

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3205 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: John Talley _____

Adopted: _____

Reading Clerk

1 STATE OF OKLAHOMA

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

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3205

By: Talley

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to fees and costs; amending 10A O.S.
9 2021, Sections 2-2-101, 2-2-301, 2-2-503, 2-2-507, 2-
10 5-208, which relate to the Oklahoma Juvenile Code;
11 modifying provisions related to responsibility for
12 certain medical expenses; modifying provisions
13 related to costs of representation in certain
14 proceedings; modifying provisions related to
15 probation fees; modifying provisions related to
16 authority of court with respect to juvenile
17 proceedings; modifying provisions related to
18 conditions for admission to drug court programs;
19 modifying provisions related to fees for presentence
20 investigations; amending 19 O.S. 2021, Sections 138.5
21 and 138.10, which relate to proceedings involving
22 minors; requiring court to waive application fees in
23 certain proceedings; modifying provisions related to
24 financial responsibility of youthful offender or
guardians; repealing 10A O.S. 2021, Section 2-2-509,
which relates to certain fees and costs with respect
to juveniles; providing an effective date; and
declaring an emergency.

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

SECTION 1. AMENDATORY 10A O.S. 2021, Section 2-2-101, is
amended to read as follows:

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

4 1. By a peace officer, without a court order for any criminal
5 offense for which the officer is authorized to arrest an adult
6 without a warrant, or if the child is willfully and voluntarily
7 absent from the home of the child without the consent of the parent,
8 legal guardian, legal custodian or other person having custody and
9 control of the child for a substantial length of time or without
10 intent to return, or if the surroundings of the child are such as to
11 endanger the welfare of the child;

12 2. By a peace officer or an employee of the court without a
13 court order, if the child is willfully and voluntarily absent from
14 the home of the child without the consent of the parent, legal
15 guardian, legal custodian or other person having custody and control
16 of the child if the surroundings of the child are such as to
17 endanger the welfare of the child or, in the reasonable belief of
18 the employee of the court or peace officer, the child appears to
19 have run away from home without just cause. For purposes of this
20 section, a peace officer may reasonably believe that a child has run
21 away from home when the child refuses to give his or her name or the
22 name and address of a parent or other person legally responsible for
23 the care of the child or when the peace officer has reason to doubt
24 that the name and address given by the child are the actual name and

1 address of the parent or other person legally responsible for the
2 care of the child. A peace officer or court employee is authorized
3 by the court to take a child who has run away from home or who, in
4 the reasonable belief of the peace officer, appears to have run away
5 from home, to a facility designated by administrative order of the
6 court for such purposes if the peace officer or court employee is
7 unable to or has determined that it is unsafe to return the child to
8 the home of the child or to the custody of his or her parent or
9 other person legally responsible for the care of the child. Any
10 such facility receiving a child shall inform a parent or other
11 person responsible for the care of the child;

12 3. Pursuant to an order of the district court issued on the
13 application of the office of the district attorney. The application
14 presented by the district attorney shall be supported by a sworn
15 affidavit which may be based upon information and belief. The
16 application shall state facts sufficient to demonstrate to the court
17 that there is probable cause to believe the child has committed a
18 crime or is in violation of the terms of probation, parole or order
19 of the court;

20 4. By order of the district court pursuant to subsection F of
21 this section when the child is in need of medical or behavioral
22 health treatment or other action in order to protect the health or
23 welfare of the child and the parent, legal guardian, legal custodian
24 or other person having custody or control of the child is unwilling

1 or unavailable to consent to such medical or behavioral health
2 treatment or other action; and

