

7 A. The court shall schedule a youthful offender review hearing
8 no less than every six (6) months. Additional review hearings may
9 be scheduled upon the motion of the court or for good cause shown at
10 the request of the youthful offender's attorney, the district
11 attorney, or the Office of Juvenile Affairs. Notice shall be given
12 to the youthful offender, the counsel, parent or guardian of the
13 youthful offender, the district attorney, and the Office of Juvenile
14 Affairs at the time the motion for review is made or filed. At the
15 review hearing, the court may:

16 1. Extend the jurisdiction of the court, and the Office of
17 Juvenile Affairs, as specified in subsection B and C of this
18 section;

19 2. Order a community-placed youthful offender, if less than
20 eighteen (18) years of age, into a sanctions program operated or
21 contracted by the Office of Juvenile Affairs, if available, if the
22 court determines the youthful offender has failed to comply with the
23 rehabilitation plan;

1 3. Revoke the youthful offender's community placement and place
2 the youthful offender in the custody of the Office of Juvenile
3 Affairs if such offender is less than eighteen (18) years of age, if
4 the court determines the youthful offender has substantially failed
5 to comply with the rehabilitation plan;

6 4. Discharge the youthful offender from the supervision or
7 custody of the Office of Juvenile Affairs without a court judgment
8 of guilt and dismiss the case; or

9 5. Transfer the youthful offender from the supervision or
10 custody of the Office of Juvenile Affairs to the Department of
11 Corrections pursuant to the provisions of paragraph 2 of subsection
12 A of Section 10 of this act.

13 B. The court shall hold a hearing thirty (30) days prior to the
14 youthful offender's eighteenth birthday, if the sentence has not
15 expired, or the youthful offender has not been transferred to the
16 custody or supervision of the Department of Corrections. At the
17 hearing, the court shall make one of the following determinations
18 to:

19 1. Extend the custody or supervision of Office of Juvenile
20 Affairs, to continue the youthful offender's rehabilitation plan;

21 2. Discharge the adjudication without a court judgment of guilt
22 and dismiss the case; or

23 3. Transfer the youthful offender into the custody or
24 supervision of the Department of Corrections pursuant to paragraph 2

1 of subsection A of Section 10 of this act. The sentence imposed by
2 the court on a youthful offender who is transferred to the custody
3 or supervision of the Department of Corrections shall not exceed the
4 maximum term of the original sentence.

5 C. The court shall hold a hearing thirty (30) days prior to the
6 youthful offender attaining the age of eighteen (18) years and six
7 (6) months, if the sentence has not expired, or the youthful
8 offender has not been transferred to the custody or supervision of
9 the Department of Corrections. At the hearing, the court shall make
10 one of the following determinations:

11 1. At the recommendation of the Office of Juvenile Affairs, the
12 court may extend the youthful offender's custody or supervision to
13 the age of nineteen (19) to allow him or her to complete the
14 reintegration phase of the treatment program or community
15 supervision. During this extension, the youthful offender may be
16 transferred to the Department of Corrections pursuant to paragraph 2
17 of subsection A of Section 10 of this act;

18 2. Discharge the adjudication without a court judgement of
19 guilt and dismiss the case; or

20 3. Transfer the youthful offender into the custody or
21 supervision of the Department of Corrections pursuant to paragraph 2
22 of subsection A of Section 10 of this act. The sentence imposed by
23 the court on a youthful offender who is transferred to the custody
24

1 or supervision of the Department of Corrections shall not exceed the
2 maximum term of the original sentence.

3 D. If the court has extended jurisdiction of the youthful
4 offender until nineteen (19) years of age, the youthful offender
5 shall remain in the supervision or custody of the Office of Juvenile
6 Affairs until he or she has been discharged or sentenced by the
7 court or until his or her nineteenth birthday, at which time the
8 youthful offender will be returned to the court for final
9 disposition. The court shall have the same dispositional options as
10 provided in paragraphs 2 and 3 of subsection B of this section. Any
11 Motion to Transfer Custody to Department of Corrections shall be
12 filed prior to the youthful offender's nineteenth birthday;
13 provided, however, the hearing may occur after the nineteenth
14 birthday to allow the youthful offender the latest possible time to
15 be in compliance.

16 E. The Office of Juvenile Affairs may make recommendations to
17 the court concerning the disposition of any youthful offender placed
18 in the supervision or custody of the Office of Juvenile Affairs.

19 F. Any order issued by the sentencing court under subsection B,
20 C, or D of this section shall be a final order, appealable when
21 entered to the Court of Criminal Appeals.

