

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1207

By: David

4
5
6 AS INTRODUCED

7 An Act relating to the Oklahoma Juvenile Code;
8 amending 10A O.S. 2011, Section 2-2-103, which
9 relates to municipal jurisdiction of children;
10 modifying certain definition; amending 10A O.S. 2011,
11 Section 2-7-305, as last amended by Section 1,
12 Chapter 273, O.S.L. 2015 (10A O.S. Supp. 2015,
13 Section 2-7-305), which relates to community-based
14 youth service programs; specifying some programs be
15 implemented to certain extent; clarifying language;
16 and providing an effective date.

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

18 SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-2-103, is
19 amended to read as follows:

20 Section 2-2-103. A. 1. A municipality with a population of at
21 least twenty-five thousand (25,000) may, by written resolution filed
22 with the district court, assume jurisdiction of cases involving
23 children under eighteen (18) years of age charged with violating any
24 municipal ordinance identified in the resolution.

2. Any other municipality may enter into an interlocal
agreement with the district court pursuant to the Interlocal
Cooperation Act, to assume jurisdiction of cases involving children

1 under eighteen (18) years of age charged with violating any
2 municipal ordinance as agreed by the district court, the district
3 attorney and the municipality.

4 3. The chief juvenile judge of the district court judicial
5 district, or if there is no chief judge then the presiding judge of
6 the judicial administrative district, is hereby authorized to enter
7 into the interlocal agreement as provided for in this section for
8 and on behalf of said judicial district if the judge determines that
9 the agreement is constitutional and complies with state and federal
10 law.

11 B. 1. A child under eighteen (18) years of age who is taken
12 into custody for the alleged violation of a municipal ordinance
13 relating to truancy may be held pursuant to Section 10-109 of Title
14 70 of the Oklahoma Statutes.

15 2. A child under eighteen (18) years of age who is taken into
16 custody for the alleged violation of a municipal ordinance relating
17 to curfews may be held temporarily under the care of a peace officer
18 or other person employed by a police department only until the
19 parent of the child, legal guardian, legal custodian, attorney or
20 other responsible adult assumes custody or, if such a person cannot
21 be located within a reasonable time of the taking of the child into
22 custody or if such a person refuses to assume custody, until
23 temporary shelter is found for the child. The temporary custody
24 provided for by this paragraph shall be utilized as a means of

1 returning the child to the home of the child or other place of
2 shelter.

3 3. In no event shall the child be placed in a jail, lockup or
4 adult detention facility. In no event shall the child be placed in
5 a juvenile detention facility for more than twenty-four (24) hours,
6 excluding weekends and holidays, prior to an initial court
7 appearance and for an additional twenty-four (24) hours excluding
8 weekends and holidays, immediately following an initial court
9 appearance; provided, however, this provision shall not restrict or
10 prohibit placing a child in a community intervention center pursuant
11 to Section ~~9~~ 2-7-305 of this ~~act~~ title.

12 4. Notwithstanding any other provision of this Code, a child
13 less than eighteen (18) years of age, who is taken into custody for
14 the alleged violation of a municipal ordinance, and who can be
15 prosecuted in municipal court for such offense pursuant to
16 jurisdiction assumed by the municipal court pursuant to the
17 provisions of paragraph 1 of this subsection, may be temporarily
18 detained by the municipality in a municipal juvenile facility, as
19 defined by this section, but only pursuant to the following
20 conditions:

21 a. the municipality shall immediately take all reasonable
22 steps to attempt to locate the parent of the child,
23 legal guardian, legal custodian, attorney or another
24 responsible adult and determine if the parent, legal

1 guardian, legal custodian, attorney or other
2 responsible adult is willing to appear at the
3 municipal juvenile facility and assume personal
4 custody of the child upon the release of the child
5 from such facility,

6 b. the child shall be released to the personal custody of
7 the parent of the child, legal guardian, legal
8 custodian, attorney or other responsible adult as soon
9 as practicable and upon the written promise of such
10 person to return the child to municipal court to
11 answer the municipal charges on the date and at the
12 time set by the municipal court and to assume
13 responsibility for costs for damages by the child if
14 the child causes damages while committing any acts in
15 violation of municipal ordinances. Municipalities may
16 enact ordinances providing penalties for failure to
17 comply with the written promise and for refusal to
18 assume custody of a child in a timely manner,

