

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 55th Legislature (2015)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 410

By: Brooks of the Senate

and

Johnson of the House

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10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to juvenile offenses; amending 10A  
12                   O.S. 2011, Section 2-5-206, which relates to youthful  
13                   offender guidelines; making persons charged with  
14                   certain crime eligible for youthful offender status;  
15                   modifying inclusions; and providing an effective  
16                   date.

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

18                   SECTION 1.           AMENDATORY           10A O.S. 2011, Section 2-5-206, is  
19                   amended to read as follows:

20                   Section 2-5-206.   A.   Any person thirteen (13), fourteen (14),  
21                   fifteen (15), sixteen (16) or seventeen (17) years of age who is  
22                   charged with accessory to murder in the first degree shall be held  
23                   accountable to 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. Accessory to any offense listed in paragraphs 1 through 10
- 13 of this subsection; or
- 14 12. Any offense in violation of Section 652 of Title 21 of the
- 15 Oklahoma Statutes,
- 16 shall be held accountable for such acts as a youthful offender.
- 17 ~~B.~~ C. Any person sixteen (16) or seventeen (17) years of age
- 18 who is charged with:
- 19 1. Burglary in the first degree or attempted burglary in the
- 20 first degree;
- 21 2. Battery or assault and battery on a state employee or
- 22 contractor while in the custody or supervision of the Office of
- 23 Juvenile Affairs;
- 24 3. Aggravated assault and battery of a police officer;

- 1 4. Intimidating a witness;
- 2 5. Trafficking in or manufacturing illegal drugs;
- 3 6. Assault or assault and battery with a deadly weapon;
- 4 7. Maiming;
- 5 8. Residential burglary in the second degree after two or more
- 6 adjudications that are separated in time for delinquency for
- 7 committing burglary in the first degree or residential burglary in
- 8 the second degree;
- 9 9. Rape in the second degree; ~~or~~
- 10 10. Use of a firearm while in commission of a felony; or
- 11 11. Accessory to any offense listed in paragraphs 1 through 10
- 12 of this subsection,

13 shall be held accountable for such acts as a youthful offender.

14 ~~C.~~ D. The district attorney may file a petition alleging the

15 person to be a delinquent or may file an information against the

16 accused person charging the person as a youthful offender. The

17 district attorney shall notify the Office of Juvenile Affairs upon

18 the filing of youthful offender charges.

19 ~~D.~~ E. 1. Upon the filing of the information against such

20 alleged youthful offender, a warrant shall be issued which shall set

21 forth the rights of the accused person, and the rights of the

22 parents, guardian or next friend of the accused person to be present

23 at the preliminary hearing, and to have an attorney present.

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

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

23           4. Before service by publication is ordered, the court shall  
24 conduct an inquiry to determine whether a thorough search has been

1 made of all reasonably available sources to ascertain the  
2 whereabouts of any party for whom notice by publication is sought.

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

22 ~~F.~~ G. 1. The accused person may file a motion for  
23 certification to the juvenile justice system before the start of the  
24 criminal preliminary hearing:

1 a. upon the filing of such motion, the complete juvenile  
2 record of the accused shall be made available to the  
3 district attorney and the accused person,

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

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

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

18 a. whether the alleged offense was committed in an  
19 aggressive, violent, premeditated or willful manner,

20 b. whether the offense was against persons, and if  
21 personal injury resulted, the degree of personal  
22 injury,

23 c. the record and past history of the accused person,  
24 including previous contacts with law enforcement

1 agencies and juvenile or criminal courts, prior  
2 periods of probation and commitments to juvenile  
3 institutions,

4 d. the sophistication and maturity of the accused person  
5 and the accused person's capability of distinguishing  
6 right from wrong as determined by consideration of the  
7 accused person's psychological evaluation, home,  
8 environmental situation, emotional attitude and  
9 pattern of living,

10 e. the prospects for adequate protection of the public if  
11 the accused person is processed through the youthful  
12 offender system or the juvenile system,

13 f. the reasonable likelihood of rehabilitation of the  
14 accused person if the accused is found to have  
15 committed the alleged offense, by the use of  
16 procedures and facilities currently available to the  
17 juvenile court, and

18 g. whether the offense occurred while the accused person  
19 was escaping or in an escape status from an  
20 institution for youthful offenders or juvenile  
21 delinquents.

22 4. In its decision on the motion for certification as an  
23 alleged juvenile delinquent, the court shall detail findings of fact  
24 and conclusions of law to each of the above considerations and shall

1 state that the court has considered each of the guidelines in  
2 reaching its decision.

3 5. An order certifying a person or denying such certification  
4 to the juvenile justice system shall be a final order, appealable  
5 when entered.

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

11 SECTION 2. This act shall become effective November 1, 2015.

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13 COMMITTEE REPORT BY: COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS,  
14 dated 03/25/2015 - DO PASS, As Amended.

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