

1 ENGROSSED SENATE
2 BILL NO. 1233

By: Griffin of the Senate

3 and

4 Jordan of the House

5
6 [youthful offenders - applicability and sentencing -
7 maximum age - jurisdiction - repealer - effective
8 date]

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

10 SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-5-207, is
11 amended to read as follows:

12 Section 2-5-207. It is the intent of the Legislature to fully
13 utilize the Youthful Offender Act as a means to protect the public
14 while rehabilitating and holding youth accountable for serious
15 crimes. The Legislature finds that eligible seventeen-year-olds
16 should have the opportunity to be processed as youthful offenders as
17 provided by law and held accountable through the various provisions
18 of the Youthful Offender Act for custody, institutional placement,
19 supervision, extended jurisdiction within the Office of Juvenile
20 Affairs, and the ability to transfer youthful offenders to the
21 Department of Corrections when incarceration or additional
22 supervision is required beyond the maximum age allowed in the Office
23 of Juvenile Affairs. No older youth should be deemed ineligible or
24 denied consideration as a youthful offender who is otherwise

1 lawfully eligible based upon the age of the youth being seventeen
2 (17) years, but it is the intent of the Legislature that such
3 youthful offender shall not remain in the custody or under the
4 supervision of the Office of Juvenile Affairs beyond the youthful
5 offender's maximum age of ~~eighteen (18) years and five (5) months~~
6 nineteen (19) years. To deny access to an otherwise eligible older
7 youth without cause is to circumvent the original intent of the
8 Legislature in creating the Youthful Offender Act.

9 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-5-209, is
10 amended to read as follows:

11 Section 2-5-209. A. Upon a verdict of guilty or a plea of
12 guilty or nolo contendere of a youthful offender and prior to the
13 imposition of a youthful offender sentence by the court:

14 1. A youthful offender presentence investigation shall be
15 conducted unless waived by the youthful offender with approval of
16 the court or unless an investigation is conducted pursuant to
17 subsection C of Section 2-5-208 of this title. Any presentence
18 investigation required by this section shall be conducted by the
19 Office of Juvenile Affairs; and

20 2. The court shall conduct a hearing and shall consider, with
21 the greatest weight given to subparagraphs a, b and c:

22 a. whether the offense was committed in an aggressive,
23 violent, premeditated or willful manner,

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- 1 b. whether the offense was against persons and, if
2 personal injury resulted, the degree of personal
3 injury,
4 c. the record and past history of the person, including
5 previous contacts with law enforcement agencies and
6 juvenile or criminal courts, prior periods of
7 probation and commitments to juvenile institutions,
8 d. the sophistication and maturity of the person and the
9 capability of distinguishing right from wrong as
10 determined by consideration of the psychological
11 evaluation, home, environmental situation, emotional
12 attitude and pattern of living of the person,
13 e. the prospects for adequate protection of the public if
14 the person is processed through the youthful offender
15 system or the juvenile system,
16 f. the reasonable likelihood of rehabilitation of the
17 person if found to have committed the offense, by the
18 use of procedures and facilities currently available
19 to the juvenile, and
20 g. whether the offense occurred while the person was
21 escaping or on escape status from an institution for
22 youthful offenders or delinquent children.

23 B. 1. After the hearing and consideration of the report of the
24 presentence investigation, the court shall impose sentence as a

1 youthful offender, and such youthful offender shall be subject to
2 the same type of sentencing procedures and duration of sentence,
3 except for capital offenses, including suspension or deferment, as
4 an adult convicted of a felony offense, except that any sentence
5 imposed upon the youthful offender shall be served in the custody or
6 under the supervision of the Office of Juvenile Affairs until the
7 expiration of the sentence, the youthful offender is discharged, or
8 the youthful offender reaches eighteen (18) years of age, whichever
9 first occurs. If an individual sentenced as a youthful offender
10 attains eighteen (18) years of age prior to the expiration of the
11 sentence, such individual shall be returned to the sentencing court.
12 At that time, the sentencing court shall make one of the following
13 determinations:

- 14 a. whether the youthful offender shall be returned to the
15 Office of Juvenile Affairs to complete a treatment
16 program, provided that the treatment program shall not
17 exceed the youthful offender's attainment of ~~eighteen~~
18 ~~(18)~~ nineteen (19) years of age ~~and five (5) months~~.
19 At the conclusion of the treatment program, the
20 individual shall be returned to the sentencing court
21 for a determination under subparagraph b, c or d of
22 this paragraph,
- 23 b. whether the youthful offender shall be placed in the
24 custody of the Department of Corrections,

1 c. whether the youthful offender shall be placed on
2 probation with the Department of Corrections, or

3 d. whether the youthful offender shall be discharged from
4 custody.

5 2. The sentence imposed shall not exceed the maximum sentence
6 already imposed in the originating sentence.

7 3. If a the court has extended jurisdiction of the youthful
8 ~~offender has attained eighteen (18) years of age but less than~~
9 ~~eighteen (18) years of age and five (5) months prior to sentencing,~~
10 ~~that individual shall be returned to the sentencing court upon~~
11 ~~attaining the age of eighteen (18) years and five (5) months if that~~
12 ~~individual has been sentenced to a period of placement or treatment~~
13 ~~with the Office of Juvenile Affairs~~ until nineteen (19) years of
14 age, the youthful offender shall remain in custody or under the
15 supervision of the Office of Juvenile Affairs until the youthful
16 offender has been discharged or sentenced by the court or until the
17 youthful offender's nineteenth birthday, at which time the youthful
18 offender shall be returned to the court for final disposition of the
19 youthful offender's case. The court shall have the same
20 dispositional options as provided in subparagraphs b, c and d of
21 paragraph 1 of this subsection.

22 4. Any period of probation required by the sentencing court to
23 be served shall be supervised by:
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1 a. the Office of Juvenile Affairs or designated
2 representative, if the youthful offender is under
3 eighteen (18) years of age, or

4 b. the Department of Corrections or designated
5 representative, upon the youthful offender attaining
6 eighteen (18) years of age.

7 5. In addition to or in lieu of the placement of the youthful
8 offender in the custody of or under the supervision of the Office of
9 Juvenile Affairs, the court may issue orders with regard to the
10 youthful offender as provided by law for the disposition of an
11 adjudicated juvenile delinquent as long as the age of the youthful
12 offender does not exceed ~~eighteen (18)~~ nineteen (19) years ~~and five~~
13 ~~(5) months~~.

14 6. It is the intent of the Oklahoma Legislature that youthful
15 offenders be held insofar as is practical separate from the juvenile
16 delinquent population.

17 7. The Office of Juvenile Affairs may make recommendations to
18 the court concerning the disposition of the youthful offender.

19 C. A youthful offender who is seventeen (17) or eighteen (18)
20 years of age or older and who has been sentenced to the custody of
21 the Office of Juvenile Affairs may be detained in a county jail
22 pending placement in an Office of Juvenile Affairs facility,
23 provided the county jail meets the jail standards promulgated by the
24 State Department of Health for juvenile offenders. Said youthful

1 offender who is eighteen (18) years of age or older may be held in
2 the general population of the county jail.

3 SECTION 3. REPEALER 10A O.S. 2011, Section 2-5-101, is
4 hereby repealed.

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

6 Passed the Senate the 9th day of March, 2016.

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Presiding Officer of the Senate

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10 Passed the House of Representatives the ____ day of _____,
11 2016.

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Presiding Officer of the House
of Representatives

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