

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 HOUSE BILL 3566

By: Manger

4
5
6 AS INTRODUCED

7 An Act relating to children; amending 10A O.S. 2021,
8 Section 2-5-205, as amended by Section 5, Chapter
9 375, O.S.L. 2022 (10A O.S. Supp. 2023, Section 2-5-
10 205), which relates to certification as youthful
11 offender or juvenile; modifying acts that shall cause
12 certain persons to be held accountable as a youthful
13 offender; and providing an effective date.

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

15 SECTION 1. AMENDATORY 10A O.S. 2021, Section 2-5-205, as
16 amended by Section 5, Chapter 375, O.S.L. 2022 (10A O.S. Supp. 2023,
17 Section 2-5-205), is amended to read as follows:

18 Section 2-5-205. A. Any person thirteen (13) or fourteen (14)
19 years of age who is charged with murder in the first degree shall be
20 held accountable for the act as if the person were an adult;
21 provided, the person may be certified as a youthful offender or a
22 juvenile as provided by this section, unless the person is subject
23 to the provisions of subsection H of Section 2-5-204 of this title.
24
--

1 B. Any person fifteen (15), sixteen (16) or seventeen (17)
2 years of age who is charged with murder in the first degree shall be
3 held accountable for his or her act as if the person was an adult
4 and shall not be subject to the provisions of the Youthful Offender
5 Act or the provisions of the Juvenile Code for certification as a
6 juvenile. The person shall have all the statutory rights and
7 protections of an adult accused of a crime. All proceedings shall
8 be as for a criminal action and the provisions of Title 22 of the
9 Oklahoma Statutes shall apply. A person having been convicted as an
10 adult pursuant to this paragraph shall be tried as an adult for
11 every subsequent offense.

12 C. Any person fifteen (15), sixteen (16) or seventeen (17)
13 years of age who is charged with:

- 14 1. Murder in the second degree;
- 15 2. Kidnapping or attempt thereof;
- 16 3. Manslaughter in the first degree;
- 17 4. Robbery with a dangerous weapon or a firearm or attempt
18 thereof;
- 19 5. Robbery in the first degree or attempt thereof;
- 20 6. Robbery committed by two or more persons;
- 21 7. Rape by instrumentation or attempt thereof;
- 22 8. Forcible sodomy;

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

4 10. Domestic abuse by strangulation;

5 11. Arson in the first degree or attempt thereof; ~~or~~

6 12. Any offense in violation of Section 652 of Title 21 of the
7 Oklahoma Statutes; or

8 13. Eluding a peace officer in violation of subsection B or C
9 of Section 540A of Title 21 of the Oklahoma Statutes,

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

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

1 certified as a juvenile or as an adult as provided by the Youthful
2 Offender Act.

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

5 1. Burglary in the first degree or attempted burglary in the
6 first degree;

7 2. Battery or assault and battery on a state employee or
8 contractor while in the custody or supervision of the Office of
9 Juvenile Affairs;

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

11 4. Intimidating a witness;

12 5. Trafficking in or manufacturing illegal drugs;

13 6. Assault and battery with a deadly weapon;

14 7. Maiming;

15 8. Residential burglary in the second degree after two or more
16 adjudications that are separated in time for delinquency for
17 committing burglary in the first degree or residential burglary in
18 the second degree;

19 9. Rape in the second degree; or

20 10. Use of a firearm while in commission of a felony,

21 may be held accountable for such acts as a youthful offender;
22 provided, the person may be certified as a juvenile or as an adult
23 as provided by the Youthful Offender Act.

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

7 2. After an information has been filed charging a person as a
8 youthful offender under Sections A, C, D, or E of this section, or
9 as an adult under subsection B of this section, the district
10 attorney may elect to amend or dismiss the information and refile
11 any or all charges in a delinquent petition.

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

15 G. 1. Upon the filing of an information against a person, a
16 warrant shall be issued which shall set forth the rights of the
17 accused, and the rights of the parents, guardian, or next friend of
18 the accused to be present at the preliminary hearing and to have an
19 attorney.

20 2. The warrant shall be personally served together with a
21 certified copy of the information on the accused and on a custodial
22 parent, guardian, or next friend of the accused. The court may
23 inquire of the accused as to the whereabouts of his or her parents,
24

1 guardian, or next friend in order to avoid unnecessary delay in the
2 proceedings.

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

20 4. Before service by publication is ordered, the court shall
21 conduct an inquiry to determine whether a thorough search has been
22 made of all reasonably available sources to ascertain the
23 whereabouts of any person for whom notice by publication is sought.
24
--

1 5. The person is presumed to be a youthful offender, and the
2 proceedings shall continue under such presumption unless the court
3 grants the person's motion for certification as a juvenile pursuant
4 to Section ~~6~~ 2-5-206A of this ~~act~~ title or grants the district
5 attorney's motion for imposition of an adult sentence pursuant to
6 Section ~~7~~ 2-5-207A of this ~~act~~ title.

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

14 1. For a person charged under subsection A or B of Section 2-5-
15 205 of this title, if the preliminary hearing is not commenced
16 within ninety (90) days of the filing date of the information, the
17 district court shall hold a hearing to determine the reasons for
18 delay utilizing the procedure set out in Section 812.2 of Title 22
19 of the Oklahoma Statutes, to ensure the preliminary hearing is
20 expedited, unless the ninety-day requirement has been waived by the
21 accused.

22 2. For a person charged under subsection C, D, or E of Section
23 2-5-205 of this title, if the preliminary hearing is not commenced
24 within ninety (90) days of the filing of the information, the
..

1 district attorney shall be prohibited from seeking an adult sentence
2 unless the ninety-day requirement has been waived by the accused.

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

23 I. At the conclusion of the state's case at the preliminary
24 hearing, if the accused has filed a motion for certification as a
--

1 juvenile pursuant to subsection A of this section, or if the
2 district attorney has filed a motion for the imposition of an adult
3 sentence pursuant to Section 7 2-5-207A of this ~~act~~ title, both the
4 accused and the district attorney may offer evidence in support or
5 in opposition of the pending motion or motions.

6 J. The court shall rule on any properly filed motion for
7 certification as a juvenile or motion for the imposition of an adult
8 sentence before ruling on whether to bind the accused over for
9 trial.

10 SECTION 2. This act shall become effective November 1, 2024.

11
12 59-2-9525 CMA 12/28/23
13
14
15
16
17
18
19
20
21
22
23
24
--