

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1200

By: Griffin

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5
6 AS INTRODUCED

7 An Act relating to juvenile detention; amending 10A
8 O.S. 2011, Sections 2-2-503, as amended by Section
9 14, Chapter 404, O.S.L. 2013, 2-3-101, as last
10 amended by Section 3, Chapter 54, O.S.L. 2015 and 2-
11 7-601 (10A O.S. Supp. 2015, Sections 2-2-503 and 2-3-
12 101), which relate to disposition orders, detention
13 of child and Office of Juvenile Affairs institutions
14 and facilities; deleting exception to certain
15 detention; creating indirect contempt offense for
16 violation of certain orders; providing certain
17 punishment; modifying certain detention requirements;
18 updating language; modifying allowable situs of
19 certain hearings; and providing an effective date.

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1 suitable person, upon such conditions as the court shall determine.
2 If the child is placed on probation, the court may impose a
3 probation fee of not more than Twenty-five Dollars (\$25.00) per
4 month, if the court finds that the child or parent or legal guardian
5 of the child has the ability to pay the fee. In counties having a
6 juvenile bureau, the fee shall be paid to the juvenile bureau; in
7 all other counties, the fee shall be paid to the Office of Juvenile
8 Affairs;

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

20 a. If it is consistent with the welfare of the child, in
21 cases where the child has been adjudicated to be in
22 need of supervision due to repeated absence from
23 school, the court may order counseling and treatment
24 for the child and the parents of the child to be

1 provided by the local school district, the county, the
2 Office or a private individual or entity. Prior to
3 final disposition, the court shall require that it be
4 shown by the appropriate school district that a child
5 found to be truant has been evaluated for learning
6 disabilities, hearing and visual impairments and other
7 impediments which could constitute an educational
8 handicap or has been evaluated to determine whether
9 the child has a disability if it is suspected that the
10 child may require special education services in
11 accordance with the Individuals with Disabilities
12 Education Act (IDEA). The results of such tests shall
13 be made available to the court for use by the court in
14 determining the disposition of the case.

15 b. In issuing orders to a parent, guardian, legal
16 guardian, stepparent or other adult person living in
17 the home of a child adjudicated to be a delinquent
18 child or in making other disposition of said
19 delinquent child, the court may consider the testimony
20 of said parent, guardian, legal guardian, stepparent
21 or other adult person concerning the behavior of the
22 juvenile and the ability of such person to exercise
23 parental control over the behavior of the juvenile.
24

1 c. In any dispositional order involving a child age
2 sixteen (16) or older, the court shall make a
3 determination, where appropriate, of the services
4 needed to assist the child to make the transition to
5 independent living.

6 d. No child who has been adjudicated in need of
7 supervision only upon the basis of truancy or
8 noncompliance with the mandatory school attendance law
9 shall be placed in a public or private institutional
10 facility or be removed from the custody of the lawful
11 parent, guardian or custodian of the child.

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

16 3. The court may commit the child to the custody of a private
17 institution or agency, including any institution established and
18 operated by the county, authorized to care for children or to place
19 them in family homes. In committing a child to a private
20 institution or agency, the court shall select one that is licensed
21 by any state department supervising or licensing private
22 institutions and agencies; or, if such institution or agency is in
23 another state, by the analogous department of that state. Whenever
24 the court shall commit a child to any institution or agency, it

1 shall transmit with the order of commitment a summary of its
2 information concerning the child, and such institution or agency
3 shall give to the court such information concerning the child as the
4 court may at any time require;

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

7 5. The court may commit the child to the custody of the Office
8 of Juvenile Affairs. Any order adjudicating the child to be
9 delinquent and committing the child to the Office of Juvenile
10 Affairs shall be for an indeterminate period of time;

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

19 7. With respect to a child adjudicated a delinquent child, the
20 court may:

21 a. for acts involving criminally injurious conduct as
22 defined in Section 142.3 of Title 21 of the Oklahoma
23 Statutes, order the child to pay a victim compensation
24 assessment in an amount not to exceed that amount

