

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 3151

By: Benson and Boyd (Laura)
of the House

and

Fisher of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to children; amending 10 O.S. 1991, Section 620.3, as amended by Section 1, Chapter 307, O.S.L. 1992 (10 O.S. Supp. 1997, Section 620.3), which relates to agencies required to promulgate uniform rules and procedures for maintenance, transfer and release of confidential information; adding an agency; amending Section 72, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7301-1.3), as last amended by Section 7 of Enrolled House Bill No. 3348 of the 2nd Session of the 46th Oklahoma Legislature, which relates to definitions for the Oklahoma Juvenile Code; correcting statutory cite; amending Section 4, Chapter 299, O.S.L. 1992, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 15, Chapter 247, O.S.L. 1996, and 10 O.S. 1991, Section 1141, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 2, Chapter 392, O.S.L. 1997 (10 O.S. Supp. 1997, Sections 7302-3.11 and 7302-5.1), which relate to the Oklahoma Juvenile Code; authorizing combining information in separate report with Department of Juvenile Justice annual report on programs and services; modifying information required; expanding scope of literacy skills improvement programs; amending Section 114, Chapter 352, O.S.L. 1995, as last amended by Section 15, Chapter 293, O.S.L. 1997, Section 116, Chapter 352, O.S.L. 1995, Section 119, Chapter 352, O.S.L. 1995, Section 129, Chapter 352, O.S.L. 1995 and Section 131, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Sections 7303-1.1, 7303-1.3, 7303-1.6, 7303-4.6 and 7303-5.2), which relate to the Oklahoma Juvenile Code; providing that certain children are not considered to be in the custody of the Office of Juvenile Affairs; authorizing the district attorney to defer filing petitions alleging children to be in need of supervision; authorizing deferral of adjudication proceedings to determine if child is in need of supervision under certain circumstances; modifying requirements for individual treatment and service plans; amending Sections 21 and 23, Chapter 290, O.S.L. 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Sections 26 and 28, Chapter 293, O.S.L. 1997, and Section 27, Chapter 290, O.S.L. 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 31, Chapter 293, O.S.L. 1997

(10 O.S. Supp. 1997, Sections 7306-2.4, 7306-2.6 and 7306-2.10), which relate to the Youthful Offender Act; clarifying discharge from custody or supervision and judicial jurisdiction; clarifying that certain adjudications must be separated in time; amending 20 O.S. 1991, Section 123, as amended by Section 1, Chapter 224, O.S.L. 1997 (20 O.S. Supp. 1997, Section 123), which relates to jurisdiction of special judges; expanding jurisdiction; designating the Phil Smalley Employee Development Center; providing that the Center and all property, equipment and supplies related thereto shall be the responsibility of the Office of Juvenile Affairs, except as provided in certain interagency agreements; amending 43A O.S. 1991, Section 3-105, which relates to the Oklahoma Youth Center, and 56 O.S. 1991, Section 205, as last amended by Section 6, Chapter 323, O.S.L. 1993 (56 O.S. Supp. 1997, Section 205), which relates to replacement or reimbursements to employees of certain facilities; removing references to the Phil Smalley Children's Center; amending Section 1, Chapter 280, O.S.L. 1994, as amended by Section 47, Chapter 247, O.S.L. 1996 (74 O.S. Supp. 1997, Section 85.12c), which relates to the Oklahoma Central Purchasing Act; making exemption for merchandise for resale that is purchased and sold through canteens in institutions and facilities operated by the Office of Juvenile Affairs; repealing Section 5, Chapter 306, O.S.L. 1993, as amended by Section 127, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7303-4.4), which relates to jurisdiction over certain children; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 620.3, as amended by Section 1, Chapter 307, O.S.L. 1992 (10 O.S. Supp. 1997, Section 620.3), is amended to read as follows:

Section 620.3 A. Prior to April 1, 1991, the following agencies shall promulgate uniform rules and adopt uniform procedures and forms for the maintenance, transfer and release of confidential information:

1. Department of Human Services;
2. Department of Mental Health and Substance Abuse Services;
3. State Department of Health;
4. State Department of Education;
5. State Department of Vocational and Technical Education;
6. Oklahoma Commission on Children and Youth;

7. J. D. McCarty Center for Children with Developmental Disabilities; ~~and~~

8. Department of Corrections; and

9. Beginning July 1, 1998, the Office of Juvenile Affairs.

B. Private agencies receiving public funds pursuant to a grant or contract with a state agency listed in subsection A of this section and providing institutional, community residential or community-based services, as defined by Section 1101 of ~~Title 10 of the Oklahoma Statutes~~ this title, to children and families, shall comply with the rules regarding the maintenance, transfer and release of confidential information adopted by the governing board of the state agency or agencies from which they receive funds.

C. The provisions of Sections 620.1 through 620.6 of this act ~~title~~ shall not apply to court records of juvenile cases maintained by the district courts. The supervising judge of a statutorily-constituted juvenile bureau may establish court rules for the transfer and release of other confidential information maintained by the juvenile bureau which substantially conform with the rules, forms and procedures promulgated and adopted by state agencies pursuant to the provisions of Sections 620.1 through 620.6 of this act ~~title~~.

SECTION 2. AMENDATORY Section 72, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7301-1.3), as last amended by Section 7 of Enrolled House Bill No. 3348 of the 2nd Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 7301-1.3 When used in the Oklahoma Juvenile Code, unless the context otherwise requires:

1. "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition filed pursuant to the provisions of Article III of the Oklahoma Juvenile Code are supported by the evidence and whether a juvenile should be adjudged to be a ward of the court;

2. "Alternatives to secure detention" means those services and facilities which are included in the State Plan for the Establishment of Juvenile Detention Services adopted by the Board

of Juvenile Affairs and which are used for the temporary detention of juveniles in lieu of secure detention in a juvenile detention facility;

3. "Board" means the Board of Juvenile Affairs;

4. "Child" or "juvenile" means any person under eighteen (18) years of age, except for any person sixteen (16) or seventeen (17) years of age who is charged with any crime specified in subsection A of Section 7306-1.1 of this title, or any person thirteen (13), fourteen (14) or fifteen (15) years of age who is charged with murder in the first degree pursuant to subsection B of Section 7306-1.1 of this title or Section 7306-2.5 of this title, or any individual who has been certified as an adult pursuant to Section 7303-4.3 of this title, or any individual against whom the imposition of judgment and sentence has been deferred for any crime specified in subsection A or B of Section 7306-1.1 of this title, any individual against whom the imposition of judgment and sentence has been deferred after certification as an adult pursuant to Section 7303-4.3 of this title, or any person fifteen (15) years of age or older and charged or certified as a youthful offender pursuant to the Youthful Offender Act; provided that any person under eighteen (18) years of age who is not convicted after being charged with a crime pursuant to Section 7306-1.1 of this title, or any individual who is not convicted after certification as an adult pursuant to Section 7303-4.3 of this title, or any individual who is not convicted as a youthful offender pursuant to the Youthful Offender Act, shall continue to be subject to the jurisdiction of the juvenile court;

