

ENROLLED HOUSE
BILL NO. 1939

By: Voskuhl, Bryant (James
Sears) and Roach of the
House

and

Wilkerson of the Senate

An Act relating to children; amending 10 O.S. 1991, Section 1136, as amended by Section 34, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1136), which relates to certain foster children; requiring certain information be provided to foster parents; specifying such information; authorizing foster parents to request certain examinations and tests on a child prior to certain placement; providing for certain rights and procedures relating to such examinations and tests; amending 22 O.S. 1991, Section 991b, which relates to suspended sentences; modifying time limit for hearing on revocation of suspended sentences; specifying that certain evidence be competent evidence; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 1136, as amended by Section 34, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1136), is amended to read as follows:

Section 1136. A. It shall be the responsibility of the Department to provide care for deprived children who are committed to the care of the Department for custody or guardianship. The Department may provide for the care of such children in the home of the child, the home of a relative of the child, in a foster home, group home, transitional living program, independent living program or in any other community-based facility under the jurisdiction or licensure of the Department established for the care of deprived children, except that a deprived child may not be placed in an institution operated by the Department ~~after October 1, 1982. Any deprived children in Department-operated institutions on October 1, 1982, shall be removed from such institutions no later than June 30, 1983.~~ A deprived child found by a court to be a child in need of mental health treatment shall be placed as provided by Section 1135.1 of this title.

B. When the Department places a child in a foster home, the Department shall provide the foster parent with sufficient medical information to enable the foster parent to care for the child appropriately. Such medical information shall include, but not be limited to:

1. Any medical or psychological conditions;
2. Diseases, illnesses, accidents, allergies, and congenital defects; and
3. Immunization history.

C. 1. When the Department places a child in a foster home, as a condition of such placement, the foster parent may request the Department to provide contagious or infectious screening examinations or tests on the child.

2. The Department shall provide for the examinations or tests on the child within ten (10) working days of the request of such foster parent.

3. If the Department determines that parental consent is required for the examinations or tests, the Department shall, within the ten-day time period, obtain the parental consent necessary or, if parental consent cannot be obtained, the Department shall request an order from the district court authorizing such examinations or tests. Any parental consent or judicial authorization received by the Department, pursuant to the provisions of this section, shall also apply to any future examinations or tests deemed necessary by the Department upon the request of the foster parent.

4. The Department may also designate other persons who may request the performance of such examinations or tests on the child, including but not limited to Department employees, direct caregivers and physicians.

SECTION 2. AMENDATORY 22 O.S. 1991, Section 991b, is amended to read as follows:

Section 991b. Whenever a sentence has been suspended by the court after conviction of a person for any crime, the suspended sentence of said person may not be revoked, in whole or in part, for any cause unless a petition setting forth the grounds for such revocation is filed by the district attorney with the clerk of the sentencing court and competent evidence justifying the revocation of said suspended sentence is presented to the court at a hearing to be held for that purpose within twenty (20) days after the ~~date of arrest~~ entry of the plea of not guilty to the petition, unless waived by both the state and the defendant.

Where one of the grounds for revocation is the failure of the defendant to make restitution as ordered, the Department of Corrections shall forward to the district attorney all information pertaining to the defendant's failure to make timely restitution as ordered by the court, and said district attorney shall file a petition setting forth the grounds for revocation.

The defendant ordered to make restitution can petition the court at any time for remission or a change in the terms of the order of restitution if he undergoes a change of condition which materially affects his ability to comply with the court's order.

At the hearing, if one of the grounds for the petition for revocation is the defendant's failure to make timely restitution as ordered by the court, the court will hear evidence and if it appears to the satisfaction of the court from such evidence that the terms of the order of restitution create a manifest hardship on the defendant or his immediate family, the court may cancel all or any part of the amount still due, or modify the terms or method of payment.

The court may revoke a portion of the sentence and leave the remaining part not revoked, but suspended for the remainder of the term of the sentence, and under the provisions applying to it. The person whose suspended sentence is being considered for revocation at said hearing shall have the right to be represented by counsel, to present competent evidence in his own behalf and to be confronted by the witnesses against him. Any order of the court revoking such suspended sentence, in whole or in part, shall be subject to review on appeal, as in other appeals of criminal cases. Provided, however, that if the crime for which the suspended sentence is given

was a felony, he may be allowed bail pending appeal. If the reason for revocation be that the defendant committed a felony, he shall not be allowed bail pending appeal.

SECTION 3. This act shall become effective September 1, 1994.
Passed the House of Representatives the 24th day of May, 1994.

Speaker of the House of
Representatives

Passed the Senate the 25th day of May, 1994.

President of the Senate