19 c. the child shall be detained in the municipal juvenile
20 facility for no longer than twenty-four (24) hours;
21 provided, if the parent of the child, legal guardian,
22 legal custodian, attorney or other responsible adult
23 fails to appear at the municipal juvenile facility and
24 assume personal custody of the child within said

1 twenty-four-hour period, then custody or release of
2 the child shall be determined pursuant to the
3 provisions of Section ~~40~~ 2-2-101 of this ~~act~~ title,

4 d. the child shall be provided with adequate fresh
5 drinking water,

6 e. the child shall be provided with adequate food not
7 less than three times in a twenty-four-hour period,

8 f. the child shall be provided with adequate bathroom
9 facilities and bedding, and

10 g. the child shall be provided with any necessary medical
11 care and treatment.

12 C. For the purposes of this section, a "municipal juvenile
13 facility" shall mean a ~~secure~~ facility secured by locked rooms,
14 buildings and fences which is entirely separate from any jail, adult
15 lockup, or other adult facility, or is spatially separate if
16 contained inside any jail, adult lockup, or other adult facility
17 which is certified by the Office of Juvenile Affairs for the
18 temporary detention of juveniles as authorized by the provisions of
19 this section.

20 1. A municipal juvenile facility shall be certified by the
21 Office of Juvenile Affairs pursuant to the applicable certification
22 standards. The Office of Juvenile Affairs is directed to and shall
23 establish standards for certification of municipal juvenile
24 facilities to include but not be limited to the conditions set forth

1 in subparagraphs a through g of paragraph 4 of subsection B of this
2 section.

3 2. Each member of the staff of the municipal juvenile facility
4 shall have satisfactorily completed a training program provided or
5 approved by the Office of Juvenile Affairs. The Office of Juvenile
6 Affairs is directed to and shall provide or approve an appropriate
7 training program for staff members of such facilities.

8 3. A municipality may contract with an independent public or
9 private facility properly certified by the Office of Juvenile
10 Affairs for performance of the detention services authorized by the
11 provisions of this section.

12 4. The provisions of this section shall not restrict or limit
13 the use of municipal juvenile facilities for detention of juveniles
14 who are detained pursuant to other provisions of law.

15 5. In no event shall a juvenile be held in an adult facility
16 that does not meet the definition of a municipal juvenile facility.

17 D. 1. A child less than eighteen (18) years of age may be
18 charged, prosecuted and, if convicted, fined for violating a
19 municipal ordinance; provided, that the maximum fine which may be
20 imposed shall not exceed the maximum fine authorized by law.

21 2. ~~When assessing punishment, the~~ The court also may require
22 appropriate community service work, not to exceed ninety (90) hours,
23 in lieu of or in addition to a fine if the product of multiplying
24 the number of hours of community service work by the prevailing

1 minimum wage plus any fine imposed does not result in a number which
2 exceeds the maximum fine authorized by law, or restitution, or both
3 community service work and restitution. The court may also impose
4 costs as authorized by law.

5 3. If the child fails to complete the community service, a
6 parent or guardian of the child who knew or should have known that
7 the child failed to complete the community service may be fined an
8 amount equal to the number of community service hours that are not
9 completed by the child multiplied by the hourly minimum wage amount.

10 4. In addition, during any calendar year that any child:

- 11 a. fails to appear for a court date on more than one
12 occasion,
- 13 b. is convicted of two or more of the municipal offenses,
14 which offenses occurred on different days, or
- 15 c. fails to pay any fine or cost properly assessed by a
16 municipal court,

17 and after the expiration of ninety (90) days, the court clerk shall
18 mail notice of such occurrence to the Department of Public Safety,
19 which the Department shall thereafter suspend or deny driving
20 privileges for such child for six (6) months. The suspension may be
21 modified as provided in Section 6-107.2 of Title 47 of the Oklahoma
22 Statutes. In addition, the court may require the child to receive
23 counseling or other community-based services, as necessary.