1 specified in Section 142.18 of Title 21 of the
2 Oklahoma Statutes. The court shall forward a copy of
3 the adjudication order to the Crime Victims
4 Compensation Board for purposes of Section 142.11 of
5 Title 21 of the Oklahoma Statutes. Except as
6 otherwise provided by law, such adjudication order
7 shall be kept confidential by the Board,

8 b. order the child to engage in a term of community
9 service without compensation. The state or any
10 political subdivision shall not be liable if a loss or
11 claim results from any acts or omission of a child
12 ordered to engage in a term of community service
13 pursuant to the provisions of this paragraph,

14 c. order the child, the parent or parents of the child,
15 legal guardian of the child, or both the child and the
16 parent or parents of the child or legal guardian at
17 the time of the delinquent act of the child to make
18 full or partial restitution to the victim of the
19 offense which resulted in property damage or personal
20 injury.

21 (1) The court shall notify the victim of the
22 dispositional hearing. The court may consider a
23 verified statement from the victim concerning
24 damages for injury or loss of property and actual

1 expenses of medical treatment for personal
2 injury, excluding pain and suffering. If
3 contested, a restitution hearing to determine the
4 liability of the child, the parent or parents of
5 the child, or legal guardian shall be held not
6 later than thirty (30) days after the disposition
7 hearing and may be extended by the court for good
8 cause. The parent or parents of the child or
9 legal guardian may be represented by an attorney
10 in the matter of the order for remittance of the
11 restitution by the parent or parents of the child
12 or legal guardian. The burden of proving that
13 the amount indicated on the verified statement is
14 not fair and reasonable shall be on the person
15 challenging the fairness and reasonableness of
16 the amount.

17 (2) Restitution may consist of monetary reimbursement
18 for the damage or injury in the form of a lump
19 sum or installment payments after the
20 consideration of the court of the nature of the
21 offense, the age, physical and mental condition
22 of the child, the earning capacity of the child,
23 the parent or parents of the child, or legal
24 guardian, or the ability to pay, as the case may

1 be. The payments shall be made to such official
2 designated by the court for distribution to the
3 victim. The court may also consider any other
4 hardship on the child, the parent or parents of
5 the child, or legal guardian and, if consistent
6 with the welfare of the child, require community
7 service in lieu of restitution or require both
8 community service and full or partial restitution
9 for the acts of delinquency by the child.

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

19 (4) If the restitution is not being paid as ordered,
20 the official designated by the court to collect
21 and disburse the restitution ordered shall file a
22 written report of the violation with the court.
23 The report shall include a statement of the
24 amount of the arrearage and any reasons for the

1 arrearage that are known by the official. A copy
2 of the report shall be provided to all parties
3 and the court shall promptly take any action
4 necessary to compel compliance.

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

1 d. order the child to pay the fine which would have been
2 imposed had such child been convicted of such crime as
3 an adult. Any such fine collected pursuant to this
4 paragraph shall be deposited in a special Work
5 Restitution Fund to be established by the court to
6 allow children otherwise unable to pay restitution to
7 work in community service projects in the private or
8 public sector to earn money to compensate their
9 victims,

10 e. order the cancellation or denial of driving privileges
11 as provided by Sections 6-107.1 and 6-107.2 of Title
12 47 of the Oklahoma Statutes,

13 f. sanction detention in the residence of the child or
14 facility designated by the Office of Juvenile Affairs
15 or the juvenile bureau for such purpose for up to five
16 (5) days, order weekend detention in a place other
17 than a juvenile detention facility or shelter,
18 tracking, or house arrest with electronic monitoring,
19 and

20 g. impose consequences, including detention as provided
21 for in subparagraph f of this paragraph, for
22 postadjudicatory violations of probation;

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

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

3 10. In any dispositional order removing a child from the home
4 of the child, the court shall, in addition to the findings required
5 by Section 2-2-105 of this title, make a determination that, in
6 accordance with the best interests of the child and the protection
7 of the public, reasonable efforts have been made to provide for the
8 return of the child to the home of the child, or that efforts to
9 reunite the family are not required as provided in Section 2-2-105
10 of this title, and reasonable efforts are being made to finalize an
11 alternate permanent placement for the child.

