

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

CONFERENCE COMMITTEE
SUBSTITUTE FOR ENGROSSED
SENATE BILL NO. 775

By: Helton of the Senate

and

Thomas of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to children; amending 10 O.S. 1991, Sections 1130, as last amended by Section 2, Chapter 360, O.S.L. 1993 and 1414.1, as amended by Section 5, Chapter 307, O.S.L. 1992 (10 O.S. Supp. 1993, Sections 1130 and 1414.1), which relate to termination of parental rights in certain situations and admission guidelines and procedures for the Greer Center Facility; providing for termination of parental rights when subsequent child is born to parent whose parental rights to other children have been terminated and providing procedures thereto; defining term; clarifying language; eliminating certain preference and certain exception; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 1130, as last amended by Section 2, Chapter 360, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1130), is amended to read as follows:

Section 1130. A. The finding that a child is delinquent, in need of supervision or deprived shall not deprive the parents of the child of their parental rights, but a court may terminate the rights of a parent to a child in the following situations:

1. Upon a written consent of a parent, including a parent who is a minor, acknowledged as provided in paragraph (4) of Section 60.5 of this title, who desires to terminate his parental rights; provided that the court finds that such termination is in the best interests of the child; or

2. A finding that a parent who is entitled to custody of the child has abandoned it; or

3. A finding that:

- a. the child is deprived, as defined in this title, and
- b. such condition is caused by or contributed to by acts or omissions of the parent, and
- c. termination of parental rights is in the best interests of the child, and
- d. the parent has failed to show that the condition which led to the making of said finding has not been corrected although the parent has been given three (3) months to correct the condition; provided, that the parent shall be given notice of any hearing to determine if the condition has been corrected. The court may extend the time in which such parent may show the condition has been corrected, if, in the judgment of the court, such extension of time would be in the best interest of the child. During the period that the parent has to correct the condition the court may return the child to the custody of its parent or guardian, subject to any conditions which it may wish to impose or the court may place the child with an individual or an agency; or

4. A finding that a subsequent child has been born to a parent whose parental rights to other children have been terminated by the court; provided, that the applicant shall show that the condition which led to the making of the finding which resulted in the termination of such parent's parental rights to the other children has not been corrected. The court may set the time in which the applicant shall show that the condition has not been corrected, if, in the judgment of the court, it is in the best interests of the child. Until the applicant shows the condition has not been corrected, the child may remain in the custody of the parent, subject to any conditions which the court may impose, or the court may place the child with an individual or an agency. As used in this paragraph, the term "applicant" shall

include, but not be limited to, the Department of Human Services or a district attorney; or

5. A finding that a parent who does not have custody of the child has willfully failed to contribute to the support of the child as provided in a decree of divorce or in some other court order during the preceding year or, in the absence of such order, consistent with the parent's means and earning capacity; provided, that the incarceration of a parent shall not prevent termination of parental rights under this section; or

~~5.~~ 6. A conviction in a criminal action pursuant to the provisions of Sections 843, 845, 1021.3, 1111 and 1123 of Title 21 of the Oklahoma Statutes or a finding in a deprived child action either that:

- a. the parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse that is heinous or shocking to the court or that the child or sibling of such child has suffered severe harm or injury as a result of such physical or sexual abuse, or
- b. the parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse subsequent to a previous finding that such parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse; or

~~6.~~ 7. A conviction in a criminal action that the parent has caused the death of a sibling of the child as a result of the physical or sexual abuse or chronic neglect of such sibling; or

~~7.~~ 8. A finding that all of the following exist:

- a. the child is deprived, as defined in this title, and
- b. custody of the child has been placed outside the home of a natural or adoptive parent, guardian or extended family member, and

- c. the parent whose rights are sought to be terminated has been sentenced to a period of incarceration of not less than ten (10) years, and
- d. the continuation of parental rights would result in harm to the child based on consideration of the following factors, among others: the duration of incarceration and its detrimental effect on the parent/child relationship; any previous incarcerations; any history of criminal behavior, including crimes against children; the age of the child; the evidence of abuse or neglect of the child or siblings of the child by the parent; and the current relationship between the parent and the child and the manner in which the parent has exercised parental rights and duties in the past, and
- e. termination of parental rights is in the best interests of the child.

Provided, that the incarceration of a parent shall not in and of itself be sufficient to deprive a parent of his parental rights; or

~~8.~~ 9. A finding that all of the following exist:

- a. the child is deprived as defined in this title, and
- b. custody of the child has been placed outside the home of a natural or adoptive parent, guardian or extended family member, and
- c. the parent whose rights are sought to be terminated has a mental illness or mental deficiency, as defined by Section 6-201 of Title 43A of the Oklahoma Statutes, which renders the parent incapable of adequately and appropriately exercising parental rights, duties and responsibilities, and
- d. the continuation of parental rights would result in harm or threatened harm to the child, and
- e. the mental illness or mental deficiency of the parent is such that it will not respond to

treatment, therapy or medication and, based upon competent medical opinion, the condition will not substantially improve, and

- f. termination of parental rights is in the best interests of the child.

Provided, a finding that a parent has a mental illness or mental deficiency shall not in and of itself deprive the parent of his parental rights.