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

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

8 B. Whenever a child is taken into custody as a delinquent
9 child, the child shall be detained, held temporarily in the
10 custodial care of a peace officer or other person employed by a
11 police department, or be released to the custody of the parent of
12 the child, legal guardian, legal custodian, attorney or other
13 responsible adult, upon the written promise of such person to bring
14 the child to the court at the time fixed if a petition is to be
15 filed and to assume responsibility for costs for damages caused by
16 the child if the child commits any delinquent acts after being
17 released regardless of whether or not a petition is to be filed. It
18 shall be a misdemeanor for any person to sign the written promise
19 and then fail to comply with the terms of the promise. Any person
20 convicted of violating the terms of the written promise shall be
21 subject to imprisonment in the county jail for not more than six (6)
22 months or a fine of not more than Five Hundred Dollars (\$500.00), or
23 by both such fine and imprisonment. In addition, if a parent, legal
24 guardian, legal custodian, attorney or other responsible adult is

1 notified that the child has been taken into custody, it shall be a
2 misdemeanor for such person to refuse to assume custody of the child
3 within a timely manner. If detained, the child shall be taken
4 immediately before a judge of the district court in the county in
5 which the child is sought to be detained, or to the place of
6 detention or a children's emergency resource center or host home
7 designated by the court. If no judge be available locally, the
8 person having the child in custody shall immediately report the
9 detention of the child to the presiding judge of the judicial
10 administrative district, provided that the child shall not be
11 detained in custody beyond the next judicial day or for good cause
12 shown due to problems of arranging for and transporting the child to
13 and from a secure juvenile detention center, beyond the second
14 judicial day unless the court shall so order after a detention
15 hearing to determine if there exists probable cause to detain the
16 child. The child shall be present at the detention hearing or the
17 image of the child may be broadcast to the judge by closed-circuit
18 television or any other electronic means that provides for a two-way
19 communication of image and sound between the child and the judge.
20 If the latter judge cannot be reached, such detention shall be
21 reported immediately to any judge regularly serving within the
22 judicial administrative district. If detained, a reasonable bond
23 for release shall be set. Pending further disposition of the case,
24 a child whose custody has been assumed by the court may be released

1 to the custody of a parent, legal guardian, legal custodian, or
2 other responsible adult or to any other person appointed by the
3 court, or be detained pursuant to Chapter 3 of the Oklahoma Juvenile
4 Code in such place as shall be designated by the court, subject to
5 further order.

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

18 D. When any child is taken into custody pursuant to this title
19 and it reasonably appears to the peace officer, employee of the
20 court or person acting pursuant to court order that the child is in
21 need of medical treatment to preserve the health of the child, any
22 peace officer, any employee of the court or person acting pursuant
23 to court order shall have the authority to authorize medical
24 examination and medical treatment for any child found to be in need

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

17 E. A child who has been taken into custody as otherwise
18 provided by this Code who appears to be a minor in need of
19 treatment, as defined by the Inpatient Mental Health and Substance
20 Abuse Treatment of Minors Act, may be admitted to a behavioral
21 health treatment facility in accordance with the provisions of the
22 Inpatient Mental Health and Substance Abuse Treatment of Minors Act.
23 The parent of the child, legal guardian, legal custodian, or other
24 person having custody and control shall be responsible for such

1 behavioral health expenses as ordered by the court. No peace
2 officer, any employee of the court or person acting pursuant to
3 court order authorizing such treatment in accordance with the
4 provisions of this section for any child found in need of such
5 behavioral health evaluation or treatment shall have any liability,
6 civil or criminal, for giving such authorization.

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

13 2. If the child is in need of immediate medical treatment or
14 other action to protect the health or welfare of the child, the
15 court may issue an emergency ex parte order upon application of the
16 district attorney of the county in which the child is located. The
17 application for an ex parte order may be verbal or in writing and
18 shall be supported by facts sufficient to demonstrate to the court
19 that there is reasonable cause to believe that the child is in need
20 of immediate medical treatment or other action to protect the health
21 or welfare of the child. The emergency ex parte order shall be in
22 effect until a full hearing is conducted. A copy of the
23 application, notice for full hearing and a copy of any ex parte
24 order issued by the court shall be served upon such parent, legal

1 guardian, legal custodian, or other responsible adult having custody
2 or control of the child. Within twenty-four (24) hours of the
3 filing of the application the court shall schedule a full hearing on
4 the application, regardless of whether an emergency ex parte order
5 had been issued or denied.