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

3 C. With respect to a child adjudicated a delinquent child for a
4 violent offense, within thirty (30) days of the date of the
5 adjudication either the juvenile bureau in counties which have a
6 juvenile bureau or the Office of Juvenile Affairs in all other
7 counties shall notify the superintendent of the school district in
8 which the child is enrolled or intends to enroll of the delinquency
9 adjudication and the offense for which the child was adjudicated.

10 D. No child who has been adjudicated in need of supervision may
11 be placed in a secure facility; ~~provided, a child who has been~~
12 ~~adjudicated in need of supervision and who has willfully violated a~~
13 ~~valid court order as defined in and in compliance with the Juvenile~~
14 ~~Justice and Delinquency Prevention Act of 2002, 42 U.S.C. 5601 et~~
15 ~~seq. may be placed in secure detention.~~

16 E. No child charged in a state or municipal court with a
17 violation of state or municipal traffic laws or ordinances, or
18 convicted therefor, may be incarcerated in jail for the violation
19 unless the charge for which the arrest was made would constitute a
20 felony if the child were an adult. Nothing contained in this
21 subsection shall prohibit the detention of a juvenile for traffic-
22 related offenses prior to the filing of a petition in the district
23 court alleging delinquency as a result of the acts and nothing

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1 contained in this section shall prohibit detaining a juvenile
2 pursuant to Section 2-2-102 of this title.

3 F. The court may revoke or modify a disposition order and may
4 order redispotion. The child whose disposition is being
5 considered for revocation or modification at said hearing shall be
6 afforded the following rights:

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

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

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

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

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

23 6. The court shall not enter an order removing the child from
24 the custody of a parent or legal guardian pursuant to this section

1 unless the court first finds that reasonable efforts have been made
2 to maintain the family unit and prevent the unnecessary removal of
3 the child from the home of the child or that an emergency exists
4 which threatens the safety of the child and that:

- 5 a. such removal is necessary to protect the public,
- 6 b. the child is likely to sustain harm if not immediately
7 removed from the home,
- 8 c. allowing the child to remain in the home is contrary
9 to the welfare of the child, or
- 10 d. immediate placement of the child is in the best
11 interests of the child.

12 The court shall state in the record that such considerations
13 have been made. Nothing in this section shall be interpreted to
14 limit the authority or discretion of the agency providing probation
15 supervision services to modify the terms of probation including, but
16 not limited to, curfews, imposing community service, or any
17 nondetention consequences.

18 G. A willful violation of any provision of an order of the
19 court issued under the provisions of the Oklahoma Juvenile Code
20 shall constitute indirect contempt of court and shall be punishable
21 by a fine not to exceed Three Hundred Dollars (\$300.00) or placement
22 in a juvenile detention center for not more than ten (10) days, or
23 by both such fine and detention.

24

1 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-3-101, as
2 last amended by Section 3, Chapter 54, O.S.L. 2015 (10A O.S. Supp.
3 2015, Section 2-3-101), is amended to read as follows:

4 Section 2-3-101. A. When a child is taken into custody
5 pursuant to the provisions of the Oklahoma Juvenile Code, the child
6 shall be detained only if it is necessary to assure the appearance
7 of the child in court or for the protection of the child or the
8 public.

9 1. a. No preadjudicatory or predisposition detention or
10 custody order shall remain in force and effect for
11 more than thirty (30) days. The court, for good and
12 sufficient cause shown, may extend the effective
13 period of such an order for an additional period not
14 to exceed sixty (60) days. If the child is being
15 detained for the commission of a murder, the court
16 may, if it is in the best interests of justice, extend
17 the effective period of such an order an additional
18 sixty (60) days.