22 G. 1. If authorized by the court, any hearing may be conducted
23 as a virtual hearing or through telephonic communications.

24 2. For purposes of this subsection:

- 1 a. "telephonic communication" means participation by
2 interactive telephonic communication which permits
3 auditory communication between the court, the youthful
4 offender, and all necessary participants, and
5 b. "virtual hearing" means a hearing held where
6 participation is accomplished in whole or in part
7 using a computer program which permits both visual and
8 auditory communication between the court, the youthful
9 offender, and all necessary participants.

10 SECTION 10. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2-5-210A of Title 10A, unless
12 there is created a duplication in numbering, reads as follows:

13 A. 1. Whenever the district attorney or the Office of Juvenile
14 Affairs (OJA) believes that a youthful offender in the custody or
15 supervision of OJA should be transferred to the custody or
16 supervision of the Department of Corrections, the district attorney
17 or OJA may file a motion requesting such transfer and the court
18 shall set the motion for hearing. Notice of the motion and hearing
19 shall be given to the youthful offender, the youthful offender's
20 counsel, the parent or guardian of the youthful offender, and either
21 the district attorney or OJA. OJA may make recommendations to the
22 court concerning the transfer of a youthful offender to the
23 Department of Corrections.

1 2. The Court may order the youthful offender transferred to the
2 custody or supervision of the Department of Corrections only if the
3 court finds by clear and convincing evidence that the youthful
4 offender has:

5 a. failed to make substantial progress towards completing
6 the treatment plan which the youthful offender is
7 expected to have achieved,

8 b. established a pattern of disruptive behavior which is
9 not conducive to the established policies and
10 procedures of the program or facility or engaged in
11 other types of behavior which has endangered the life
12 or health of other residents or staff of the facility,

13 c. caused disruption in the facility, smuggled contraband
14 into the facility, or participated or assisted others
15 in smuggling contraband into the facility,

16 d. committed battery or assault and battery on an OJA
17 employee or contractor of a juvenile facility,

18 e. committed battery, assault and battery, or endangered
19 the life or health of another person,

20 f. committed a felony while in the custody or supervision
21 of OJA as demonstrated by:

22 (1) the entry of a plea of guilty or nolo contendere,

23 (2) an adjudication, or a judgment and sentence

24 following a verdict of guilty, or

1 (3) clear and convincing evidence, or

2 g. left a facility in which the youthful offender was
3 being held without permission.

4 The court, in its decision to transfer custody of the youthful
5 offender to the custody of the Department of Corrections, shall
6 issue a written order and make detailed findings of fact and
7 conclusions of law addressing the grounds alleged in the motion of
8 the district attorney or OJA.

9 B. An order transferring custody of a youthful offender to the
10 Department of Corrections shall be deemed an adult conviction and
11 shall be recorded as such in the court records and criminal history
12 records of the offender. Such order shall be a final order,
13 appealable when entered. In addition to a judgment and sentence for
14 an adult conviction, the court shall provide to the Department of
15 Corrections a detailed memorandum or historical statement of the
16 Youthful Offender Act as applied to the offender being transferred
17 to the Department of Corrections including the date of the offense,
18 the date of the adjudication as a youthful offender, the date of the
19 filing of the motion to transfer custody of the offender to the
20 adult criminal system, and the date of the imposition of the adult
21 sentence.

22 C. The court shall grant time-served credits against the adult
23 sentence imposed for any youthful offender transferred to the
24 Department of Corrections. For the purpose of calculating time

1 served to be applied toward any sentence imposed upon a youthful
2 offender, in the event a youthful offender has been placed in the
3 custody or supervision of the Office of Juvenile Affairs, the
4 offender shall receive day-for-day credit for the time spent in the
5 custody or under the supervision of the Office of Juvenile Affairs.
6 Upon commitment to the Department of Corrections, a youthful
7 offender shall also receive other credits as provided by law for an
8 adult inmate.

9 D. 1. If the court dismissed the youthful offender case, the
10 person may file a motion to expunge the plea and the youthful
11 offender adjudication and sentence from the record.

12 2. The court, after hearing the motion, and any objections, may
13 grant the expungement of the youthful offender's record as provided
14 by the procedures in subsection D of Section 991c of Title 22 of the
15 Oklahoma Statutes, if the court finds that the youthful offender has
16 reasonably completed the rehabilitation plan, that the expungement
17 is in the best interest of the youthful offender, and that such
18 dismissal will not jeopardize public safety.

