

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 205

By: Standridge

4  
5  
6 AS INTRODUCED

7 An Act relating to indirect contempt of court;  
8 amending 10A O.S. 2011, Section 2-2-503, as amended  
9 by Section 14, Chapter 404, O.S.L. 2013 (10A O.S.  
10 Supp. 2014, Section 2-2-503), which relates to  
11 disposition orders; creating certain offense;  
12 establishing punishment for certain offense; and  
13 providing an effective date.

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

15 SECTION 1. AMENDATORY 10A O.S. 2011, Section 2-2-503, as  
16 amended by Section 14, Chapter 404, O.S.L. 2013 (10A O.S. Supp.  
17 2014, Section 2-2-503), is amended to read as follows:

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

21 1. The court may place the child on probation with or without  
22 supervision in the home of the child, or in the custody of a  
23 suitable person, upon such conditions as the court shall determine.  
24 If the child is placed on probation, the court may impose a  
probation fee of not more than Twenty-five Dollars (\$25.00) per

1 month, if the court finds that the child or parent or legal guardian  
2 of the child has the ability to pay the fee. In counties having a  
3 juvenile bureau, the fee shall be paid to the juvenile bureau; in  
4 all other counties, the fee shall be paid to the Office of Juvenile  
5 Affairs;

6 2. If it is consistent with the welfare of the child, the child  
7 shall be placed with the parent or legal guardian of the child, but  
8 if it appears to the court that the conduct of such parent,  
9 guardian, legal guardian, stepparent or other adult person living in  
10 the home has contributed to the child becoming delinquent or in need  
11 of supervision, the court may issue a written order specifying  
12 conduct to be followed by such parent, guardian, legal custodian,  
13 stepparent or other adult person living in the home with respect to  
14 such child. The conduct specified shall be such as would reasonably  
15 prevent the child from continuing to be delinquent or in need of  
16 supervision.

17 a. If it is consistent with the welfare of the child, in  
18 cases where the child has been adjudicated to be in  
19 need of supervision due to repeated absence from  
20 school, the court may order counseling and treatment  
21 for the child and the parents of the child to be  
22 provided by the local school district, the county, the  
23 Office or a private individual or entity. Prior to  
24 final disposition, the court shall require that it be

1 shown by the appropriate school district that a child  
2 found to be truant has been evaluated for learning  
3 disabilities, hearing and visual impairments and other  
4 impediments which could constitute an educational  
5 handicap or has been evaluated to determine whether  
6 the child has a disability if it is suspected that the  
7 child may require special education services in  
8 accordance with the Individuals with Disabilities  
9 Education Act (IDEA). The results of such tests shall  
10 be made available to the court for use by the court in  
11 determining the disposition of the case.

12 b. In issuing orders to a parent, guardian, legal  
13 guardian, stepparent or other adult person living in  
14 the home of a child adjudicated to be a delinquent  
15 child or in making other disposition of said  
16 delinquent child, the court may consider the testimony  
17 of said parent, guardian, legal guardian, stepparent  
18 or other adult person concerning the behavior of the  
19 juvenile and the ability of such person to exercise  
20 parental control over the behavior of the juvenile.

21 c. In any dispositional order involving a child age  
22 sixteen (16) or older, the court shall make a  
23 determination, where appropriate, of the services  
24

1           needed to assist the child to make the transition to  
2           independent living.

3           d.   No child who has been adjudicated in need of  
4           supervision only upon the basis of truancy or  
5           noncompliance with the mandatory school attendance law  
6           shall be placed in a public or private institutional  
7           facility or be removed from the custody of the lawful  
8           parent, guardian or custodian of the child.