5. "Child or juvenile in need of mental health treatment" means a juvenile in need of mental health treatment as defined by the Inpatient Mental Health Treatment of Children Act;

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

- a. has repeatedly disobeyed reasonable and lawful commands or directives of the parent, legal guardian, or other custodian,

- b. is willfully and voluntarily absent from his home without the consent of the parent, legal guardian, or other custodian for a substantial length of time or without intent to return,
- c. is willfully and voluntarily absent from school, as specified in Section 10-106 of Title 70 of the Oklahoma Statutes, if the juvenile is subject to compulsory school attendance, or
- d. has been served with an ex parte or final protective order pursuant to the Protection from Domestic Abuse Act;

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

8. "Community intervention center" means a facility which serves as a receiving center for children who are taken into custody and which performs at least one of the functions provided for in subsection D of Section ~~7302-3.3~~ 7302-3.5 of this title;

9. "Community residential center" means a residential facility for no more than twenty juveniles which offers a range of services including personal and social services, and emphasizes normal group living, school attendance, securing employment, and general participation in the community;

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

11. "Delinquent child or juvenile" means a juvenile who:

- a. has violated any federal or state law or municipal ordinance except a traffic statute or traffic ordinance or any provision of the Oklahoma Wildlife Conservation Code, the Oklahoma Vessel and Motor Regulation Act or the Oklahoma Boating Safety Regulation Act, or has violated any lawful order of the court made pursuant to the provisions of the Oklahoma Juvenile Code, or
- b. has habitually violated traffic laws, traffic ordinances or boating safety laws or rules;

12. "Department" means the Department of Juvenile Justice;

13. "Deputy Director" means the Deputy Director of the Department of Juvenile Justice;

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

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

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

17. "Group home" means a residential facility housing no more than twelve juveniles with a program which emphasizes family-style living in a homelike environment. Said group home may also offer a program within the community to meet the specialized treatment needs of its residents. A group home shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes;

18. "Independent living program" means a program designed to assist a juvenile to enhance skills and abilities necessary for successful adult living and may include but shall not be limited to minimal direct staff supervision and supportive services in making the arrangements necessary for an appropriate place of

residence, completing an education, vocational training, obtaining employment or other similar services;

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

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

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

21. "Mental health facility" means a mental health facility as defined by the Inpatient Mental Health Treatment of Children Act;

22. "Office" means the Office of Juvenile Affairs;

23. "Person responsible for a juvenile's health or welfare" includes a parent, a legal guardian, custodian, a foster parent, a person eighteen (18) years of age or older with whom the juvenile's parent cohabitates or any other adult residing in the home of the child, an agent or employee of a public or private residential home, institution or facility, or an owner, operator, or employee of a child care facility as defined by Section 402 of this title;

24. "Preliminary inquiry" or "intake" means a mandatory, preadjudicatory interview of the juvenile and, if available, the parents, legal guardian, or other custodian of the juvenile, which is performed by a duly authorized individual to determine whether a juvenile comes within the purview of the Oklahoma Juvenile Code,

whether nonadjudicatory alternatives are available and appropriate, and if the filing of a petition is necessary;

25. "Probation" means a legal status created by court order whereby a delinquent juvenile is permitted to remain outside a Department of Juvenile Justice facility directly or by contract under prescribed conditions and under supervision by the Department, subject to return to the court for violation of any of the conditions prescribed;

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

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

- a. while under the continuing jurisdiction of the court pending court disposition, or
- b. pending placement by the Department of Juvenile Justice after adjudication;

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

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

SECTION 3. AMENDATORY Section 4, Chapter 299, O.S.L. 1992, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and

as last amended by Section 15, Chapter 247, O.S.L. 1996 (10 O.S. Supp. 1997, Section 7302-3.11), is amended to read as follows:

Section 7302-3.11 A. The Department of Juvenile Justice shall from time to time, but not less often than annually, review its programs and services and submit a report to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Supreme Court of the State of Oklahoma, the Board of Juvenile Affairs, and the Oklahoma Commission on Children and Youth analyzing and evaluating the effectiveness of the programs and services being carried out by the Department of Juvenile Justice. Such report shall include, but not be limited to:

1. An analysis and evaluation of programs and services continued, established and discontinued during the period covered by the report;

2. A description of programs and services which should be implemented;

3. Relevant information concerning the number of children comprising the population of any facility of the Office of Juvenile Affairs operated by the Department of Juvenile Justice during the period covered by the report; ~~and~~

4. An analysis and evaluation, by age, of the number of children assessed for literacy skills, the number who failed to demonstrate age-appropriate reading skills, and the number who were required to participate in a literacy skills improvement program; and

5. Such other information as will enable a user of the report to ascertain the effectiveness of the programs, services and facilities.

B. Beginning July 1, 1998, and at least annually thereafter, the Department of Juvenile Justice shall review the implementation of the Youthful Offender Act and submit a report to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Supreme Court of the State of Oklahoma, the Oklahoma Court of Criminal Appeals, the Board of Juvenile Affairs, and the Oklahoma Commission on Children and Youth

analyzing and evaluating the effectiveness of the Youthful Offender Act and any problems which have occurred which have limited the effectiveness of the Youthful Offender Act.

SECTION 4. AMENDATORY 10 O.S. 1991, Section 1141, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 2, Chapter 392, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7302-5.1), is amended to read as follows:

Section 7302-5.1 A. The Department of Juvenile Justice shall provide intake, probation and parole services for juveniles and may enter into agreements to supplement probationary services to juveniles in any county. The Department may participate in federal programs for juvenile probation officers, and may apply for, receive, use and administer federal funds for such purpose.

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

1. Information gained from the substance abuse assessment pursuant to this subsection shall be used only for substance abuse treatment and for no other purpose. The results shall not be used in any evidentiary or fact-finding hearing in a juvenile proceeding or as the sole basis for the revocation of a community-based placement or participation in a community-based program.

2. The results of the substance abuse assessment may be given to the child's intake, probation or parole counselor, the parent or guardian of the child or to the child's attorney. In accordance with the guidelines established pursuant to the Serious and Habitual Juvenile Offender Program and Section 620.6 of this title, the counselor may also provide the results of the substance abuse assessment to medical personnel, therapists, school personnel or others for use in the treatment and rehabilitation of the child.