19 3. The court, after hearing the motion and any objections, may
20 order the expungement of all files and records over which the court
21 has jurisdiction pertaining to the arrest and adjudication of the
22 former youthful offender, and shall order the clerk of the court to
23 expunge the entire file and record of the case or any files produced
24 or created by a law enforcement agency in which the name of the

1 former youthful offender is mentioned. The court may order the
2 Office of Juvenile Affairs to expunge all records relating to the
3 former youthful offender that are in the possession of the Office of
4 Juvenile Affairs, except when the documents are necessary to
5 maintain state or federal funding.

6 4. An expungement requested under paragraph 1 of this
7 subsection may be granted regardless of any court action or inaction
8 under paragraph 2 of this subsection.

9 5. Members of the judiciary, district attorneys, the youthful
10 offender, counsel for the youthful offender, employees of juvenile
11 bureaus and the Office of Juvenile Affairs who are assigned juvenile
12 court intake responsibilities, and the Department of Corrections may
13 access records that have been expunged pursuant to this subsection
14 without a court order for the purpose of determining whether to
15 dismiss an action, seek a voluntary probation, file a petition or
16 information, or for purposes of sentencing or placement in a case
17 where the person who is the subject of the sealed record is alleged
18 to have committed a subsequent youthful offender act, a juvenile
19 delinquent act, or any adult criminal offense. Provided, any record
20 sealed pursuant to this section shall be ordered unsealed upon
21 application of the prosecuting agency when the records are requested
22 for use in any subsequent juvenile delinquent, youthful offender, or
23 adult prosecution.

1 6. As used in this subsection, "expunge" means the sealing of
2 criminal records.

3 SECTION 11. AMENDATORY 10A O.S. 2021, Section 2-5-212,
4 is amended to read as follows:

5 Section 2-5-212. A. Whenever a youthful offender is committed
6 to the custody of the Office of Juvenile Affairs, the Office of
7 Juvenile Affairs ~~may~~:

8 ~~1. Place~~ shall have the legal responsibility and authority to
9 place a youthful offender in:

10 1. In a secure facility or other institution or facility
11 maintained by the state for delinquents or youthful offenders;

12 ~~2. Place the youthful offender in~~ In a group home or community
13 residential facility for delinquents or youthful offenders; or

14 ~~3. Place the youthful offender under~~ Under community
15 supervision ~~prior to or after a period of placement in one or more~~
16 ~~of the facilities referred to in paragraphs 1 and 2 of this~~
17 ~~subsection. The Office of Juvenile Affairs may place a youthful~~
18 ~~offender in his or her own home, or an independent living or other~~
19 ~~similar living arrangement within the community of the residence of~~
20 ~~the youthful offender only upon the approval of the court; provided,~~
21 ~~the court shall not prohibit the reintegration of the youthful~~
22 ~~offender into the community except upon finding that the youthful~~
23 ~~offender has not reasonably completed the rehabilitation plan~~
24 ~~objectives established as preconditions for reintegration into the~~

1 ~~community or that the public would not be adequately protected if~~
2 ~~the youthful offender is reintegrated into the community; or~~

3 ~~4. Place the youthful offender in a sanction program if the~~
4 ~~youthful offender fails to comply with a written plan of~~
5 ~~rehabilitation or fails substantially to achieve reasonable~~
6 ~~treatment objectives while in community or other nonsecure programs.~~

7 B. The court shall not prohibit the reintegration of the
8 youthful offender into the community except upon finding that the
9 youthful offender has not reasonably completed the rehabilitation
10 plan objectives established as preconditions for reintegration into
11 the community or that the public would not be adequately protected
12 if the youthful offender is reintegrated into the community.

13 C. Placement of the youthful offender pursuant to this section
14 or any other provision of law shall be the responsibility of the
15 Office of Juvenile Affairs and shall occur as soon as reasonably
16 possible but not more than forty-five (45) days following the filing
17 and adoption of the written rehabilitation plan as provided in
18 Section ~~2-5-210~~ 8 of this ~~title~~ act. This placement time period may
19 be extended upon the declaration of an emergency by the Board of
20 Juvenile Affairs. For the purposes of this section, "emergency"
21 means any situation that places the health, safety and well-being of
22 the residents or staff in imminent peril. The court shall not have
23 authority to ~~require~~ order a specific placement of a youthful
24

1 offender ~~in a time frame which would require the removal of any~~
2 ~~other juvenile or youthful offender from such placement.~~