9           e.   Nothing in the Oklahoma Juvenile Code or the Oklahoma  
10          Children's Code may be construed to prevent a child  
11          from being adjudicated both deprived and delinquent if  
12          there exists a factual basis for such a finding;

13          3.   The court may commit the child to the custody of a private  
14          institution or agency, including any institution established and  
15          operated by the county, authorized to care for children or to place  
16          them in family homes. In committing a child to a private  
17          institution or agency, the court shall select one that is licensed  
18          by any state department supervising or licensing private  
19          institutions and agencies; or, if such institution or agency is in  
20          another state, by the analogous department of that state. Whenever  
21          the court shall commit a child to any institution or agency, it  
22          shall transmit with the order of commitment a summary of its  
23          information concerning the child, and such institution or agency

1 shall give to the court such information concerning the child as the  
2 court may at any time require;

3 4. The court may order the child to receive counseling or other  
4 community-based services as necessary;

5 5. The court may commit the child to the custody of the Office  
6 of Juvenile Affairs. Any order adjudicating the child to be  
7 delinquent and committing the child to the Office of Juvenile  
8 Affairs shall be for an indeterminate period of time;

9 6. If the child has been placed outside the home, and it  
10 appears to the court that the parent, guardian, legal custodian, or  
11 stepparent, or other adult person living in the home has contributed  
12 to the child becoming delinquent or in need of supervision, the  
13 court may order that the parent, guardian, legal custodian,  
14 stepparent, or other adult living in the home be made subject to any  
15 treatment or placement plan prescribed by the Office or other person  
16 or agency receiving custody of the child;

17 7. With respect to a child adjudicated a delinquent child, the  
18 court may:

19 a. for acts involving criminally injurious conduct as  
20 defined in Section 142.3 of Title 21 of the Oklahoma  
21 Statutes, order the child to pay a victim compensation  
22 assessment in an amount not to exceed that amount  
23 specified in Section 142.18 of Title 21 of the  
24 Oklahoma Statutes. The court shall forward a copy of

1 the adjudication order to the Crime Victims  
2 Compensation Board for purposes of Section 142.11 of  
3 Title 21 of the Oklahoma Statutes. Except as  
4 otherwise provided by law, such adjudication order  
5 shall be kept confidential by the Board,

6 b. order the child to engage in a term of community  
7 service without compensation. The state or any  
8 political subdivision shall not be liable if a loss or  
9 claim results from any acts or omission of a child  
10 ordered to engage in a term of community service  
11 pursuant to the provisions of this paragraph,

12 c. order the child, the parent or parents of the child,  
13 legal guardian of the child, or both the child and the  
14 parent or parents of the child or legal guardian at  
15 the time of the delinquent act of the child to make  
16 full or partial restitution to the victim of the  
17 offense which resulted in property damage or personal  
18 injury.

19 (1) The court shall notify the victim of the  
20 dispositional hearing. The court may consider a  
21 verified statement from the victim concerning  
22 damages for injury or loss of property and actual  
23 expenses of medical treatment for personal  
24 injury, excluding pain and suffering. If

1                   contested, a restitution hearing to determine the  
2                   liability of the child, the parent or parents of  
3                   the child, or legal guardian shall be held not  
4                   later than thirty (30) days after the disposition  
5                   hearing and may be extended by the court for good  
6                   cause. The parent or parents of the child or  
7                   legal guardian may be represented by an attorney  
8                   in the matter of the order for remittance of the  
9                   restitution by the parent or parents of the child  
10                  or legal guardian. The burden of proving that  
11                  the amount indicated on the verified statement is  
12                  not fair and reasonable shall be on the person  
13                  challenging the fairness and reasonableness of  
14                  the amount.

15                  (2) Restitution may consist of monetary reimbursement  
16                  for the damage or injury in the form of a lump  
17                  sum or installment payments after the  
18                  consideration of the court of the nature of the  
19                  offense, the age, physical and mental condition  
20                  of the child, the earning capacity of the child,  
21                  the parent or parents of the child, or legal  
22                  guardian, or the ability to pay, as the case may  
23                  be. The payments shall be made to such official  
24                  designated by the court for distribution to the

1 victim. The court may also consider any other  
2 hardship on the child, the parent or parents of  
3 the child, or legal guardian and, if consistent  
4 with the welfare of the child, require community  
5 service in lieu of restitution or require both  
6 community service and full or partial restitution  
7 for the acts of delinquency by the child.