C. In accordance with the guidelines adopted pursuant to the Serious and Habitual Juvenile Offender Program, the Department of Juvenile Justice and the juvenile bureaus shall implement:

1. Court intake risk-assessment for children alleged or adjudicated to be delinquent;
2. The imposition of administrative sanctions for the violation of a condition of probation or parole;
3. A case management system for ensuring appropriate:
 - a. diversion of youth from the juvenile justice system,
 - b. services for and supervision of all youth on pre-adjudicatory or postadjudicatory probation or on parole, and for juvenile offenders in the custody of the Department of Juvenile Justice, and
 - c. intensive supervision of serious and habitual offenders and communication between law enforcement and juvenile court personnel and others regarding such offenders; and
4. Guidelines for juvenile court personnel recommendations to district attorneys regarding the disposition of individual cases by district attorneys.

D. 1. The Department of Juvenile Justice shall establish directly and by contract, the services necessary to implement the Serious and Habitual Juvenile Offender Program including, but not limited to:

- a. misdemeanor and non-serious first-time offender programs,
- b. tracking and mentor services,
- c. weekend detention,
- d. five-day out-of-home sanction placements,
- e. short-term thirty-day intensive, highly structured placements,
- f. transitional programs,
- g. substance abuse treatment and diagnostic and evaluation programs, and
- h. day treatment programs.

2. In implementing these services, the Department shall give priority to those areas of the state having the highest incidences of juvenile crime and delinquency.

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

- a. the Department of Juvenile Justice,
- b. a first-time offender program within a designated youth services agency,
- c. any metropolitan county juvenile bureau, or
- d. any county operating a juvenile bureau.

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

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

3. The results of the literacy skills assessment required pursuant to this subsection shall be made available to the court by the district attorney for use in the disposition phase; provided, however, the results shall not be used in any evidentiary or fact-finding hearing in a juvenile proceeding to determine whether a juvenile should be adjudicated. Provided, further, such results shall not be used as the sole basis for the revocation of a community-based placement or participation in a community-based program.

4. a. Upon request, the results of the literacy skills assessment shall be given to the following:
 - (1) the child's intake, probation or parole counselor,
 - (2) the parent or guardian of the child, or

- (3) the child's attorney.
- b. In accordance with the guidelines established pursuant to the Serious and Habitual Juvenile Offender Program and Section 620.6 of this title, the counselor may also provide the results of the literacy skills assessment to therapists, school personnel or others for use in the training and rehabilitation of the child.
5. a. If the child is a juvenile placed in an institution or facility operated by the Department, the child shall be assessed and a literacy improvement program shall be implemented in accordance with Sections 7302-6.1 and 7302-6.3 of this title.
- b. If the child is adjudicated delinquent or in need of supervision or is being detained as part of a deferral of prosecution agreement, deferral to file agreement or a deferral sentence agreement, and the results of the literacy skills assessment show that the child is not reading at an age-appropriate level but has the capacity to improve his or her reading skills, the child shall be required to ~~enroll and~~ actively participate in a literacy skills improvement program which may include, but not be limited to, a program of instruction through a public or private school, including any area vocational-technical school, of this state or any other state. The child shall provide documentation of substantial quantifiable literacy improvement, sufficient to demonstrate reading proficiency at an age-appropriate or developmentally appropriate level; provided, however, failure to demonstrate substantial quantifiable literacy improvement shall not be the sole basis for not dismissing a case against a child.

~~6. On or before December 31 of each year, the Office of Juvenile Affairs shall annually provide to the Governor, the~~

~~President Pro Tempore of the Senate and the Speaker of the House of Representatives a written report outlining by age the number of children:~~

- ~~a. assessed for literacy skills,~~
- ~~b. who failed to demonstrate age-appropriate reading skills,~~
- ~~c. who were required to enroll and participate in a literacy skills improvement program, and~~
- ~~d. who provided documentation of substantial quantifiable literacy skills improvement.~~

SECTION 5. AMENDATORY Section 114, Chapter 352, O.S.L. 1995, as last amended by Section 15, Chapter 293, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7303-1.1), is amended to read as follows:

Section 7303-1.1 A. A child may be taken into custody prior to the filing of a petition alleging that the child is delinquent or in need of supervision:

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

2. By an employee of the court without a court order, if the child is willfully and voluntarily absent from the home of the child without the consent of the parent, legal guardian, legal custodian or other person having custody and control of the child for a substantial length of time or without intent to return, or if the child's surroundings are such as to endanger the welfare of the child;

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

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

4. By order of the district court pursuant to subsection E of this section when the child is in need of medical or mental health treatment or other action in order to protect the child's health or welfare and the parent, legal guardian, legal custodian or other person having custody or control of the child is unwilling or unavailable to consent to such medical or mental health treatment or other action; and

5. Pursuant to an emergency ex parte or a final protective order of the district court issued pursuant to the Protection from Domestic Abuse Act.

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

B. Whenever a child is taken into custody as a delinquent child or a child in need of supervision ~~prior to the filing of a petition pursuant to subsection A of this section~~, the child ~~shall not be considered to be in the custody of the Office of Juvenile Affairs but~~ shall be detained, held temporarily in the custodial care of a peace officer or other person employed by a police department, or be released to the custody of the child's parent, legal guardian, legal custodian, attorney or other responsible adult, upon the written promise of such person to bring the child to the court at the time fixed if a petition is to be filed and to assume responsibility for costs for damages caused by the child if the child commits any delinquent acts after being released regardless of whether or not a petition is to be filed. It shall be a misdemeanor for any person to sign the written promise and then fail to comply with the terms of the promise. Any person convicted of violating the terms of the written promise shall be subject to imprisonment in the county jail for not more than six (6) months or a fine of not more than Five Hundred Dollars (\$500.00) or both such fine and imprisonment. In addition, if a parent, legal guardian, legal custodian, attorney or other responsible adult is notified that the child has been taken into

Req. No. 11538Page 15

custody, it shall be a misdemeanor for such person to refuse to assume custody of the child within a timely manner. If detained, the child shall be taken immediately before a judge of the district court in the county in which the child is sought to be detained, or to the place of detention or shelter designated by the court. If no judge be available locally, the person having the child in custody shall immediately report the detention of the child to the presiding judge of the judicial administrative district, provided that the child shall not be detained in custody beyond the next judicial day or for good cause shown due to problems of arranging for and transporting the child to and from a secure juvenile detention center, beyond the next two (2) judicial days unless the court shall so order after a detention hearing to determine if there exists probable cause to detain the child. If the latter judge cannot be reached, such detention shall be reported immediately to any judge regularly serving within the judicial administrative district. If detained, a reasonable bond for release shall be set. Pending further disposition of the case, a child whose custody has been assumed by the court may be released to the custody of a parent, legal guardian, legal custodian, or other responsible adult or to any other person appointed by the court, or be detained pursuant to Article IV of the Oklahoma Juvenile Code in such place as shall be designated by the court, subject to further order.

