

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1835

By: Osborn (Leslie)

4  
5  
6 AS INTRODUCED

7 An Act relating to children and juvenile code;  
8 amending 10A O.S. 2011, Section 2-2-503, as last  
9 amended by Section 1, Chapter 234, O.S.L. 2016 (10A  
10 O.S. Supp. 2016, Section 2-2-503), which relates to  
11 juvenile disposition orders; authorizing secure  
12 detention placement under certain circumstances;  
13 deleting indirect contempt offense and penalty;  
14 amending 10A O.S. 2011, Section 2-3-101, as last  
15 amended by Section 2, Chapter 234, O.S.L. 2016 (10A  
16 O.S. Supp. 2016, Section 2-3-101), which relates to  
17 conditions of detention; authorizing detention of  
18 runaway child deemed in need of supervision; and  
19 declaring an emergency.

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

21 SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-2-503, as  
22 last amended by Section 1, Chapter 234, O.S.L. 2016 (10A O.S. Supp.  
23 2016, Section 2-2-503), is amended to read as follows:

24 Section 2-2-503. A. The following kinds of orders of  
disposition may be made in respect to children adjudicated in need  
of supervision or delinquent:

1. The court may place the child on probation with or without  
supervision in the home of the child, or in the custody of a

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  
24

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 including, but not limited to, an order to appear  
14 before the court after having been properly served with a summons or  
15 an order issued by the court to appear before said court may be  
16 placed in secure detention.

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

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, as to a~~  
22 ~~delinquent child, placement in a juvenile detention center for not~~  
23 ~~more than ten (10) days, or 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 2, Chapter 234, O.S.L. 2016 (10A O.S. Supp.  
3 2016, 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. ~~Provided, this shall not preclude runaway~~

14 4. When a child is taken into custody as a child in need of  
15 supervision as a result of being a runaway, the court may order the  
16 child placed in a juvenile detention facility pending court  
17 proceedings if the court finds the detention to be essential for the  
18 safety of the child. Runaway juveniles from other states, with or  
19 without delinquent status, ~~to~~ may be held in a detention facility in  
20 accordance with the Interstate Compact for Juveniles in Sections 2-  
21 9-101 through 2-9-116 of this title and rules promulgated by the  
22 Interstate Commission.

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

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

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

4           3. The child is seriously assaultive or destructive towards  
5 others or self;

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

9           a. is on probation or parole on a prior delinquent  
10 offense,

11           b. is on preadjudicatory community supervision, or

12           c. is currently on release status on a prior delinquent  
13 offense;

14           5. The child has willfully failed or there is reason to believe  
15 that the child will willfully fail to appear for juvenile court  
16 proceedings;

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

18           a. the child is absent from court-ordered placement  
19 without approval by the court,

20           b. the child is absent from designated placement by the  
21 Office of Juvenile Affairs without approval by the  
22 Office of Juvenile Affairs,

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

1           d.    the child is subject to an administrative transfer or  
2                    parole revocation proceeding.

3           C.    A child who has violated a court order and has had the order  
4    revoked or modified pursuant to Section 2-2-503 of this title may be  
5    placed into an Office-of-Juvenile-Affairs-designated sanction  
6    detention bed or an Office-of-Juvenile-Affairs-approved sanction  
7    program.

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

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

19           a.    the child is detained for the commission of a crime  
20                    that would constitute a felony if committed by an  
21                    adult, and

22           b.    the child is awaiting an initial court appearance, and  
23  
24

- 1 c. the initial court appearance of the child is scheduled  
2 within twenty-four (24) hours after being taken into  
3 custody, excluding weekends and holidays, and
- 4 d. the court of jurisdiction is outside of the Standard  
5 Metropolitan Statistical Area as defined by the Bureau  
6 of Census, and
- 7 e. there is no existing acceptable alternative placement  
8 for the child, and
- 9 f. the jail, adult lockup or adult detention facility  
10 provides sight and sound separation for juveniles,  
11 pursuant to standards required by subsection E of  
12 Section 2-3-103 of this title, or
- 13 g. the jail, adult lockup or adult detention facility  
14 meets the requirements for licensure of juvenile  
15 detention facilities, as adopted by the Office of  
16 Juvenile Affairs, is appropriately licensed, and  
17 provides sight and sound separation for juveniles,  
18 which includes:
- 19 (1) total separation between juveniles and adult  
20 facility spatial areas such that there could be  
21 no haphazard or accidental contact between  
22 juvenile and adult residents in the respective  
23 facilities,
- 24