19 b. Whenever the court orders a child to be held in a
20 juvenile detention facility, an order for secure
21 detention shall remain in force and effect for not
22 more than fifteen (15) days after such order. Upon an
23 application of the district attorney and after a
24 hearing on such application, the court, for good and

1 sufficient cause shown, may extend the effective
2 period of such an order for an additional period not
3 to exceed fifteen (15) days after such hearing. The
4 total period of preadjudicatory or predisposition
5 shall not exceed the ninety-day limitation as
6 specified in subparagraph a of this paragraph. The
7 child shall be present at the hearing on the
8 application for extension unless, as authorized and
9 approved by the court, the attorney for the child is
10 present at the hearing and the child is available to
11 participate in the hearing via telephone conference
12 communication. For the purpose of this paragraph,
13 "telephone conference communication" means use of a
14 telephone device that allows all parties, including
15 the child, to hear and be heard by the other parties
16 at the hearing. After the hearing, the court may
17 order continued detention in a juvenile detention
18 center, may order the child detained in an alternative
19 to secure detention or may order the release of the
20 child from detention.

21 2. No child alleged or adjudicated to be deprived or in need of
22 supervision or who is or appears to be a minor in need of treatment
23 as defined by the Inpatient Mental Health and Substance Abuse
24 Treatment of Minors Act, shall be confined in any jail, adult

1 lockup, or adult detention facility. No child shall be transported
2 or detained in association with criminal, vicious, or dissolute
3 persons.

4 3. Except as otherwise authorized by this section a child who
5 has been taken into custody as a deprived child, a child in need of
6 supervision, or who appears to be a minor in need of treatment, may
7 not be placed in any detention facility pending court proceedings,
8 but must be placed in shelter care or foster care or, with regard to
9 a child who appears to be a minor in need of treatment, a behavioral
10 health treatment facility in accordance with the provisions of the
11 Inpatient Mental Health and Substance Abuse Treatment of Minors Act,
12 or released to the custody of the parents of the child or some other
13 responsible party. ~~When a child is taken into custody as a child in
14 need of supervision as a result of being a runaway, the court may
15 order the child placed in a juvenile detention facility pending
16 court proceedings if it finds the detention to be essential for the
17 safety of the child.~~

18 B. No child shall be placed in secure detention unless:

19 1. The child is an escapee from any delinquent placement;

20 2. The child is a fugitive from another jurisdiction with a
21 warrant on a delinquency charge or confirmation of delinquency
22 charges by the home jurisdiction;

23 3. The child is seriously assaultive or destructive towards
24 others or self;

1 4. The child is currently charged with any criminal offense
2 that would constitute a felony if committed by an adult or a
3 misdemeanor and:

4 a. is on probation or parole on a prior delinquent
5 offense,

6 b. is on preadjudicatory community supervision, or

7 c. is currently on release status on a prior delinquent
8 offense;

9 5. The child has willfully failed or there is reason to believe
10 that the child will willfully fail to appear for juvenile court
11 proceedings;

12 6. A warrant for the child has been issued on the basis that:

13 a. the child is absent from court-ordered placement
14 without approval by the court,

15 b. the child is absent from designated placement by the
16 Office of Juvenile Affairs without approval by the
17 Office of Juvenile Affairs,

18 c. there is reason to believe the child will not remain
19 at said placement, or

20 d. the child is subject to an administrative transfer or
21 parole revocation proceeding.

22 C. A child who has violated a court order and has had the order
23 revoked or modified pursuant to Section 2-2-503 of this title may be
24 placed into an Office-of-Juvenile-Affairs-designated sanction

1 detention bed or an Office-of-Juvenile-Affairs-approved sanction
2 program.

3 D. Priority shall be given to the use of juvenile detention
4 facilities for the detention of juvenile offenders through
5 provisions requiring the removal from detention of a juvenile with a
6 lower priority status if an empty detention bed is not available at
7 the time of referral of a juvenile with a higher priority status and
8 if the juvenile with a higher priority status would be more of a
9 danger to the public than the juvenile with the lower priority
10 status.