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

19 4. At any hearing held pursuant to this subsection, the court
20 may grant any order or require such medical treatment or other
21 action as is necessary to protect the health or welfare of the
22 child.

23 5. a. ~~The parent, legal guardian, legal custodian, or other~~
24 ~~person having custody or control of the child shall be~~

1 ~~responsible for such medical expenses as ordered by~~
2 ~~the court.~~

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

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

21 SECTION 2. AMENDATORY 10A O.S. 2021, Section 2-2-301, is
22 amended to read as follows:

23 Section 2-2-301. A. No information gained by a custodial
24 interrogation of a youthful offender under sixteen (16) years of age

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

1 action in any significant way by a law enforcement officer, employee
2 of the court, or employee of the Office. Custodial interrogation
3 shall conform with all requirements for interrogation of adult
4 criminal offenders. The term "custodial interrogation" shall not be
5 deemed to mean questioning of a youthful offender or child by a
6 public school administrator or teacher, so long as such questioning
7 is not being conducted on behalf of a law enforcement officer, an
8 employee of the court or an employee of the Office. Any information
9 gained from noncustodial questioning of a child or youthful offender
10 by a public school administrator or teacher concerning a wrongful
11 act committed on public school property shall be admissible into
12 evidence against the youthful offender or child.

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

16 C. If the youthful offender or child is not otherwise
17 represented by counsel, whenever a petition is filed pursuant to the
18 provisions of Section 2-2-104 or Section 2-5-201 et seq. of this
19 title, the court shall appoint an attorney, who shall not be a
20 district attorney, for the youthful offender or child regardless of
21 any attempted waiver by the parent or other legal custodian of the
22 youthful offender or child of the right of the youthful offender or
23 child to be represented by counsel. The youthful offender or child
24 shall be represented by counsel at every hearing or review through

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

20 D. In all cases of juvenile delinquency, adult certification,
21 reverse certification, or youthful offender proceedings and appeals,
22 or any other proceedings and appeals pursuant to the Oklahoma
23 Juvenile Code, except mental health or in-need-of-supervision
24 proceedings and appeals, and any other juvenile proceedings that are

1 civil in nature, and other than in counties where the office of the
2 county indigent defender is appointed, the Oklahoma Indigent Defense
3 System shall be appointed to represent indigent juveniles as
4 provided for in the Indigent Defense Act. In all other cases
5 pursuant to this title, including juvenile proceedings that are
6 civil in nature, juvenile mental health or in-need-of-supervision
7 proceedings and appeals, with the exception of proceedings in
8 counties where the office of the county indigent defender is
9 appointed, the court shall, if counsel is appointed and assigned,
10 allow and direct to be paid from the local court fund a reasonable
11 and just compensation to the attorney or attorneys for such services
12 as they may render; provided, that any attorney appointed pursuant
13 to this subsection shall not be paid a sum in excess of One Hundred
14 Dollars (\$100.00) for services rendered in preliminary proceedings,
15 Five Hundred Dollars (\$500.00) for services rendered during trial,
16 and One Hundred Dollars (\$100.00) for services rendered at each
17 subsequent post-disposition hearing.

18 E. Counsel for the child shall advise the child and advocate
19 the expressed wishes of the child, as much as reasonably possible,
20 under the same ethical obligations as if the client were an adult.
21 Upon motion by the state, the child, the attorney for the child, or
22 a parent or legal custodian of the child, the court shall appoint a
23 guardian ad litem.

24

1 F. The guardian ad litem shall not be a district attorney, an
2 employee of the office of the district attorney, an employee of the
3 court, an employee of a juvenile bureau, or an employee of any
4 public agency having duties or responsibilities towards the child.
5 The guardian ad litem shall be given access to the court file and
6 access to all records and reports relevant to the case and to any
7 records and reports of examination of the child's parent or other
8 custodian, made pursuant to this section or Section 1-2-101 of this
9 title. Provided, nothing in this subsection shall obligate counsel
10 for the child to breach attorney-client confidentiality with the
11 child.