B. An order directing the termination of parental rights is a final appealable order.

C. A parent or guardian of a child may petition the court to terminate the parental rights of a parent or the parents of a child for any of the grounds listed in paragraphs 1, 2 or 4 5 of subsection A of this section. A prior finding by a court that a child is delinquent, deprived or in need of supervision shall not be required for the filing of such petition by the parent or guardian.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 1414.1, as amended by Section 5, Chapter 307, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1414.1), is amended to read as follows:

Section 1414.1 A. In addition to the admissions requirements of Section 1414 of this title, the Greer Center Facility located on the grounds of the Northern Oklahoma Resource Center of Enid in Enid, Oklahoma, shall be established as a separate entity from the Northern Oklahoma Resource Center of Enid and further shall provide for the admission of persons who have been dually diagnosed as follows:

1. Primary diagnosis of mental retardation by a psychologist, physician or psychiatrist. The diagnosis shall be in accordance with any statutory requirements and shall include intellectual evaluation, adaptive behavior evaluation, and evidence that mental retardation occurred within the developmental period.—~~Preference shall be given for those individuals whose retardation level falls within the mild and moderate ranges;~~ and

2. Secondarily, clinical evidence of behavioral or emotional problems pursuant to a formal, written evaluation by a

psychologist, psychiatrist or physician describing the nature of the problem, the frequency of occurrence of the problem, any prior treatment efforts and reasons why the applicant cannot receive appropriate treatment in the applicant's current environment and a secondary diagnosis of mental illness in accordance with the Diagnostic and Statistical Manual of Mental Disorders, as revised and published by the American Psychiatric Association.

B. ~~Persons with pending criminal charges shall not be considered for voluntary admission into the Greer Center Facility unless it can be clinically demonstrated that the behavior of the person does not pose an immediate danger to self or others. Persons considered for admission shall not be considered by a psychologist, psychiatrist, or physician as homicidal or suicidal and shall not have exhibited homicidal or suicidal tendencies for six (6) months prior to application for admission.~~

C. ~~An applicant shall not be admitted to the Greer Center Facility if the applicant requires skilled nursing care. Applicants having a medical condition which is degenerative in nature that will require skilled nursing shall be considered on a case by case basis to ensure that sufficient staff is available to ensure quality of care. If an applicant has any existing medical or surgical condition that is correctable, the condition shall be remedied by the referring facility before admission to the Greer Center Facility is considered.~~

D. Any person seeking admission to the Greer Center Facility for treatment, subject to the availability of space, shall be admitted. All persons admitted to the Greer Center Facility shall submit a referral packet to the director of the Greer Center Facility which contains at a minimum, the following information or records:

1. Results of a current physical exam;
2. Recent physician orders and progress notes (up to one (1) year if available);
3. Recent nursing notes (up to one (1) year if available);
4. Fact sheet (medical records);

5. Legal papers (birth certificate, marriage certificate, guardianship, etc.);

6. Social history with a recent social evaluation or update (within one (1) year);

7. Psychological exam administered or updated within ninety (90) days of referral;

8. Dental records;

9. Immunization record;

10. Multi-disciplinary progress notes (up to one (1) year if available);

11. Medical and medication history; and

12. Individual Habilitation Plan or Care Plan (if available).

E. The Greer Center Admissions Committee shall consist of a representative from the Department of Mental Health and Substance Abuse Services, a representative from the Greer Center Facility, and an independent psychologist or psychiatrist on contract with the Department of Human Services. The Committee shall make decisions regarding admissions to the programs of the Greer Center Facility. The Committee may request additional information concerning an applicant from the referring agency or participation by referring agency personnel as necessary.

F. Persons entering the Greer Center Facility shall receive a comprehensive evaluation of their intellectual functioning, adaptive behavior skills, and mental health status, and shall receive a continuous active treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services. The evaluation and assessment shall be completed within thirty (30) days of admission to the Greer Center Facility.

G. After the evaluation and assessment by the Greer Center Facility, staff shall present the individual's referral packet and their findings to the Greer Center Admissions Committee with a recommendation for continued ~~admission~~ service or alternate treatment. The Admissions Committee shall make decisions regarding continued ~~admission~~ service and shall notify the Department of Human Services, the Department of Mental Health and

Substance Abuse Services and the referring agency in writing, stating specifically the decisions of the Committee regarding admission, ~~including continued service or alternate treatment, or, if admission is denied,~~ specific reasons for denial of admission. If an applicant's admission is not continued at the Greer Center Facility after undergoing the evaluation process, the referring agency shall reimburse the Department of Human Services for the number of bed days used at the Medicaid rate for that unit. If ~~an applicant's admission~~ service is continued, the applicant shall be certified for Medicaid reimbursement from the initial date of admission.

H. Individuals who have been admitted and served by the Greer Center Facility shall be eligible for readmission services on the same basis as an individual initially seeking services.

I. In addition to other discharge procedures and requirements provided by law, the interdisciplinary team of the Greer Center Facility shall have recommended discharge based upon a determination that the individual's mental or physical condition prevents the individual from receiving appropriate services at the Greer Center Facility ~~and the individual shall have completed all primary goals of the individual's habilitation plan.~~ The Developmental Disabilities Services Community Services Unit from the individual's placement area shall be consulted in the recommendations for placement and shall be responsible for coordinating the placement and follow up.

J. The Commission for Human Services is authorized and hereby directed to promulgate and amend rules ~~and regulations~~ necessary to implement the provisions of this section.

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