

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 HOUSE BILL 2678

By: Johnson

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5
6 AS INTRODUCED

7 An Act relating to juvenile offenses; creating the
8 Alyssa D. Wiles Law; amending 10A O.S. 2011, Section
9 2-5-206, which relates to youthful offender
10 guidelines; requiring youthful offender status for
11 accessory to murder in the first degree; providing
12 for noncodification; and providing an effective date.

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

14 SECTION 1. NEW LAW A new section of law not to be
15 codified in the Oklahoma Statutes reads as follows:

16 This act shall be known and may be cited as the "Alyssa D. Wiles
17 Law".

18 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-5-206, is
19 amended to read as follows:

20 Section 2-5-206. A. Any person fourteen (14), fifteen (15),
21 sixteen (16) or seventeen (17) years of age who is charged with
22 accessory to murder in the first degree shall be held accountable
23 for such acts as a youthful offender.

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

- 1 1. Murder in the second degree;
- 2 2. Kidnapping;
- 3 3. Manslaughter in the first degree;
- 4 4. Robbery with a dangerous weapon or a firearm or attempt
- 5 thereof;
- 6 5. Robbery in the first degree or attempt thereof;
- 7 6. Rape in the first degree or attempt thereof;
- 8 7. Rape by instrumentation or attempt thereof;
- 9 8. Forcible sodomy;
- 10 9. Lewd molestation;
- 11 10. Arson in the first degree or attempt thereof; or
- 12 11. Any offense in violation of Section 652 of Title 21 of the
- 13 Oklahoma Statutes,
- 14 shall be held accountable for such acts as a youthful offender.

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

- 17 1. Burglary in the first degree or attempted burglary in the
- 18 first degree;
- 19 2. Battery or assault and battery on a state employee or
- 20 contractor while in the custody or supervision of the Office of
- 21 Juvenile Affairs;
- 22 3. Aggravated assault and battery of a police officer;
- 23 4. Intimidating a witness;
- 24 5. Trafficking in or manufacturing illegal drugs;

1 6. Assault or assault and battery with a deadly weapon;

2 7. Maiming;

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

7 9. Rape in the second degree; or

8 10. Use of a firearm while in commission of a felony,
9 shall be held accountable for such acts as a youthful offender.

10 ~~C.~~ D. The district attorney may file a petition alleging the
11 person to be a delinquent or may file an information against the
12 accused person charging the person as a youthful offender. The
13 district attorney shall notify the Office of Juvenile Affairs upon
14 the filing of youthful offender charges.

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

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

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

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

23 ~~E.~~ F. The court shall commence a preliminary hearing within
24 ninety (90) days of the filing of the information pursuant to

1 Section 258 of Title 22 of the Oklahoma Statutes, to determine
2 whether the crime was committed and whether there is probable cause
3 to believe the accused person committed the crime. If the
4 preliminary hearing is not commenced within ninety (90) days, the
5 state shall be prohibited from seeking an adult sentence unless the
6 ninety-day requirement is waived by the defendant. If the
7 whereabouts of the accused are unknown at the time of the filing of
8 the information or if the accused is a fugitive, the State of
9 Oklahoma shall make reasonable efforts to locate the accused in
10 order to commence the proceedings. An accused who flees the
11 jurisdiction of the court or purposely avoids apprehension for the
12 charges, waives the right to have the preliminary hearing commenced
13 within ninety (90) days of the filing of the information. An
14 accused who fails to cooperate with providing information in
15 locating the accused parent, guardian, or next friend for purpose of
16 notice waives the right to have the preliminary hearing commence
17 within ninety (90) days of the filing of the information.

18 F. G. 1. The accused person may file a motion for
19 certification to the juvenile justice system before the start of the
20 criminal preliminary hearing:

21 a. upon the filing of such motion, the complete juvenile
22 record of the accused shall be made available to the
23 district attorney and the accused person,

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

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

10 3. The court shall rule on the certification motion before
11 ruling on whether to bind the accused over for trial. When ruling
12 on the certification motion, the court shall give consideration to
13 the following guidelines with the greatest weight given to
14 subparagraphs a, b and c:

- 15 a. whether the alleged offense was committed in an
16 aggressive, violent, premeditated or willful manner,
- 17 b. whether the offense was against persons, and if
18 personal injury resulted, the degree of personal
19 injury,
- 20 c. the record and past history of the accused person,
21 including previous contacts with law enforcement
22 agencies and juvenile or criminal courts, prior
23 periods of probation and commitments to juvenile
24 institutions,

- 1 d. the sophistication and maturity of the accused person
2 and the accused person's capability of distinguishing
3 right from wrong as determined by consideration of the
4 accused person's psychological evaluation, home,
5 environmental situation, emotional attitude and
6 pattern of living,
7 e. the prospects for adequate protection of the public if
8 the accused person is processed through the youthful
9 offender system or the juvenile system,
10 f. the reasonable likelihood of rehabilitation of the
11 accused person if the accused is found to have
12 committed the alleged offense, by the use of
13 procedures and facilities currently available to the
14 juvenile court, and
15 g. whether the offense occurred while the accused person
16 was escaping or in an escape status from an
17 institution for youthful offenders or juvenile
18 delinquents.

19 4. In its decision on the motion for certification as an
20 alleged juvenile delinquent, the court shall detail findings of fact
21 and conclusions of law to each of the above considerations and shall
22 state that the court has considered each of the guidelines in
23 reaching its decision.
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1 5. An order certifying a person or denying such certification
2 to the juvenile justice system shall be a final order, appealable
3 when entered.

4 ~~G.~~ H. Upon conviction, sentence may be imposed as a sentence
5 for a youthful offender as provided by Section 2-5-209 of this
6 title. If the youthful offender sentence is imposed as an adult
7 sentence as provided by Section 2-5-208 of this title, the convicted
8 person may be incarcerated with the adult population.

9 SECTION 3. This act shall become effective November 1, 2016.

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