12 SECTION 3. AMENDATORY 10A O.S. 2021, Section 2-2-503, is
13 amended to read as follows:

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

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

1 ~~all other counties, the fee shall be paid to the Office of Juvenile~~
2 ~~Affairs;~~

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

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

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

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

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

23 d. No child who has been adjudicated in need of
24 supervision only upon the basis of truancy or

1 noncompliance with the mandatory school attendance law
2 shall be placed in a public or private institutional
3 facility or be removed from the custody of the lawful
4 parent, guardian or custodian of the child.

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

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

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

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

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

13 7. With respect to a child adjudicated a delinquent child, the
14 court may:

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

1 otherwise provided by law, such adjudication order
2 shall be kept confidential by the Board,

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

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

16 (1) The court shall notify the victim of the
17 dispositional hearing. The court may consider a
18 verified statement from the victim concerning
19 damages for injury or loss of property and actual
20 expenses of medical treatment for personal
21 injury, excluding pain and suffering. If
22 contested, a restitution hearing to determine the
23 liability of the child, the parent or parents of
24 the child, or legal guardian shall be held not

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

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

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

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

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

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

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

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

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

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

16 ~~¶~~ f. impose consequences, including detention as provided
17 for in subparagraph ~~¶~~ e of this paragraph, for
18 postadjudicatory violations of probation;

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

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

23 10. In any dispositional order removing a child from the home
24 of the child, the court shall, in addition to the findings required

1 by Section 2-2-105 of this title, make a determination that, in
2 accordance with the best interests of the child and the protection
3 of the public, reasonable efforts have been made to provide for the
4 return of the child to the home of the child, or that efforts to
5 reunite the family are not required as provided in Section 2-2-105
6 of this title, and reasonable efforts are being made to finalize an
7 alternate permanent placement for the child.

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

22 C. With respect to a child adjudicated a delinquent child for a
23 violent offense, within thirty (30) days of the date of the
24 adjudication either the juvenile bureau in counties which have a

1 juvenile bureau or the Office of Juvenile Affairs in all other
2 counties shall notify the superintendent of the school district in
3 which the child is enrolled or intends to enroll of the delinquency
4 adjudication and the offense for which the child was adjudicated.

5 D. No child who has been adjudicated in need of supervision may
6 be placed in a secure facility.

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

17 F. The court may revoke or modify a disposition order and may
18 order redispotion. The child whose disposition is being
19 considered for revocation or modification at said hearing shall be
20 afforded the following rights:

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

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

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

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

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

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

- 19 a. such removal is necessary to protect the public,
20 b. the child is likely to sustain harm if not immediately
21 removed from the home,
22 c. allowing the child to remain in the home is contrary
23 to the welfare of the child, or
24

1 d. immediate placement of the child is in the best
2 interests of the child.

3 The court shall state in the record that such considerations
4 have been made. Nothing in this section shall be interpreted to
5 limit the authority or discretion of the agency providing probation
6 supervision services to modify the terms of probation including, but
7 not limited to, curfews, imposing community service, or any
8 nondetention consequences.

9 G. A willful violation of any provision of an order of the
10 court issued under the provisions of the Oklahoma Juvenile Code
11 shall constitute indirect contempt of court and shall be punishable
12 by a fine not to exceed Three Hundred Dollars (\$300.00) or, as to a
13 delinquent child, placement in a juvenile detention center for not
14 more than ten (10) days, or by both such fine and detention.