8 (3) A child who is required to pay restitution and  
9 who is not in willful default of the payment of  
10 restitution may at any time request the court to  
11 modify the method of payment. If the court  
12 determines that payment under the order will  
13 impose a manifest hardship on the child, the  
14 parent or parents of the child, or legal  
15 guardian, the court may modify the method of  
16 payment.

17 (4) If the restitution is not being paid as ordered,  
18 the official designated by the court to collect  
19 and disburse the restitution ordered shall file a  
20 written report of the violation with the court.  
21 The report shall include a statement of the  
22 amount of the arrearage and any reasons for the  
23 arrearage that are known by the official. A copy  
24 of the report shall be provided to all parties



1 and the court shall promptly take any action  
2 necessary to compel compliance.

3 (5) Upon the juvenile attaining eighteen (18) years  
4 of age, the court shall determine whether the  
5 restitution order has been satisfied. If the  
6 restitution order has not been satisfied, the  
7 court shall enter a judgment of restitution in  
8 favor of each person entitled to restitution for  
9 the unpaid balance of any restitution ordered  
10 pursuant to this subparagraph. The clerk of the  
11 court shall send a copy of the judgment of  
12 restitution to each person who is entitled to  
13 restitution. The judgment shall be a lien  
14 against all property of the individual or  
15 individuals ordered to pay restitution and may be  
16 enforced by the victim or any other person or  
17 entity named in the judgment to receive  
18 restitution in the same manner as enforcing  
19 monetary judgments. The restitution judgment  
20 does not expire until paid in full and is deemed  
21 to be a criminal penalty for the purposes of a  
22 federal bankruptcy involving the child,

23 d. order the child to pay the fine which would have been  
24 imposed had such child been convicted of such crime as

1 an adult. Any such fine collected pursuant to this  
2 paragraph shall be deposited in a special Work  
3 Restitution Fund to be established by the court to  
4 allow children otherwise unable to pay restitution to  
5 work in community service projects in the private or  
6 public sector to earn money to compensate their  
7 victims,

8 e. order the cancellation or denial of driving privileges  
9 as provided by Sections 6-107.1 and 6-107.2 of Title  
10 47 of the Oklahoma Statutes,

11 f. sanction detention in the residence of the child or  
12 facility designated by the Office of Juvenile Affairs  
13 or the juvenile bureau for such purpose for up to five  
14 (5) days, order weekend detention in a place other  
15 than a juvenile detention facility or shelter,  
16 tracking, or house arrest with electronic monitoring,  
17 and

18 g. impose consequences, including detention as provided  
19 for in subparagraph f of this paragraph, for  
20 postadjudicatory violations of probation;

21 8. The court may order the child to participate in the Juvenile  
22 Drug Court Program;

23 9. The court may dismiss the petition or otherwise terminate  
24 its jurisdiction at any time for good cause shown; and

1           10. In any dispositional order removing a child from the home  
2 of the child, the court shall, in addition to the findings required  
3 by Section 2-2-105 of this title, make a determination that, in  
4 accordance with the best interests of the child and the protection  
5 of the public, reasonable efforts have been made to provide for the  
6 return of the child to the home of the child, or that efforts to  
7 reunite the family are not required as provided in Section 2-2-105  
8 of this title, and reasonable efforts are being made to finalize an  
9 alternate permanent placement for the child.

10           B. Prior to adjudication or as directed by a law enforcement  
11 subpoena or court order, a school district may disclose educational  
12 records to the court or juvenile justice system for purposes of  
13 determining the ability of the juvenile justice system to  
14 effectively serve a child. Any disclosure of educational records  
15 shall be in accordance with the requirements of the Family  
16 Educational Rights and Privacy Act of 1974 (FERPA). If the parent,  
17 guardian, or custodian of a child adjudicated a delinquent child  
18 asserts that the child has approval not to attend school pursuant to  
19 Section 10-105 of Title 70 of the Oklahoma Statutes, the court or  
20 the Office of Juvenile Affairs may require the parent to provide a  
21 copy of the written, joint agreement to that effect between the  
22 school administrator of the school district where the child attends  
23 school and the parent, guardian, or custodian of the child.