C. When any child is taken into custody pursuant to this title and it reasonably appears to the peace officer, employee of the court or person acting pursuant to court order that the child is in need of medical treatment to preserve the health of the child, any peace officer, any employee of the court or person acting pursuant to court order shall have the authority to authorize medical examination and medical treatment for any child found to be in need of medical treatment as diagnosed by a competent medical authority in the absence of the child's parent, legal guardian, legal custodian, or other person having custody and control of the child who is competent to authorize medical treatment. The officer or the employee of the court or person

acting pursuant to court order shall authorize said medical treatment only after exercising due diligence to locate the child's parent, legal guardian, legal custodian, or other person legally competent to authorize said medical treatment. The child's parent, legal guardian, legal custodian, or other person having custody and control shall be responsible for such medical expenses as ordered by the court. No peace officer, any employee of the court or person acting pursuant to court order authorizing such treatment in accordance with the provisions of this section for any child found in need of such medical treatment shall have any liability, civil or criminal, for giving such authorization.

D. A child who has been taken into custody as otherwise provided by this Code who appears to be a child in need of mental health treatment may be admitted to a mental health facility on an emergency psychiatric basis or for an inpatient mental health evaluation or inpatient mental health treatment only in accordance with the provisions of the Inpatient Mental Health Treatment of Children Act. The child's parent, legal guardian, legal custodian, or other person having custody and control shall be responsible for such mental health expenses as ordered by the court. No peace officer, any employee of the court or person acting pursuant to court order authorizing such treatment in accordance with the provisions of this section for any child found in need of such mental health evaluation or treatment shall have any liability, civil or criminal, for giving such authorization.

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

2. If the child is in need of immediate medical treatment or other action to protect the child's health or welfare, the court may issue an emergency ex parte order upon application of the district attorney of the county in which the child is located.

The application for an ex parte order may be verbal or in writing and shall be supported by facts sufficient to demonstrate to the court that there is reasonable cause to believe that the child is in need of immediate medical treatment or other action to protect the child's health or welfare. The emergency ex parte order shall be in effect until a full hearing is conducted. A copy of the application, notice for full hearing and a copy of any ex parte order issued by the court shall be served upon such parent, legal guardian, legal custodian, or other responsible adult having custody or control of the child. Within twenty-four (24) hours of the filing of the application the court shall schedule a full hearing on the application, regardless of whether an emergency ex parte order had been issued or denied.

3. Except as otherwise provided by paragraph 2 of this section, whenever a child is in need of medical treatment to protect the child's health or welfare, or whenever any other action is necessary to protect the child's health or welfare, and the child's parent, legal guardian, legal custodian, or other person having custody or control of the child is unwilling or unavailable to consent to such medical treatment or other action, the court, upon application of the district attorney of the county in which the child is located, shall hold a full hearing within five (5) days of filing the application. Notice of the hearing and a copy of the application shall be served upon the parent, legal guardian, legal custodian, or other person having custody or control of the child.

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

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

b. No peace officer, any employee of the court or person acting pursuant to court order authorizing

such treatment in accordance with the provisions of this subsection for any child found in need of such medical treatment shall have any liability, civil or criminal.

SECTION 6. AMENDATORY Section 116, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7303-1.3), is amended to read as follows:

Section 7303-1.3 A. The court may provide by rule who shall make a preliminary inquiry to determine whether the interests of the public or of the child who is within the purview of the Oklahoma Juvenile Code require that further court action be taken. Provided, that where intake is to be provided by the Department of Juvenile Justice under contract with the Supreme Court, or under the provision of rules issued by the Supreme Court, the preliminary inquiry shall follow the uniform contractual procedures as agreed to by the Supreme Court and the Department. If it is determined by the preliminary inquiry that no further action be taken and if agreed to by the district attorney, said person or the court may make such informal adjustment as is practicable without a petition.

B. A petition in a juvenile proceeding may be filed by the district attorney to determine if further action is necessary. The proceeding shall be entitled "In the matter of _____, an alleged (delinquent) or (a child alleged to be in need of supervision)".

The petition shall be verified and may be upon information and belief. It shall set forth:

1. With particularity facts which bring the child within the purview of the Oklahoma Juvenile Code;
2. The name, age and residence of the child;
3. The names and residences of the parents of the child;
4. The name and residence of the legal guardian of the child, if applicable;
5. The name and residence of the person or persons having custody or control of the child;

6. The name and residence of the nearest known relative, if no parent or guardian can be found;

7. The relief requested; and

8. The specific federal law, state law or municipal ordinance under which the child is charged, and an endorsement of witnesses intended to be called by the petitioner, where the child is sought to be adjudged a delinquent child.

If a termination of parental rights is desired, it must be stated in the petition and summons, and if an order for the payment of funds for the care and maintenance of the child is desired, it must be stated in the petition and summons. If any of the facts herein required are not known by the petitioner, the petition shall so state, along with the reasons why said facts are not known to petitioner.

C. A petition alleging a child to be a child in need of treatment shall be filed by a district attorney pursuant to the Inpatient Mental Health Treatment of Children Act.

D. A copy of the petition shall be attached to and delivered with the summons.

E. A district attorney may defer filing a petition alleging a child to be delinquent or in need of supervision for a period of ninety (90) days if the child participates in a teen court program or a first-time offender program, as defined in Section 7303-4.6 of ~~Title 10 of the Oklahoma Statutes~~ this title. If the child successfully completes the program, the district attorney shall not file the petition. The records of a case for which a petition is not filed shall be subject to the provisions of Article VII of the Oklahoma Juvenile Code.

SECTION 7. AMENDATORY Section 119, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7303-1.6), is amended to read as follows:

Section 7303-1.6 A. After a petition shall have been filed, unless the parties provided for in this section shall voluntarily appear, a summons shall be issued which shall recite briefly the nature of the proceeding with the phrase "as described more fully in the attached petition" and requiring the person or persons who

have the custody or control of the child to appear personally and bring the child before the court at a time and place stated. The summons shall state the relief requested, and shall set forth the right of the child, parents and other interested parties to have an attorney present at the hearing on the petition.