15 SECTION 4. AMENDATORY 10A O.S. 2021, Section 2-2-507, is
16 amended to read as follows:

17 Section 2-2-507. A. The juvenile drug court judge shall
18 conduct a hearing to determine final eligibility of the juvenile for
19 the juvenile drug court program by considering:

- 20 1. Whether the juvenile is appropriate for placement in drug
21 court, as provided in subsection A of Section 2-2-506 of this title;
- 22 2. The findings and recommendations of the juvenile drug court
23 investigation;

1 3. Whether there is an appropriate treatment program available
2 to the juvenile and whether there is a recommended treatment plan;
3 and

4 4. Any information relevant to determining eligibility. A
5 ~~juvenile shall not be denied admittance to any juvenile drug court~~
6 ~~program based upon the inability of the juvenile and the person~~
7 ~~responsible for the health or welfare of the juvenile, as defined in~~
8 ~~Section 2-1-103 of this title, to pay court costs or other costs or~~
9 ~~fees.~~

10 B. The judge shall require the person responsible for the
11 health or welfare of the juvenile, as defined in Section 2-1-103 of
12 this title, to demonstrate support for the participation of the
13 juvenile in the program. In order for the juvenile to be admitted
14 to the program, every person responsible for the health or welfare
15 of the juvenile shall accept the personal jurisdiction of the court.
16 Any adult who establishes a permanent residence in the home where
17 the juvenile resides after the juvenile has been admitted to the
18 program shall also accept the personal jurisdiction of the court.
19 Failure of the adult responsible for the health or welfare of the
20 juvenile or the adult who resides in the home with the juvenile to
21 accept personal jurisdiction of the court shall result in either
22 contempt of court proceedings for the adult, removal of the juvenile
23 from the home, or both. A juvenile shall not be removed from the

24

1 drug court program based solely on the failure of the adult to
2 comply with the provisions of this subsection.

3 C. When the court accepts the treatment plan, the juvenile and
4 the person responsible for the health or welfare of the juvenile, as
5 defined in Section 2-1-103 of this title, must have voluntarily
6 signed the necessary court documents before the juvenile may be
7 admitted to treatment. The court documents shall include:

8 1. A written treatment plan which is subject to modification at
9 any time during the program, as set forth in paragraph 4 of
10 subsection B of Section 2-2-506 of this title;

11 2. A statement requiring the juvenile to enter the treatment
12 program as directed by the court and to participate until
13 completion, withdrawal, or removal by the court; and

14 3. A statement signed voluntarily by the person or persons
15 responsible for the health or welfare of the juvenile that such
16 person will comply with the orders of the court and any conditions
17 of the treatment program and supervising staff for as long as the
18 juvenile participates in the juvenile drug court program.

19 D. If admission into the juvenile drug court program is denied,
20 the case shall be returned to the traditional juvenile docket and
21 shall proceed as provided for any other juvenile case.

22 E. At the time a juvenile is admitted to the juvenile drug
23 court program, any bond, bail or undertaking on behalf of the
24 juvenile shall be exonerated.

1 F. 1. A juvenile shall actively participate in treatment for a
2 period of not less than six (6) months while participating in the
3 juvenile drug court program. Any person admitted to a juvenile drug
4 court program who becomes eighteen (18) years of age shall be
5 eligible to complete the drug court program.

6 2. All participating treatment providers shall be certified by
7 the Department of Mental Health and Substance Abuse Services and
8 shall be selected and evaluated for performance-based effectiveness
9 annually by the Department of Mental Health and Substance Abuse
10 Services. Treatment programs shall be designed to be completed
11 within twelve (12) months and shall have relapse prevention and
12 evaluation components.

13 SECTION 5. AMENDATORY 10A O.S. 2021, Section 2-5-208, is
14 amended to read as follows:

15 Section 2-5-208. A. Whenever the district attorney believes
16 that there is good cause to believe that a person charged as a
17 youthful offender would not reasonably complete a plan of
18 rehabilitation or the public would not be adequately protected if
19 the person were to be sentenced as a youthful offender, and should
20 receive an adult sentence, the district attorney shall file a motion
21 for consideration of the imposition of the sentence as for an adult
22 if the person is convicted:

23 1. Not more than thirty (30) days following formal arraignment
24 and such motion will be ruled upon by the trial court; or the

1 district attorney may file the motion to impose adult sentence
2 fourteen (14) days prior to the start of the preliminary hearing and
3 the preliminary hearing magistrate will rule on that motion. The
4 district attorney must elect when to file the motion for adult
5 sentence and if the motion is filed and argued to the magistrate, it
6 cannot again be filed and argued to the trial court after
7 arraignment; or

8 2. If, prior to that time, the accused person indicates to the
9 court that the accused person wishes to plead guilty or nolo
10 contendere, the court shall grant the state ten (10) days from that
11 date to file the motion required by this subsection, if requested by
12 the state.