11 E. 1. Except as otherwise provided in this section, no child
12 shall be placed in secure detention in a jail, adult lockup, or
13 other adult detention facility unless:

- 14 a. the child is detained for the commission of a crime
15 that would constitute a felony if committed by an
16 adult, and
- 17 b. the child is awaiting an initial court appearance, and
- 18 c. the initial court appearance of the child is scheduled
19 within twenty-four (24) hours after being taken into
20 custody, excluding weekends and holidays, and
- 21 d. the court of jurisdiction is outside of the Standard
22 Metropolitan Statistical Area as defined by the Bureau
23 of Census, and

24

1 e. there is no existing acceptable alternative placement
2 for the child, and

3 f. the jail, adult lockup or adult detention facility
4 provides sight and sound separation for juveniles,
5 pursuant to standards required by subsection E of
6 Section 2-3-103 of this title, or

7 g. the jail, adult lockup or adult detention facility
8 meets the requirements for licensure of juvenile
9 detention facilities, as adopted by the Office of
10 Juvenile Affairs, is appropriately licensed, and
11 provides sight and sound separation for juveniles,
12 which includes:

13 (1) total separation between juveniles and adult
14 facility spatial areas such that there could be
15 no haphazard or accidental contact between
16 juvenile and adult residents in the respective
17 facilities,

18 (2) total separation in all juvenile and adult
19 program activities within the facilities,
20 including recreation, education, counseling,
21 health care, dining, sleeping and general living
22 activities, and

1 (3) separate juvenile and adult staff, specifically
2 direct care staff such as recreation, education
3 and counseling.

4 Specialized services staff, such as cooks,
5 bookkeepers, and medical professionals who are not
6 normally in contact with detainees or whose infrequent
7 contacts occur under conditions of separation of
8 juveniles and adults can serve both.

9 2. Nothing in this section shall preclude a child who is
10 detained for the commission of a crime that would constitute a
11 felony if committed by an adult, or a child who is an escapee from a
12 juvenile secure facility or from an Office of Juvenile Affairs group
13 home from being held in any jail certified by the State Department
14 of Health, police station or similar law enforcement offices for up
15 to six (6) hours for purposes of identification, processing or
16 arranging for transfer to a secure detention or alternative to
17 secure detention. Such holding shall be limited to the absolute
18 minimum time necessary to complete these actions.

19 a. The time limitations for holding a child in a jail for
20 the purposes of identification, processing or
21 arranging transfer established by this section shall
22 not include the actual travel time required for
23 transporting a child from a jail to a juvenile
24 detention facility or alternative to secure detention.

1 b. Whenever the time limitations established by this
2 subsection are exceeded, this circumstance shall not
3 constitute a defense in a subsequent delinquency or
4 criminal proceeding.

5 3. Nothing in this section shall preclude detaining in a county
6 jail or other adult detention facility an eighteen-year old charged
7 in a juvenile petition for whom certification to stand trial as an
8 adult is prayed. However, if no certification motion is filed, the
9 eighteen-year old shall remain in a juvenile detention facility as
10 long as secure detention is required.

11 4. Nothing in this section shall preclude detaining in a county
12 jail or other adult detention facility a person provided for in
13 Section 2-3-102 of this title if written or electronically
14 transmitted confirmation is received from the state seeking return
15 of the individual that the person is a person provided for in
16 Section 2-3-102 of this title and if, during the time of detention,
17 the person is detained in a facility meeting the requirements of
18 Section 2-3-103 of this title.

19 5. Nothing in this section shall preclude detaining a person,
20 whose age is not immediately ascertainable and who is being detained
21 for the commission of a felony, in a jail certified by the State
22 Department of Health, a police station or similar law enforcement
23 office for up to twenty-four (24) hours for the purpose of
24 determining whether or not the person is a child, if:

- 1 a. there is a reasonable belief that the person is
- 2 eighteen (18) years of age or older,
- 3 b. there is a reasonable belief that a felony has been
- 4 committed by the person,
- 5 c. a court order for such detention is obtained from a
- 6 judge of the district court within six (6) hours of
- 7 initially detaining the person,
- 8 d. there is no juvenile detention facility that has space
- 9 available for the person and that is within thirty
- 10 (30) miles of the jail, police station, or law
- 11 enforcement office in which the person is to be
- 12 detained, and
- 13 e. during the time of detention the person is detained in
- 14 a facility meeting the requirements of subparagraph g
- 15 of paragraph 1 of this subsection.

16 The time limitation provided for in this paragraph shall include the
17 time the person is detained prior to the issuance of the court
18 order.