3 ~~C.~~ D. The Office of Juvenile Affairs shall be responsible for
4 the care and ~~control~~ custody of a youthful offender who has been
5 placed in the custody of the Office of Juvenile Affairs, and shall
6 have the duty and the authority to provide food, clothing, shelter,
7 ordinary medical care, education, discipline and in an emergency to
8 authorize surgery or other extraordinary care. The medical care,
9 surgery and extraordinary care shall be charged to the appropriate
10 agency where the youthful offender qualifies for the care under law,
11 rule, regulation or administrative order or decision. Nothing in
12 this section shall abrogate the right of a youthful offender to any
13 benefits provided through public funds nor the parent's statutory
14 duty or responsibility to provide said necessities; further, no
15 person, agency or institution shall be liable in a civil suit for
16 damages for authorizing or not authorizing surgery or extraordinary
17 care in an emergency, as determined by competent medical authority.
18 A youthful offender placed in the custody of the Office of Juvenile
19 Affairs who has attained eighteen (18) years of age or older may
20 authorize and consent to the medical care sought on behalf of the
21 youthful offender by the Office of Juvenile Affairs and to be
22 provided to the youthful offender by a qualified health care
23 professional. No state employee shall be liable for the costs of
24

1 any medical care or behavioral health services provided to any child
2 in the custody of the Office of Juvenile Affairs.

3 ~~D.~~ E. A youthful offender in the custody of the Office of
4 Juvenile Affairs shall:

5 1. Be entitled to the rights afforded juvenile delinquents
6 pertaining to any due process afforded delinquents in regard to
7 movement from a nonsecure to a secure placement; and

8 2. As appropriate to the age and circumstances of the youthful
9 offender, be provided education, employment, and employment skills
10 and vocational and technical or higher education services,
11 apprenticeship programs and similar opportunities.

12 ~~E.~~ F. The Office of Juvenile Affairs shall have standing to
13 seek review, including an appellate review, of any order directing
14 the Office of Juvenile Affairs to take any action with regard to a
15 youthful offender placed in the custody or under the supervision of
16 the Office of Juvenile Affairs.

17 SECTION 12. AMENDATORY 10A O.S. 2021, Section 2-5-213,
18 is amended to read as follows:

19 Section 2-5-213. A. Upon the motion of a person who has been
20 ~~convicted~~ adjudicated and sentenced as a youthful offender and who
21 has been subsequently transferred to the adult system pursuant to
22 Section ~~2-5-210~~ 10 of this ~~title~~ act, with the recommendation of the
23 sentencing court, the Governor may grant a full and complete pardon
24 and restore citizenship to any person who has been convicted and

1 sentenced as ~~a youthful offender~~ an adult and who has completed the
2 sentence or been discharged from parole.

3 B. Upon the motion of a person convicted as a youthful
4 offender, and three (3) years after the expiration of the sentence
5 of the youthful offender, the court may set aside the conviction if:

6 1. The court has previously found that the person has
7 reasonably complied with the rehabilitation plan and objectives;

8 2. The person was discharged from supervision by the Office of
9 Juvenile Affairs, or was granted early discharge from such
10 supervision by the court; or

11 3. The person has completed the sentence imposed as a result of
12 his first conviction as a youthful offender and has no subsequent
13 convictions.

14 If a conviction is set aside pursuant to this subsection, the
15 youthful offender shall thereafter be released from all penalties
16 and disabilities resulting from the offense for which such person
17 was convicted, including but not limited to, any disqualification
18 for any employment or occupational license, or both, created by any
19 other provision of law. The court may in addition order any law
20 enforcement agency over whom the court has jurisdiction to produce
21 all files and records pertaining to said arrest and conviction of
22 the youthful offender and shall order the clerk of the court to
23 destroy the entire file and record of the case, including docket
24 sheets, index entries, court records, summons, warrants or records

1 in the office of the clerk or which have been produced by a law
2 enforcement agency in which the name of the youthful offender is
3 mentioned. The court may order probation officers and counselors to
4 destroy all records, reports, and social and clinical studies
5 relating to said youthful offender that are in their possession
6 except when said documents are necessary to maintain state or
7 federal funding.

8 SECTION 13. REPEALER 10A O.S. 2021, Sections 2-5-206, 2-
9 5-207, 2-5-208, 2-5-209, and 2-5-210, are hereby repealed.

10 SECTION 14. This act shall become effective November 1, 2022.

11
12 COMMITTEE REPORT BY: COMMITTEE ON CHILDREN, YOUTH AND FAMILY
13 SERVICES, dated 04/05/2022 - DO PASS.
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