13 B. Upon the filing of such motion and prior to the trial or
14 before the entry of the plea of guilty or nolo contendere the court
15 shall hold a hearing to determine the matter.

16 C. 1. The court shall order an investigation to be conducted
17 unless waived by the accused person with approval of the court. Any
18 such investigation required shall be conducted by the Office of
19 Juvenile Affairs. All reports, evaluations, motions, records,
20 exhibits or documents regarding the educational history, mental
21 health or medical treatment or condition of the offender that are
22 submitted to the court or admitted into evidence during the hearing
23 on the motion for certification as a youthful offender to the
24 juvenile system or the motion for imposition of an adult sentence

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

17 2. At the hearing the court shall consider, with the greatest
18 weight given to subparagraphs a, b and c:

- 19 a. whether the offense was committed in an aggressive,
20 violent, premeditated or willful manner,
- 21 b. whether the offense was against persons and, if
22 personal injury resulted, the degree of injury,
- 23 c. the record and past history of the accused person,
24 including previous contacts with law enforcement

1 agencies and juvenile or criminal courts, prior
2 periods of probation and commitments to juvenile
3 institutions,

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

9 e. the prospects for adequate protection of the public if
10 the accused person is processed through the youthful
11 offender system or the juvenile system,

12 f. the reasonable likelihood of rehabilitation of the
13 accused person if the accused person is found to have
14 committed the alleged offense, by the use of
15 procedures and facilities currently available to the
16 juvenile court, and

17 g. whether the offense occurred while the accused person
18 was escaping or on escape status from an institution
19 for youthful offenders or delinquent children.

20 D. After the hearing and consideration of the report of the
21 investigation, the court shall certify the person as eligible for
22 the imposition of an adult sentence only if it finds by clear and
23 convincing evidence that there is good cause to believe that the
24 accused person would not reasonably complete a plan of

1 rehabilitation or that the public would not be adequately protected
2 if the person were to be sentenced as a youthful offender.

3 In its decision on the motion of the state for imposition of an
4 adult sentence, the court shall detail findings of fact and
5 conclusions of law to each of the considerations in subsection C of
6 this section and shall state that the court has considered each of
7 its guidelines in reaching its decision.

8 E. An order certifying or denying certification for imposition
9 of an adult sentence shall be a final order, appealable when
10 entered.

11 F. If the person has been certified as eligible to be sentenced
12 as an adult, the court shall, upon a verdict of guilty or the entry
13 of a plea of guilty or nolo contendere, impose sentence as provided
14 by law for an adult for punishment of the offense committed, subject
15 to the power and authority of the court to suspend or delay
16 sentence, defer judgment, or otherwise structure, limit, or modify
17 sentence as provided in Title 22 of the Oklahoma Statutes or the
18 Youthful Offender Act. When sentence is imposed pursuant to this
19 subsection, the person shall be treated as an adult for purposes of
20 supervision, incarceration and in all subsequent criminal
21 proceedings.

22 ~~G. Upon a verdict of guilty or a plea of guilty or nolo~~
23 ~~contendere, the court may order the person to pay a fee to the~~
24 ~~Office of Juvenile Affairs of not less than Twenty-five Dollars~~

1 ~~(\$25.00), nor more than Five Hundred Dollars (\$500.00), for the~~
2 ~~presentence or certification investigation. In hardship cases, the~~
3 ~~court may waive the fee or set the amount of the fee and establish a~~
4 ~~payment schedule.~~

5 SECTION 6. AMENDATORY 19 O.S. 2021, Section 138.5, is
6 amended to read as follows:

7 Section 138.5 A. It shall be the duty of the office of the
8 county indigent defender to represent as counsel anyone who appears
9 for arraignment without aid of counsel, and who has been informed by
10 the judge that it is his right to have counsel, and who desires
11 counsel, but is unable to employ such aid; and upon order of a
12 district judge of such county he shall investigate any matter
13 pending before the judge and report to him in the manner prescribed
14 by the judge.