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

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

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

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

E. In a delinquency proceeding, whenever a warrant for the arrest of a child shall issue, it shall state the offense the child is being charged with having committed; in a child in need of supervision proceeding, whenever a warrant for detention of a child shall issue, it shall state the reason for detention. Warrants for the arrest or detention of a child shall comport with all other requirements of issuance of arrest warrants for adult criminal offenders.

SECTION 8. AMENDATORY Section 129, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7303-4.6), is amended to read as follows:

Section 7303-4.6 A. If the court finds that the allegations of a petition alleging a child to be delinquent or in need of supervision are supported by the evidence, the court shall sustain the petition, and shall make an order of adjudication setting forth whether the child is delinquent or in need of supervision and shall adjudge the child as a ward of the court.

B. A court may defer delinquency adjudication proceedings or proceedings to determine if a child is in need of supervision for ninety (90) days if the child:

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

2. Waives the privilege against self-incrimination and testifies, under oath, that the allegations are true;

3. Has not been previously adjudicated a delinquent; and

4. Presents to the court an oral or written request to attend a Teen Court program.

C. The Teen Court program must be approved by the court.

D. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the Teen Court program has been successfully completed.

E. The court may require a child who requests a Teen Court program to pay a fee, as determined by the court, not to exceed Twenty Dollars (\$20.00) to cover the costs of administration. The fee shall be deposited in the court clerk's official depository account. Eighty percent (80%) of the costs so paid shall be distributed to the organization sponsoring the Teen Court to be used for Teen Court operating expenses. The remaining twenty percent (20%) of said cost shall be paid by the court clerk to the court fund.

F. A court may defer delinquency proceedings or proceedings to determine if a child is in need of supervision for ninety (90) days for any child that has not been previously adjudicated delinquent, if the child and, if required by the court, the parent or legal guardian of the child agree to participate in an alternative diversion program for first-time offenders that has been approved by the court. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the alternative diversion program for first-time offenders has been successfully completed. The records of a case dismissed pursuant to this subsection shall be subject to the provisions of Article VII of the Oklahoma Juvenile Code.

G. A court may defer delinquency proceedings for ninety (90) days for any child that has not been previously adjudicated delinquent, if the child agrees to participate in a military mentor program that has been approved by the court. The court shall dismiss the case with prejudice at the conclusion of the deferral period if the child presents satisfactory evidence that the military mentor program has been successfully completed. The records of a case dismissed pursuant to this subsection shall be subject to the provisions of Article VII of the Oklahoma Juvenile Code.

H. As used in this section:

1. "Alternative diversion programs for first-time offenders" means programs for juveniles who have been identified by law enforcement personnel, the district attorney, or the court as having committed acts which are not serious enough to warrant adjudication through the juvenile court process, but which do indicate a need for intervention to prevent further development toward juvenile delinquency. The program shall be administered, pursuant to contact with the Department of Juvenile Justice, by organizations designated as youth services agencies in accordance with Section 7302-3.6 of ~~Title 10 of the Oklahoma Statutes~~ this title;

2. "Teen Court program" means a program which provides an alternative judicial forum for cases involving juvenile offenders, in which teenage participants, under the supervision of an adult coordinator, may serve in various capacities within the courtroom, including jurors, lawyers, bailiffs and judges. Such program also may include participation by volunteer adult attorneys. The Teen Court hears cases involving juvenile offenders who are referred to the Teen Court by the district attorney or the district court and assesses sentences such as participation in community work projects, counseling or rehabilitation programs; and

3. "Military mentor program" means a program administered by the Oklahoma Military Department as provided in Section 7303-5.3 of ~~Title 10 of the Oklahoma Statutes~~ this title.

SECTION 9. AMENDATORY Section 131, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7303-5.2), is amended to read as follows:

Section 7303-5.2 A. An individual treatment and service plan shall be filed with the court within the thirty (30) days after any child has been adjudicated to be delinquent or in need of supervision. Said plan shall be filed by the person, department or agency responsible for the supervision of the case or by the legal custodian if the child has been removed from the custody of its lawful parent or parents. The treatment and service plan shall be based on a comprehensive assessment and evaluation of the child and family and include but not be limited to:

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

2. ~~Based upon a comprehensive assessment and evaluation of the child and family which shall include, in the case of a delinquent child, a risk-assessment of the child:~~

a. ~~identification of the specific services to be provided to the child to remediate or alleviate the conditions that led to the adjudication, including but not limited to educational, vocational educational, medical, drug or alcohol abuse~~

~~treatment, or counseling or other treatment services, and~~

~~b. identification of the services to be provided to the parent, legal guardian, legal custodian, stepparent, other adult person living in the home or other family members, to remediate or alleviate the conditions that led to the adjudication, including services needed to assist the family to provide proper care and supervision of the child. If the child is placed outside the home, the service plan shall include the services to be provided during and after any such placement;~~

~~3. If the child is to be placed outside the home, the service plan shall state:~~

~~a. the reasons for such placement and a statement as to the unavailability or inappropriateness of local placement, or other good cause, for any placement more than forty (40) miles from the home of the child,~~

~~b. the services to be provided to the child while in such placement and the projected date of discharge,~~

~~c. the services necessary to assist the child to reintegrate with the child's family or other community-based placement, and~~

~~d. if the child is age sixteen (16) or older, the services necessary to make the transition from community placement to independent living;~~

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

3. Identification of the services to be provided to the parent, legal guardian, legal custodian, stepparent, other adult person living in the home or other family members, to remediate or alleviate the conditions that led to the adjudication, including

services needed to assist the family to provide proper care and supervision of the child;

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

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

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

B. The individual treatment and service plan shall be amended as necessary and appropriate to reflect the disposition of the court. The amended plan shall be filed with the court within thirty (30) days of the order of disposition removing the child from the home and shall state:

1. The reasons for such placement and a statement as to the unavailability or inappropriateness of local placement, or other good cause, for any placement more than forty (40) miles from the home of the child;

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

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

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

C. Whenever a child who is subject to the provisions of this section is committed for inpatient mental health treatment pursuant to the Inpatient Mental Health Treatment of Children Act, the individual treatment and service plan shall be amended as necessary and appropriate, including but not limited to identification of the treatment and services to be provided to the child and his family upon discharge of the child from inpatient mental health treatment.

1995, and as last amended by Section 26, Chapter 293, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7306-2.4), is amended to read as follows:

Section 7306-2.4 A. A child who is arrested for an offense pursuant to subsection A or B of Section 7306-2.6 of this title or who is certified as a youthful offender pursuant to Section 7306-2.5 of this title, shall be charged by information in the same manner as provided for adults.