19 The time limitation provided for in this paragraph shall not include
20 the actual travel time required for transporting the person to the
21 jail, police station, or similar law enforcement office. If the
22 time limitation established by this paragraph is exceeded, this
23 circumstance shall not constitute a defense in any subsequent
24 delinquency or criminal proceeding.

1 F. Nothing contained in this section shall in any way reduce or
2 eliminate the liability of a county as otherwise provided by law for
3 injury or damages resulting from the placement of a child in a jail,
4 adult lockup, or other adult detention facility.

5 G. Any juvenile detention facility shall be available for use
6 by any eligible Indian child as that term is defined by the Oklahoma
7 Indian Child Welfare Act, providing that the use of the juvenile
8 detention facility meets the requirements of the Oklahoma Juvenile
9 Code. The Indian tribe may contract with any juvenile detention
10 facility for the providing of detention services.

11 H. Each member of the staff of a juvenile detention facility
12 shall satisfactorily complete a training program provided or
13 approved by the Office of Juvenile Affairs.

14 I. Whenever a juvenile is placed in any jail, adult lockup, or
15 other detention facility, the Office of Juvenile Affairs shall have
16 access to all facilities which detain such juveniles and shall have
17 access to any data regarding such juveniles. The Office of Juvenile
18 Affairs shall have access to all jails, adult lockups, or other
19 adult facilities in this state, including all data maintained by
20 such facilities, to assure compliance with this section. The Board
21 of Juvenile Affairs shall promulgate rules as necessary to implement
22 the provisions of this section.

23 SECTION 3. AMENDATORY 10A O.S. 2011, Section 2-7-601, is
24 amended to read as follows:

1 Section 2-7-601. A. In addition to the other powers and duties
2 prescribed by law, the Office of Juvenile Affairs shall have the
3 following duties and powers with regard to juveniles placed in
4 Office-operated institutions and facilities:

5 1. Provide for the care, education, training, treatment and
6 rehabilitation of juveniles who are placed in the institutions and
7 facilities. The Office shall provide for a uniform system of
8 assessment of the reading ability of each juvenile upon initial
9 placement in an Office-operated institution or facility. The
10 assessment shall include, but not be limited to, the following
11 skills:

- 12 a. the level of word decoding skills of the juvenile,
- 13 b. the level of vocabulary and spelling ability of the
14 juvenile, and
- 15 c. the comprehension level of the juvenile.

16 The Office may give assistance to local school districts in
17 providing an education to such juveniles, may supplement such
18 education, and may provide facilities for such purposes. It shall
19 be the duty of the Office to assure that juveniles in the aforesaid
20 institutions and facilities receive educational services which
21 provide each juvenile with a balanced and comprehensive reading
22 program, which includes as its primary and foundational components:

- 23 (1) an organized, systematic, explicit skills program
24 that may include phonics, word recognition

1 strategies and other word decoding skills to
2 address the needs of the individual juvenile as
3 determined by the entry level needs assessment,

4 (2) a strong language arts and comprehension program
5 that includes a balance of oral and written
6 language, an ongoing individualized evaluation
7 and diagnosis that informs the teacher and an
8 assessment that assures accountability, and

9 (3) writing, mathematics, science and vocational-
10 technical education;

11 2. Transfer from a juvenile institution to another facility
12 under the jurisdiction of the Office, a juvenile who has been
13 adjudicated delinquent, if the Office believes it advisable to do
14 so; transfer from a facility for juveniles in need of supervision to
15 another such facility, a juvenile who has been adjudicated in need
16 of supervision, provided that such transfer is consistent with the
17 treatment needs of the juvenile; transfer from a juvenile
18 institution or facility to a state school for the mentally retarded,
19 any juvenile eligible for admission thereto, if the juvenile appears
20 to be in need of the care and treatment provided at such school;
21 transfer from a facility for delinquent or in need of supervision
22 juveniles to an appropriate facility or to the Department of Mental
23 Health and Substance Abuse Services any juvenile found by the court
24 to be a minor in need of treatment pursuant to the Inpatient Mental

