

1 **SENATE FLOOR VERSION**

2 February 7, 2023

3 SENATE BILL NO. 77

By: Howard of the Senate

4 and

5 Moore of the House

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7
8 An Act relating to the Youthful Offender Act;
9 amending Section 7, Chapter 375, O.S.L. 2022 (10A
10 O.S. Supp. 2022, Section 2-5-207A), which relates to
11 motion for imposition of adult sentence; updating
12 statutory reference; making the issuance of court
13 order to pay certain fee permissive; updating
14 statutory language; and declaring an emergency.

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

16 SECTION 1. AMENDATORY Section 7, Chapter 375, O.S.L.
17 2022 (10A O.S. Supp. 2022, Section 2-5-207A), is amended to read as
18 follows:

19 Section 2-5-207A. A. Whenever the district attorney determines
20 there is good cause to believe that the person charged as a youthful
21 offender would not reasonably complete a plan of rehabilitation or
22 the public would not be adequately protected if the person were to
23 be sentenced as a youthful offender, the district attorney may file
24 a motion for the imposition of an adult sentence. The district

1 attorney may elect when to file the motion for the imposition of an
2 adult sentence as set forth as follows:

3 1. The district attorney may file the motion for the imposition
4 of an adult sentence no later than fourteen (14) days prior to the
5 start of the preliminary hearing. If the motion is properly filed
6 prior to preliminary hearing, the court shall rule on such motion
7 prior to a ruling to bind the person over for trial. Once the
8 motion for imposition of an adult sentence is heard by the court,
9 such motion cannot be filed again and argued to the trial court
10 after arraignment.

11 2. The district attorney may file the motion for the imposition
12 of an adult sentence no later than thirty (30) days following formal
13 arraignment. If the motion is properly filed, such motion will be
14 heard and ruled upon by the trial court.

15 3. If the accused's attorney indicates to the court that the
16 accused wishes to plead guilty or nolo contendere to the charge or
17 charges, the court shall notify the district attorney. The district
18 attorney shall have ten (10) days after notification to file the
19 motion for the imposition of an adult sentence. If the motion is
20 properly filed, such motion will be heard and ruled upon by the
21 trial court.

22 B. If a motion for imposition of an adult sentence was properly
23 filed, the court shall order a certification study to be prepared by
24 the Office of Juvenile Affairs, unless waived by the accused with

1 approval of the court unless previously prepared pursuant to Section
2 ~~6~~ 2-5-206A of this ~~act~~ title. Upon ordering the certification
3 study, the court ~~shall~~ may order the parent, guardian, next friend,
4 or other person legally obligated to care for and support the
5 accused, to pay a fee to the Office of Juvenile Affairs of not less
6 than One Hundred Dollars (\$100.00), nor more than One Thousand
7 Dollars ~~(\$1000.00)~~ (\$1,000.00). The court shall set a reasonable
8 date for the payment of the fee due to the Office of Juvenile
9 Affairs for the completion of the certification study. In hardship
10 cases, the court may establish a payment schedule.

11 C. When ruling on a motion for the imposition of an adult
12 sentence, the court shall consider the following guidelines with
13 greatest weight to be given to paragraphs 1, 2, and 3:

14 1. Whether the alleged offense was committed in an aggressive,
15 violent, premeditated, or willful manner, and the accused's level of
16 involvement in the offense;

17 2. Whether the offense was against persons and, if personal
18 injury resulted, the degree of personal injury, and the statement or
19 statements of the victim or victims;

20 3. The record and past history of the accused person including
21 previous contacts with law enforcement agencies and juvenile or
22 criminal courts, prior periods of probation, and commitments to
23 juvenile facilities or placements;

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1 4. The sophistication, age, and maturity of the person and the
2 capability of distinguishing right from wrong as determined by
3 consideration of the person's psychological evaluation, home,
4 environmental situation, emotional attitude, and pattern of living;

5 5. The prospects for adequate protection of the public if the
6 accused person is processed through the juvenile justice system as
7 either a delinquent or youthful offender;

8 6. The reasonable likelihood of rehabilitation if the accused
9 is found to have committed the offense, using programs and
10 facilities currently available to the court through the juvenile
11 justice system; and

12 7. Whether the offense occurred while the accused person was
13 escaping or on escape status from a facility or placement for
14 youthful offenders or delinquent children.

15 D. After the hearing and consideration of the report of the
16 investigation, the court shall certify the person as eligible for
17 the imposition of an adult sentence only if the court finds by clear
18 and convincing evidence that there is good cause to believe that the
19 accused would not reasonably complete a plan of rehabilitation or
20 that the public would not be adequately protected if the accused
21 were to be sentenced as a youthful offender.

22 E. The court, in its decision on a motion for the imposition of
23 an adult sentence, shall issue a written order and prepare detailed
24 findings of fact and conclusions of law as to each of the

1 considerations in subsections C and D of this section, and shall
2 state that the court has considered each of the guidelines in
3 reaching its decision.

4 F. The order granting or denying the motion for the imposition
5 of an adult sentence shall be a final order, appealable to the Court
6 of Criminal Appeals when entered.

7 G. An order granting the district attorney's motion for the
8 imposition of an adult sentence shall not be reviewable by the trial
9 court.

10 SECTION 2. It being immediately necessary for the preservation
11 of the public peace, health or safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

14 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
15 February 7, 2023 - DO PASS
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