B. When a person is certified to stand trial as an adult or a youthful offender as provided by the Youthful Offender Act, the accused person shall have all the statutory and constitutional rights and protections of an adult accused of a crime. All proceedings shall be as for a criminal action and the provisions of Title 22 of the Oklahoma Statutes shall apply, except as provided for in the Youthful Offender Act. All youthful offender court records for such a person shall be considered adult records and shall not be subject to the provisions of Article VII of the Oklahoma Juvenile Code.

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

D. Upon arrest and detention of a person subject to the provisions of Section 7306-2.5 or 7306-2.6 of this title, the person has the same right to be released on bail as would an adult in the same circumstances and, if detained, may be detained in a juvenile detention facility or in a county jail if separated from the adult population as otherwise authorized by law.

E. Upon a verdict of guilty or entry of a plea of guilty or nolo contendere by a youthful offender who has been certified for the imposition of an adult sentence as provided by Section 7306-2.8 of this title the person may be detained as an adult and, if incarcerated, may be incarcerated with the adult population.

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

1. The child or youthful offender has been certified to stand trial as an adult pursuant to any certification procedure provided by law; or

2. The youthful offender has been certified for the imposition of an adult sentence as provided by Section 7306-2.8 of this title and is subsequently convicted of the alleged offense or against whom the imposition of judgment and sentencing has been deferred.

G. Except as otherwise provided in the Youthful Offender Act, a person who has been prosecuted and sentenced as a youthful offender shall be prosecuted as a youthful offender in all subsequent criminal proceedings until the youthful offender has attained eighteen (18) years of age.

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

H. When a person who has been sentenced as a youthful offender is placed in the custody or under the supervision of the Office of Juvenile Affairs, if the youthful offender has not been previously discharged by the court from the custody or supervision of the Office of Juvenile Affairs, within the thirty (30) days immediately preceding the date on which the youthful offender becomes eighteen (18) years of age, or if extended by the court, nineteen (19) years of age, the court shall hold a review hearing and shall make further orders regarding the youthful offender as provided by Section 7306-2.10 of this title.

SECTION 11. AMENDATORY Section 23, Chapter 290, O.S.L. 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 28, Chapter 293, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7306-2.6), is amended to read as follows:

Section 7306-2.6 A. Any person fifteen (15), sixteen (16) or seventeen (17) years of age who is charged with:

1. Murder in the second degree;
2. Kidnapping for the purpose of extortion;
3. Manslaughter in the first degree;
4. Robbery with a dangerous weapon or attempt thereof;

5. Robbery with a firearm or attempt thereof;
6. Rape in the first degree or attempt thereof;
7. Rape by instrumentation or attempt thereof;
8. Forcible sodomy;
9. Lewd molestation;
10. Arson in the first degree or attempt thereof;
11. Shooting with intent to kill; or
12. Discharging a firearm, crossbow or other weapon from a vehicle pursuant to subsection B of Section 652 of Title 21 of the Oklahoma Statutes,

shall be held accountable for his acts as a youthful offender.

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

1. Burglary in the first degree or attempted burglary in the first degree;
2. Aggravated assault and battery of a police officer;
3. Intimidating a witness;
4. Trafficking in or manufacturing illegal drugs;
5. Assault or assault and battery with a deadly weapon;
6. Maiming;
7. Residential burglary in the second degree after two or more adjudications ~~as a delinquent~~ that are separated in time for delinquency for committing burglary in the first degree or residential burglary in the second degree; or
8. Rape in the second degree,

shall be held accountable for his acts as a youthful offender.

C. Except as provided in subsection G of Section 7306-2.4 of this title, after a preliminary ~~investigation~~ inquiry conducted by the Department of Juvenile Justice or a juvenile bureau, whichever is applicable for the county, the district attorney may file a petition alleging the person to be a delinquent or may file an information against the accused person charging the person as a youthful offender.

D. 1. Upon the filing of the information against such alleged youthful offender, a warrant shall be issued which shall set forth the rights of the accused person, and the rights of the

parents, guardian or next friend of the accused person to be present at the preliminary hearing, and to have an attorney present.

2. The warrant shall be personally served together with a certified copy of the information on the alleged youthful offender and on a custodial parent, guardian or next friend of the accused person.

3. When personal service of a custodial parent, guardian or next friend of the alleged youthful offender cannot be effected, service may be made by certified mail to such person's last-known address, requesting a return receipt from the addressee only. If delivery is refused, notice may be given by mailing the warrant and a copy of the information on the accused person by regular first-class mail to the address where the person to be notified refused delivery of the notice sent by certified mail. Where the address of a custodial parent, guardian or next friend is not known, or if the mailed warrant and copy of the information on the accused person is returned for any reason other than refusal of the addressee to accept delivery, after a distinct and meaningful search of all reasonably available sources to ascertain the whereabouts of a custodial parent, guardian or next friend has been conducted, the court may order that notice of the hearing be given by publication one time in a newspaper of general circulation in the county. In addition, the court may order other means of service of notice that the court deems advisable or in the interests of justice.

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

E. 1. The accused person may file a motion for certification to the juvenile system before the start of the criminal preliminary hearing:

- a. upon the filing of such motion, the complete juvenile record of the accused shall be made

available to the district attorney and the accused person,

- b. at the conclusion of the state's case at the criminal preliminary hearing, the accused person may offer evidence to support the motion for certification as a child.

2. If no motion to certify the accused person to the juvenile system has been filed, at the conclusion of the criminal preliminary hearing the court may on its own motion hold a hearing on the matter of the certification of the accused youthful offender to the juvenile system.

3. The court shall rule on the certification motion before ruling on whether to bind the accused over for trial. When ruling on the certification motion, the court shall give consideration to the following guidelines:

- a. the seriousness of the alleged offense to the community, and whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner,
- b. whether the offense was against persons or property, greater weight being given to offenses against persons, and if personal injury resulted, the degree of personal injury,
- c. the sophistication and maturity of the juvenile and his capability of distinguishing right from wrong as determined by consideration of his psychological evaluation, home, environmental situation, emotional attitude and pattern of living,
- d. the record and previous history of the accused person, including previous contacts with community agencies, law enforcement agencies, schools, juvenile courts and other jurisdictions, prior periods of probation or prior commitments to juvenile institutions,
- e. the prospects for adequate protection of the public,

- f. the likelihood of reasonable rehabilitation of the juvenile if he is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court, and
- g. whether the offense occurred while the accused person was escaping or in an escape status from an institution for delinquent children.

4. In its decision on the certification of the accused person the court need not detail responses to each of the above considerations, but shall state that the court has considered each of the guidelines in reaching its decision.

5. An order certifying a person or denying such certification to the juvenile system shall be a final order, appealable when entered.