1 (2) total separation in all juvenile and adult  
2 program activities within the facilities,  
3 including recreation, education, counseling,  
4 health care, dining, sleeping and general living  
5 activities, and

6 (3) separate juvenile and adult staff, specifically  
7 direct care staff such as recreation, education  
8 and counseling.

9 Specialized services staff, such as cooks,  
10 bookkeepers, and medical professionals who are not  
11 normally in contact with detainees or whose infrequent  
12 contacts occur under conditions of separation of  
13 juveniles and adults can serve both.

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

1 a. The time limitations for holding a child in a jail for  
2 the purposes of identification, processing or  
3 arranging transfer established by this section shall  
4 not include the actual travel time required for  
5 transporting a child from a jail to a juvenile  
6 detention facility or alternative to secure detention.

7 b. Whenever the time limitations established by this  
8 subsection are exceeded, this circumstance shall not  
9 constitute a defense in a subsequent delinquency or  
10 criminal proceeding.

11 3. Nothing in this section shall preclude detaining in a county  
12 jail or other adult detention facility an eighteen-year-old charged  
13 in a juvenile petition for whom certification to stand trial as an  
14 adult is prayed. However, if no certification motion is filed, the  
15 eighteen-year-old may remain in a juvenile detention facility as  
16 long as secure detention is required.

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

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

7           a. there is a reasonable belief that the person is  
8           eighteen (18) years of age or older,

9           b. there is a reasonable belief that a felony has been  
10           committed by the person,

11           c. a court order for such detention is obtained from a  
12           judge of the district court within six (6) hours of  
13           initially detaining the person,

14           d. there is no juvenile detention facility that has space  
15           available for the person and that is within thirty  
16           (30) miles of the jail, police station, or law  
17           enforcement office in which the person is to be  
18           detained, and

19           e. during the time of detention the person is detained in  
20           a facility meeting the requirements of subparagraph g  
21           of paragraph 1 of this subsection.

22 The time limitation provided for in this paragraph shall include the  
23 time the person is detained prior to the issuance of the court  
24 order.

1 The time limitation provided for in this paragraph shall not include  
2 the actual travel time required for transporting the person to the  
3 jail, police station, or similar law enforcement office. If the  
4 time limitation established by this paragraph is exceeded, this  
5 circumstance shall not constitute a defense in any subsequent  
6 delinquency or criminal proceeding.

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

11 G. Any juvenile detention facility shall be available for use  
12 by any eligible Indian child as that term is defined by the Oklahoma  
13 Indian Child Welfare Act, providing that the use of the juvenile  
14 detention facility meets the requirements of the Oklahoma Juvenile  
15 Code. The Indian tribe may contract with any juvenile detention  
16 facility for the providing of detention services.

17 H. Each member of the staff of a juvenile detention facility  
18 shall satisfactorily complete a training program provided or  
19 approved by the Office of Juvenile Affairs.

20 I. Whenever a juvenile is placed in any jail, adult lockup, or  
21 other detention facility, the Office of Juvenile Affairs shall have  
22 access to all facilities which detain such juveniles and shall have  
23 access to any data regarding such juveniles. The Office of Juvenile  
24 Affairs shall have access to all jails, adult lockups, or other



1 adult facilities in this state, including all data maintained by  
2 such facilities, to assure compliance with this section. The Board  
3 of Juvenile Affairs shall promulgate rules as necessary to implement  
4 the provisions of this section.

5 SECTION 3. It being immediately necessary for the preservation  
6 of the public peace, health or safety, an emergency is hereby  
7 declared to exist, by reason whereof this act shall take effect and  
8 be in full force from and after its passage and approval.

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