1 C. With respect to a child adjudicated a delinquent child for a  
2 violent offense, within thirty (30) days of the date of the  
3 adjudication either the juvenile bureau in counties which have a  
4 juvenile bureau or the Office of Juvenile Affairs in all other  
5 counties shall notify the superintendent of the school district in  
6 which the child is enrolled or intends to enroll of the delinquency  
7 adjudication and the offense for which the child was adjudicated.

8 D. No child who has been adjudicated in need of supervision may  
9 be placed in a secure facility; provided, a child who has been  
10 adjudicated in need of supervision and who has willfully violated a  
11 valid court order as defined in and in compliance with the Juvenile  
12 Justice and Delinquency Prevention Act of 2002, 42 U.S.C. 5601 et  
13 seq. may be placed in secure detention.

14 E. No child charged in a state or municipal court with a  
15 violation of state or municipal traffic laws or ordinances, or  
16 convicted therefor, may be incarcerated in jail for the violation  
17 unless the charge for which the arrest was made would constitute a  
18 felony if the child were an adult. Nothing contained in this  
19 subsection shall prohibit the detention of a juvenile for traffic-  
20 related offenses prior to the filing of a petition in the district  
21 court alleging delinquency as a result of the acts and nothing  
22 contained in this section shall prohibit detaining a juvenile  
23 pursuant to Section 2-2-102 of this title.

1 F. The court may revoke or modify a disposition order and may  
2 order redistribution. The child whose disposition is being  
3 considered for revocation or modification at said hearing shall be  
4 afforded the following rights:

5 1. Notice by the filing of a motion for redistribution by the  
6 district attorney. The motion shall be served on the child and the  
7 parent or legal guardian of the child at least five (5) business  
8 days prior to the hearing;

9 2. The proceedings shall be heard without a jury and shall  
10 require establishment of the facts alleged by a preponderance of the  
11 evidence;

12 3. During the proceeding, the child shall have the right to be  
13 represented by counsel, to present evidence, and to confront any  
14 witness testifying against the child;

15 4. Any modification, revocation or redistribution removing the  
16 child from the physical custody of a parent or guardian shall be  
17 subject to review on appeal, as in other appeals of delinquent  
18 cases;

19 5. If the child is placed in secure detention, bail may be  
20 allowed pending appeal; and

21 6. The court shall not enter an order removing the child from  
22 the custody of a parent or legal guardian pursuant to this section  
23 unless the court first finds that reasonable efforts have been made  
24 to maintain the family unit and prevent the unnecessary removal of

1 the child from the home of the child or that an emergency exists  
2 which threatens the safety of the child and that:

- 3 a. such removal is necessary to protect the public,
- 4 b. the child is likely to sustain harm if not immediately  
5 removed from the home,
- 6 c. allowing the child to remain in the home is contrary  
7 to the welfare of the child, or
- 8 d. immediate placement of the child is in the best  
9 interests of the child.

10 The court shall state in the record that such considerations  
11 have been made. Nothing in this section shall be interpreted to  
12 limit the authority or discretion of the agency providing probation  
13 supervision services to modify the terms of probation including, but  
14 not limited to, curfews, imposing community service, or any  
15 nondetention consequences.

16 G. A willful violation of any provision of an order of the  
17 court issued under the provisions of the Oklahoma Juvenile Code  
18 shall constitute indirect contempt of court and be punishable by a  
19 fine not to exceed Three Hundred Dollars (\$300.00), or placement in  
20 a juvenile detention center for not more than ten (10) days, or by  
21 both such fine and placement.

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

23  
24 55-1-577 TEK 1/14/2015 1:45:34 PM