F. Upon conviction, sentence may be imposed as a sentence for a youthful offender as provided by Section 7306-2.9 of this title. If the youthful offender sentence is imposed as an adult sentence, the juvenile may be incarcerated with the adult population.

SECTION 12. AMENDATORY Section 27, Chapter 290, O.S.L. 1994, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 31, Chapter 293, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7306-2.10), is amended to read as follows:

Section 7306-2.10 A. Whenever a youthful offender is placed in the custody of or under the supervision of the Office of Juvenile Affairs, the Office shall within thirty (30) days prepare and file with the court a written rehabilitation plan for the youthful offender. The rehabilitation plan shall include but not be limited to:

1. When the youthful offender is placed in the custody of the Office of Juvenile Affairs, the placement of the youthful offender;

2. Clearly stated, measurable objectives which the youthful offender is expected to achieve; and

3. The services that will be provided to the youthful offender by the Department of Juvenile Justice to assist the youthful offender to achieve the objectives.

B. Whenever a youthful offender is placed in the custody or under the supervision of the Office of Juvenile Affairs as provided by the Youthful Offender Act, the court shall conduct a semiannual review based upon written reports of the youth's conduct, progress and condition. Written reports concerning the conduct, progress and condition of a youthful offender shall be submitted to the court prior to scheduled reviews by the Department of Juvenile Justice. Such reports shall include a written report of the youthful offender with respect to the rehabilitation plan. Copies of those reports shall be provided by the agency to the youthful offender, his counsel, parent or guardian if the youthful offender is less than eighteen (18) years of age, and the district attorney. The court shall consider any timely written response to the agency report before concluding its review.

C. The court may schedule a semiannual review for hearing in open court, after notice, at its discretion and may schedule such other hearings, after notice, as the court deems necessary. The court shall hold a review hearing for good cause shown, upon the motion of the district attorney, the Department of Juvenile Justice, or the youthful offender for the purpose of making a determination as to:

1. The discharge of the youthful offender from the supervision or custody of the Department of Juvenile Justice; or

2. A change in the custody status of the youthful offender. For the purpose of this section, "change in the custody status" means a revocation of an order of probation or supervision, revocation of parole, or a transfer of custody or supervision to the Department of Corrections.

D. If the youthful offender has not been previously discharged, the court shall hold a review hearing within the thirty (30) days immediately preceding the date the youthful

offender becomes eighteen (18) years of age or nineteen (19) years of age, if extended by law.

E. A review hearing shall be conducted in open court after notice to the youth, his counsel, parent or guardian if the youthful offender is less than eighteen (18) years of age, the Department of Juvenile Justice, and the appropriate district attorney.

F. At the conclusion of any review hearing in open court and after consideration of all reports and other evidence properly submitted to the court, the court may:

1. Order the youthful offender discharged from the supervision or custody of the Department of Juvenile Justice without a court judgment of guilt, and order the verdict or plea of guilty or plea of nolo contendere expunged from the record as provided in paragraphs 1 through 5 of subsection C of Section 991c of Title 22 of the Oklahoma Statutes and dismiss the charge with prejudice to any further action if the court finds that the youthful offender has reasonably completed the rehabilitation plan and objectives and that such dismissal will not jeopardize public safety;

2. Revoke an order of probation and place the youthful offender in the custody of the Office of Juvenile Affairs;

3. Revoke a community supervision placement by the Department of Juvenile Justice;

4. Place the youthful offender in a sanction program operated or contracted for by the Office of Juvenile Affairs community placement, if the youthful offender fails to comply with a written plan of rehabilitation or fails substantially to achieve reasonable treatment objectives while in community or other nonsecure programs; or

5. Enter a judgment of guilt and proceed as provided in Section 991a of Title 22 of the Oklahoma Statutes, including transfer of the youthful offender to the custody or supervision of the Department of Corrections for the remainder of the youthful offender sentence, if the court finds by clear and convincing evidence that the youthful offender has:

- a. after conviction as a youthful offender, seriously injured or endangered the life or health of another person by his violent behavior,
- b. escaped from a training school,
- c. committed a felony crime while in the custody or under the supervision of the Department of Juvenile Justice as shown by a judgment entered following a verdict of guilty or a plea of guilty or nolo contendere, or
- d. failed substantially to comply with a written plan of rehabilitation or failed substantially to achieve reasonable treatment objectives and is within thirty (30) days of his eighteenth birthday, or nineteenth birthday if custody has been extended, and is still placed in an institution or other long-term staff secure facility.

G. For the purpose of calculating time served to be applied toward any sentence imposed upon a youthful offender, in the event a youthful offender has been placed in the custody or under the supervision of the Office of Juvenile Affairs, he shall receive credit for the time spent in the custody or under the supervision of the Office of Juvenile Affairs. Upon commitment to the Department of Corrections, a youthful offender shall also receive other credits as provided by law, for an adult inmate.

SECTION 13. AMENDATORY 20 O.S. 1991, Section 123, as amended by Section 1, Chapter 224, O.S.L. 1997 (20 O.S. Supp. 1997, Section 123), is amended to read as follows:

Section 123. A. Special judges may hear and decide the following:

1. Actions for the recovery of money where the amount claimed does not exceed Ten Thousand Dollars (\$10,000.00) and counterclaim or setoff does not exceed Ten Thousand Dollars (\$10,000.00);

2. All uncontested matters, whether by default, agreement or otherwise, except that a nonlawyer special judge may not hear any uncontested matters, whether by default, agreement or otherwise,

in actions for the recovery of money where judgment is sought for a greater sum than One Thousand Dollars (\$1,000.00);

3. Actions for forcible entry and detainer except a nonlawyer special judge may not hear such actions if title to land or a boundary dispute is involved;

4. Actions for replevin where the amount in controversy does not exceed Ten Thousand Dollars (\$10,000.00), except that nonlawyer special judges may not hear such actions where the amount in controversy exceeds One Thousand Dollars (\$1,000.00);

5. Misdemeanors, except that special judges who are not lawyers may not hear criminal actions where the punishment prescribed by law exceeds a fine of Two Hundred Dollars (\$200.00), or imprisonment in a county jail for thirty (30) days, or both such fine and imprisonment except by written consent of all parties;

6. Felonies involving a second and subsequent offense of driving, operating, or being in actual physical control of a motor vehicle while under the influence of alcohol or any other intoxicating substance, including any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, to a degree that renders the defendant incapable of safely driving or operating a motor vehicle, except that nonlawyer special judges may not hear such matters;

7. When there is no district or associate district judge present in the county or when they are disqualified, the issuance of a temporary injunction or restraining order, but this paragraph shall not embrace nonlawyer special judges;