15 B. When a defendant or, if applicable, his parent or legal
16 guardian requests representation by the county indigent defender,
17 such person shall submit an appropriate application, the form of
18 which shall state that such application is signed under oath and
19 under the penalty of perjury and that a false statement may be
20 prosecuted as such. The application shall state whether or not the
21 defendant has been released on bond. In addition, if the defendant
22 has been released on bond, the application shall include a written
23 statement from the applicant that he or she has contacted three (3)
24 attorneys, licensed to practice law in this state, and the applicant

1 has been unable to obtain legal counsel. A nonrefundable
2 application fee of Fifteen Dollars (\$15.00) shall be paid to the
3 court clerk at the time the application is submitted, and no
4 application shall be accepted without payment of the fee; except
5 that the court may, based upon the financial information submitted,
6 waive the fee, if the person is in custody or if the court
7 determines that the person does not have the financial resources to
8 pay the fee. If the defendant is a minor, the court shall waive the
9 application fee. Any fee collected pursuant to this subsection
10 shall be retained by the court clerk as an administrative fee and
11 deposited in the court fund. Before the court appoints the county
12 indigent defender based on the application, the court shall advise
13 the defendant or, if applicable, his or her parent or legal guardian
14 that the application is signed under oath and under the penalty of
15 perjury. A copy of the application shall be sent to the prosecuting
16 attorney or the Office of the Attorney General, whichever is
17 appropriate, for review, and, upon request, the court shall hold a
18 hearing on the issue of the eligibility for appointment of the
19 county indigent defender.

20 C. If the defendant is admitted to bail and the defendant or
21 another person on behalf of the defendant posts a bond, other than
22 by personal recognizance, the court may consider such fact in
23 determining the eligibility of the defendant for appointment of the
24

1 county indigent defender; provided, however, such consideration
2 shall not be the sole factor in the determination of eligibility.

3 SECTION 7. AMENDATORY 19 O.S. 2021, Section 138.10, is
4 amended to read as follows:

5 Section 138.10 A. The court shall order any person represented
6 by a county indigent defender to pay the costs of representation.
7 In assessing these costs, the court shall take into consideration
8 the ability of the defendant to pay and any likely hardship which
9 would result. The court may then order payment to be made in total
10 or in installments and, in the case of installment payments, set the
11 amount and due date of each installment. In no event shall a
12 youthful offender or their guardian be ordered to pay the cost of
13 representation.

14 B. Costs assessed pursuant to this section shall be collected
15 by the court clerk and deposited in the court fund.

16 C. Costs of representation shall be a debt against the person
17 represented until paid and shall be subject to any method provided
18 by law for the collection of debts.

19 D. Any order directing the defendant to pay costs of
20 representation shall be a lien against all real and personal
21 property of the defendant and may be filed against such property and
22 foreclosed as provided by law for such liens.

23 E. For purposes of collection of debts arising from the
24 provisions of this section, the court clerks for the district courts

1 of this state are authorized to utilize the procedures provided in
2 Section 205.2 of Title 68 of the Oklahoma Statutes in the same
3 manner and to the same extent as a state agency and the Oklahoma Tax
4 Commission is directed to provide the same service to court clerks
5 attempting to collect such debts pursuant to Section 205.2 of Title
6 68 of the Oklahoma Statutes as it provides to state agencies.

7 SECTION 8. REPEALER 10A O.S. 2021, Section 2-2-509, is
8 hereby repealed.

9 SECTION 9. This act shall become effective July 1, 2022.

10 SECTION 10. It being immediately necessary for the preservation
11 of the public peace, health or safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

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