1 Health and Substance Abuse Treatment of Minors Act and committed to
2 inpatient mental health or substance abuse treatment as provided by
3 the Inpatient Mental Health and Substance Abuse Treatment of Minors
4 Act. If a transfer is made pursuant to this paragraph, the Office
5 shall comply with the notification requirements of Section 2-2-504
6 of this title;

7 3. Release on parole a juvenile previously adjudicated to be
8 delinquent, subject to terms and conditions specified by the Office,
9 whenever the Office determines that such release will not be
10 detrimental to society and that the juvenile is ready to be returned
11 to the community and revoke said parole for violation of the
12 specified terms or conditions of parole pursuant to the provisions
13 of this section and the rules and procedures established by the
14 Office for such revocation;

15 4. Release any juvenile from a juvenile institution for
16 placement in a group home, transitional living program, independent
17 living program, other community-based facility or program or out-of-
18 home care subject to terms and conditions specified by the Office;
19 and

20 5. Provide parole services for juveniles released on parole
21 from juvenile institutions, and aftercare services for juveniles
22 discharged from juvenile institutions or facilities. Persons
23 designated as Juvenile Parole Officers by the Office shall have the
24

1 power to serve process and to apprehend and detain juveniles and
2 make arrests in accordance with the laws of the state.

3 B. The transfer of a juvenile from a nonsecure placement to a
4 secure placement shall be subject to an administrative transfer
5 hearing and any revocation of parole shall be subject to a parole
6 revocation hearing.

7 1. In any administrative transfer or parole revocation
8 proceeding, the following minimum standards shall apply:

- 9 a. the juvenile shall have the right to notice of the
10 proposed transfer or parole revocation hearing and the
11 alleged violation of administrative or parole rules on
12 which the proposed transfer or parole revocation is
13 based,
- 14 b. the juvenile shall have the right to representation by
15 an attorney,
- 16 c. the juvenile shall have the right to present evidence
17 on behalf of the juvenile, and
- 18 d. the juvenile shall have a right to bail, except that
19 ~~said~~ the right to bail shall not be construed to
20 require that a juvenile who is in residence in an
21 Office-operated institution or other facility at the
22 time of an alleged violation leading to an
23 administrative transfer proceeding be released from
24 such institution or facility.

1 2. The situs of ~~said~~ the hearings shall be the county in which
2 the alleged violation of administrative or parole rules ~~occurs~~
3 occurred or the county of original jurisdiction. The judge having
4 juvenile docket jurisdiction in ~~said~~ the county shall aid the
5 administrative transfer or parole revocation process of the Office
6 by:

- 7 a. determining eligibility for and amount of bail;
- 8 b. deciding any intermediate custody or placement issue;
- 9 and
- 10 c. if legal counsel for the juvenile has not otherwise
11 been obtained, appointing legal counsel for the
12 juvenile and fixing the amount of compensation for the
13 legal counsel. ~~Said~~ The judge shall also determine if
14 the juvenile is eligible for free legal services. If
15 the juvenile is not eligible for free legal services,
16 the court shall order the parents or legal guardian of
17 the juvenile to pay for such services.

18 3. If legal counsel for the juvenile has not otherwise been
19 obtained, the appointment of legal counsel for the juvenile, the
20 setting of the amount of compensation for such counsel, and the
21 determination of whether or not the juvenile is eligible for free
22 legal services shall be provided for pursuant to the Indigent
23 Defense Act; provided, however, in those counties subject to the
24 provisions of Section 138.1 of Title 19 of the Oklahoma Statutes,

1 the legal services shall be provided by the county indigent defender
2 as provided by law. If the juvenile is not eligible for free legal
3 services, the court shall order the parents or legal guardian of the
4 juvenile to pay for such services.

5 C. The Office may participate in federal programs relating to
6 delinquent juveniles, or juveniles in need of supervision, or
7 institutions and services for such juveniles and apply for, receive,
8 use and administer federal funds for such purposes.

9 D. The Office shall receive interest earnings on the investment
10 by the State Treasurer of monies, to be credited to an agency
11 special account, for the benefit of and held in trust for persons
12 placed in the custody of the Office or in residence at institutions
13 or facilities maintained by the Office.

14 SECTION 4. This act shall become effective November 1, 2016.

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