8. Issuance of writs of habeas corpus, but this paragraph shall not embrace nonlawyer special judges;

9. Any matter, regardless of value, at any stage, whether intermediate or final, and whether or not title to property, real, personal, tangible, intangible, or any combination thereof, is to be determined, in a probate, divorce, domestic relations, custody, support, guardianship, conservatorship, mental health, juvenile, adoption, or determination of death proceeding, except that nonlawyer special judges may not hear such matters;

10. An appeal from an order of the Department of Public Safety revoking a person's license to drive, except that nonlawyer special judges may not hear such matters;

11. Other actions and proceedings, regardless of court rules, where the parties agree in writing, at any time before trial, to the action being heard by a special judge; ~~and~~

12. Any postjudgment collection matter regardless of the amount of the judgment; and

13. Youthful offender cases pursuant to the Youthful Offender Act.

B. Special judges shall be authorized to serve as referee in any matter before the district court.

C. A special judge may perform the duties of a magistrate in criminal cases.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7302-6.10 of Title 10, unless there is created a duplication in numbering, reads as follows:

The official name and designation of the facility located at Norman, Oklahoma, formerly known and designated as the Phil Smalley Children's Unit of the Oklahoma Youth Center, shall be the Phil Smalley Employee Development Center. The supervision, management, operation and control of the Center and all property, equipment and supplies related thereto shall be the responsibility of the Office of Juvenile Affairs, except as provided for in interagency agreements between the Department of Mental Health and Substance Abuse Services and the Office of Juvenile Affairs.

SECTION 15. AMENDATORY 43A O.S. 1991, Section 3-105, is amended to read as follows:

Section 3-105. A. The Oklahoma Youth Center, Norman, Oklahoma, is hereby created and designated a facility within the Department and shall be operated under the supervision of the Department. The Oklahoma Youth Center shall consist of:

1. ~~The Phil Smalley Children's Unit, formerly known and designated as the Phil Smalley Children's Center;~~

~~2.~~ The Adolescent Unit, a building constructed pursuant to the provisions of Section 10, Chapter 341, O.S.L. 1981, Section 20, Chapter 374, O.S.L. 1982, Section 32, Chapter 326, O.S.L. 1983 and Section 114, Chapter 296, O.S.L. 1984; and

~~3.~~ 2. The Leland Wolf Unit, formerly known and designated as the Leland Wolf Rehabilitation Center of Central State Griffin Memorial Hospital.

~~B. The Department is authorized to effect the transfer of property, records, equipment, supplies and funds, and encumbrances from Phil Smalley Children's Center and from Central State Griffin Memorial Hospital's Adolescent Unit and Leland Wolf Center to the Oklahoma Youth Center.~~

~~C.~~ There is hereby created a petty cash fund for the Oklahoma Youth Center. The Director of State Finance and Commissioner of Mental Health and Substance Abuse Services are authorized to fix the maximum amount of this petty cash fund and the Director of State Finance shall prescribe the rules and procedures for the administration of this petty cash fund.

SECTION 16. AMENDATORY 56 O.S. 1991, Section 205, as last amended by Section 6, Chapter 323, O.S.L. 1993 (56 O.S. Supp. 1997, Section 205), is amended to read as follows:

Section 205. The Department of Human Services is authorized to replace or make reimbursement for the eyeglasses or contact lenses of any employee at the Northern Oklahoma Resource Center of Enid, Southern Oklahoma Resource Center of Pauls Valley, Hissom Memorial Center, and any other juvenile institution subject to the jurisdiction of the Department of Human Services, if said eyeglasses or contact lenses are damaged by a resident of said schools, center or institutions while the employee is engaged in the performance of his duties. The Department of Mental Health and Substance Abuse Services is authorized to replace or make reimbursement for the eyeglasses or contact lenses of any employee at Central State Hospital, Eastern State Hospital, Western State Psychiatric Center, the Community Mental Health Centers and Substance Abuse Services ~~and the Phil Smalley Children's Center~~ if said eyeglasses or contact lenses are damaged by a resident of

said facilities while the employee is engaged in the performance of his duties. The J.D. McCarty Center is authorized to replace or make reimbursement for the eyeglasses or contact lenses of any employee, if said eyeglasses or contact lenses are damaged by a resident of said facility while the employee is engaged in the performance of his duties. The eyeglasses or contact lenses shall be of comparable kind, quality and cost. The Department of Human Services, the Department of Mental Health and Substance Abuse Services and the J.D. McCarty Center are not authorized to make payment or reimbursement for eye examinations necessary for the replacement of or reimbursement for said eyeglasses or contact lenses.

SECTION 17. AMENDATORY Section 1, Chapter 280, O.S.L. 1994, as amended by Section 47, Chapter 247, O.S.L. 1996 (74 O.S. Supp. 1997, Section 85.12c), is amended to read as follows:

Section 85.12c A. Purchases made from funds received by local offices administered by the Department of Human Services for fund-raising activities and donations for the benefit of clients and potential clients at the local offices where such purchases may not otherwise be paid for from appropriated funds, shall not be subject to requirements of the Oklahoma Central Purchasing Act. Monies received by such fund-raising activities or donations shall be maintained in an Agency Special Account, and expenditure control shall reside at the local offices. Monies received by such fund-raising activities or donations from the local office, vending operations administered by employees of the Department of Human Services, and all other nonrestricted cash and cash-equivalent items received by employees of the Department of Human Services shall be deposited in the Agency Special Account established for this purpose. Such deposits shall be made at local banking institutions approved by the State Treasurer.

B. Purchases made from funds received by local offices administered by the Office of Juvenile Affairs for fund-raising activities and donations for the benefit of clients and potential clients at the local offices where such purchases may not otherwise be paid for from appropriated funds shall not be subject

to requirements of the Oklahoma Central Purchasing Act. Monies received by such fund-raising activities or donations shall be maintained in an agency special account, and expenditure control shall reside at the local offices. Monies received by such fund-raising activities or donations from the local office, vending operations administered by employees of the Office of Juvenile Affairs, and all other nonrestricted cash and cash-equivalent items received by employees of the Office of Juvenile Affairs shall be deposited in the agency special account established for this purpose. The deposits shall be made at local banking institutions approved by the State Treasurer.

C. Merchandise for resale purchased and sold through a canteen established at an institution or facility operated by the Office of Juvenile Affairs shall be exempt from the requirements of the Oklahoma Central Purchasing Act.

SECTION 18. REPEALER Section 5, Chapter 306, O.S.L. 1993, as amended by Section 127, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7303-4.4), is hereby repealed.

SECTION 19. This act shall become effective July 1, 1998.

SECTION 20. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-2-11538 SD