24

1 E. If a child is prosecuted for an offense in a municipal
2 court, the child shall not be prosecuted for the offense in the
3 district court.

4 F. Any fines and costs properly assessed against any child and
5 which remain unpaid after three (3) months may be assessed by the
6 municipal judge against the parent of the child, parents, legal
7 guardian or legal custodian and collected and paid as provided for
8 in Articles XXVII and XXVIII of Title 11 of the Oklahoma Statutes.
9 Provided however, prior to such latter assessment, the court clerk
10 shall give the parent of the child, parents, legal guardian or legal
11 custodian notice by certified mail to their place of residence or
12 personal service of such action proposed to be taken.

13 G. All municipal arrest records, prosecution records, court
14 records, and court proceedings for cases involving children less
15 than eighteen (18) years of age charged with violating municipal
16 ordinances shall be kept confidential and shall not be open to
17 public inspection except by order of the municipal court or as
18 otherwise provided by Chapter 6 of this Code and Section 620.6 of
19 Title 10 of the Oklahoma Statutes. Municipal conviction records
20 involving children less than eighteen (18) years of age convicted of
21 violating municipal ordinances shall be open to public inspection.

22 H. Funds generated from fines paid pursuant to an interlocal
23 agreement between a municipality and the district court shall be
24

1 earmarked and used by the municipality only for the following
2 purposes:

3 1. To fund local programs which address problems of juvenile
4 crime;

5 2. To fund the costs of prosecutions authorized pursuant to the
6 provisions of this section;

7 3. To fund the costs of detention authorized pursuant to the
8 provisions of this section;

9 4. To fund administrative costs related to local programs that
10 address problems of juvenile crime or related to the prosecution,
11 detention, or punishment authorized pursuant to the provisions of
12 this section; and

13 5. To fund the costs of community intervention centers
14 authorized pursuant to Section 9 of this act.

15 Such earmarked funds shall not be used by the municipality for
16 any purpose other than the purposes set forth in paragraphs 1
17 through 5 of this subsection.

18 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-7-305, as
19 last amended by Section 1, Chapter 273, O.S.L. 2015 (10A O.S. Supp.
20 2015, Section 2-7-305), is amended to read as follows:

21 Section 2-7-305. A. The Office of Juvenile Affairs is
22 authorized to enter into contracts to establish or maintain
23 community-based youth service programs, shelters and community
24 intervention centers out of local, state and federal monies.

1 B. The Office of Juvenile Affairs shall take all necessary
2 steps to develop and implement a diversity of community services and
3 community-based residential care as needed to provide for adequate
4 and appropriate community-based care, treatment and rehabilitation
5 of children in the care, custody, and supervision of the Office of
6 Juvenile Affairs. Such community services and residential care
7 shall be consistent with the treatment needs of the child and the
8 protection of the public.

9 1. The Office of Juvenile Affairs shall, to the extent
10 reasonable and practicable, provide community-based services,
11 community residential care and community intervention centers to
12 children in the custody of the Office of Juvenile Affairs through
13 financial agreements, as authorized in Sections 2-7-303 and 2-7-304
14 of this title.

15 2. The Office of Juvenile Affairs shall establish procedures
16 for the letting of grants or contracts, and the conditions and
17 requirements for the receipt of such grants or contracts, for
18 community-based services, community residential care and community
19 intervention centers. A copy of such procedures shall be made
20 available to any member of the general public upon request.

21 C. Any state agency letting grants or contracts for the
22 establishment of community residential care or treatment facilities
23 for children shall require, as a condition for receipt of such
24 grants or contracts, documented assurance from the agency or

1 organization establishing such facility that appropriate
2 arrangements have been made for providing the educational services
3 to which residents of the facility are entitled pursuant to state
4 and federal law.

5 D. 1. The Office of Juvenile Affairs, to the extent reasonable
6 and practicable, shall implement programs for establishment and
7 continued operation of community intervention centers. The centers
8 shall be established pursuant to interlocal agreements between one
9 or more municipalities or one or more counties and the Office of
10 Juvenile Affairs pursuant to rules promulgated by the Office. The
11 municipality or county may enter into subcontracts with one or more
12 service providers, subject to the approval by the Office of Juvenile
13 Affairs. The service provider, whether a municipality, county or
14 other entity, must have access to the management information system
15 provided for in Section 2-7-308 of this title and must employ
16 qualified staff, as determined by the Office of Juvenile Affairs.

17 2. The community intervention center shall serve as a short-
18 term reception facility to receive and hold juveniles who have been
19 taken into custody by law enforcement agencies for the alleged
20 violation of a municipal ordinance or state law or who are alleged
21 to be in need of supervision and for whom detention is inappropriate
22 or unavailable. The community intervention center may receive and
23 hold juveniles for whom detention is appropriate and available
24 pending transportation by law enforcement to a detention facility;

1 provided, custody by law enforcement shall not be relinquished to
2 the community intervention center until detention eligibility and
3 bed availability are determined by the designated detention screener
4 and an order for detention is issued. The community intervention
5 center may be a ~~secure facility~~ secured by locked rooms, buildings
6 and fences. Juveniles held in the community intervention facility
7 shall not be isolated from common areas other than for short-term
8 protective holding for combative or self-destructive behavior, as
9 defined by the Office of Juvenile Affairs.

10 3. Juveniles shall not be held in a community intervention
11 center for more than twenty-four (24) hours.

12 4. The community intervention center shall perform the
13 following functions:

- 14 a. enter demographic information into the management
15 information system provided for in Section 2-7-308 of
16 this title,
- 17 b. immediately notify the parents or parent, guardian, or
18 other person legally responsible for the juvenile's
19 care, or if such legally responsible person is
20 unavailable the adult with whom the juvenile resides,
21 that the juvenile has been taken into custody and to
22 pick up the juvenile,
- 23 c. hold juveniles until they can be released to a parent,
24 guardian, or other responsible adult or until a

1 temporary placement can be secured, but in no event
2 for longer than twenty-four (24) hours, and

- 3 d. ensure that a written promise is executed by the
4 parent, guardian or other responsible adult to bring
5 the child to court at any time if a petition is to be
6 filed.

7 5. The community intervention center may perform the following
8 functions:

- 9 a. gather information to determine if the juvenile is in
10 need of immediate medical attention,
11 b. conduct an initial assessment pursuant to rules
12 promulgated by the Office of Juvenile Affairs. Such
13 initial assessment may be given without parental
14 consent if the juvenile agrees to participate in the
15 assessment, and
16 c. conduct an assessment pursuant to a Problem Behavior
17 Inventory or a Mental Status Checklist or an
18 equivalent assessment instrument authorized by rules
19 promulgated by the Office of Juvenile Affairs, if
20 written permission to do so is obtained from the
21 parent, guardian or other person legally responsible
22 for the care of the juvenile. Such person and the
23 juvenile may review the assessment instrument prior to
24 the assessment process, must be informed that

1 participation in the assessment is voluntary and that
2 refusal to participate shall not result in any
3 penalty, and must sign a written acknowledgment that
4 they were given an opportunity to review the
5 assessment instrument. The assessment shall be used
6 to develop recommendations to correct the behavior of
7 the juvenile, to divert the progression of the
8 juvenile into the juvenile justice system, to
9 determine if the juvenile is in need of nonemergency
10 medical treatment, and to determine if the juvenile is
11 the victim of violence. Information derived from the
12 assessment shall not be made available to prosecutors
13 or the court prior to adjudication of the alleged
14 offense, and shall not be used in any phase of
15 prosecution but may be used by the court following
16 adjudication for the dispositional order and may be
17 used for referrals to social services.

18 6. A juvenile alleged to have committed an offense which would
19 be a felony if committed by an adult may be fingerprinted at a
20 community intervention center. No other juveniles shall be
21 fingerprinted at community intervention centers.

22 7. Community intervention centers shall be certified pursuant
23 to standards established and rules promulgated by the Office of
24 Juvenile Affairs.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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

55-2-2478 AM 1/20/2016 2:56:03 PM