ENROLLED HOUSE
BILL NO. 1989

By: Seikel of the House

and

Cain of the Senate

An Act relating to children; amending 10 O.S. 1991, Section 170.1, as amended by Section 2, Chapter 273, O.S.L. 1992 (10 O.S. Supp. 1993, Section 170.1), which relates to authorization to consent to medical care for children; adding to persons authorized to consent; amending 10 O.S. 1991, Section 1117, as amended by Section 29, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1117), which relates to the custody of certain children; removing certain restrictions to providing medical care, education and discipline for certain children; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 170.1, as amended by Section 2, Chapter 273, O.S.L. 1992 (10 O.S. Supp. 1993, Section 170.1), is amended to read as follows:

Section 170.1 A. 1. Either parent or the legal guardian <u>or the legal custodian appointed by the court</u> of a minor may authorize, in writing, any adult person into whose care the minor has been entrusted to consent to any:

a. x-ray examination,
b. anesthetic,
c. medical or surgical diagnosis or treatment,
d. hospital care, or
e. immunization, blood tests, examinations, Guidance Services, and Early Intervention Services provided by a city or county Department of Health,

to be rendered to said minor under the general or special supervision and upon the advice of a physician and surgeon licensed under the laws of the State of Oklahoma, or to consent to an x-ray examination, anesthetic, dental or surgical diagnosis or treatment and hospital care to be rendered to said minor by a dentist licensed under the laws of the State of Oklahoma.

2. If any parent or other person falsely represents in writing that such parent or other person has legal custody or legal guardianship of the minor child, or if any adult falsely represents that the written authorization provided for in this subsection is valid, and a health professional provides health services or care as provided by this section in good faith upon such misrepresentation, the health professional shall incur no liability except for negligence or intentional harm.

B. Either parent, if both parents have legal custody, or the parent or person having legal custody or the legal guardian of a

minor may authorize, in writing, pursuant to the provisions of Section 1-116.2 of Title 70 of the Oklahoma Statutes a school or county nurse or in the absence of such nurse, a school administrator or designated school employees to administer:

1. A nonprescription medicine; and

2. A filled prescription medicine as that term is defined by Section 353.1 of Title 59 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 1117, as amended by Section 29, Chapter 298, O.S.L. 1992 (10 O.S. Supp. 1993, Section 1117), is amended to read as follows:

Section 1117. A. 1. Whenever the court transfers custody of a child as provided in ~~Section 1116 of~~ this title, the person, institution, agency, or Department receiving custody shall have the right to, and shall be responsible for, the care and control of the child, and shall have the duty and authority to provide food, clothing, shelter, ~~ordinary~~ medical care, education, <u>and</u> discipline for the child~~, and, in an emergency, to authorize surgery or other extraordinary care~~. Except for an emergency psychiatric admission pursuant to the Inpatient Mental Health Treatment of Children Act, said person, institution, agency or department may provide or arrange for the provision of an inpatient mental health evaluation or inpatient mental health treatment of such child only pursuant to a court order as provided by the Inpatient Mental Health Treatment of Children Act. Nothing in this subsection shall be interpreted to prohibit or preclude the provision of outpatient mental health services, including an outpatient mental health examination, counseling, educational, rehabilitative or other similar services to said child, as necessary and appropriate, in the absence of a specific court order for such services.

2. The medical care, surgery and extraordinary care shall be charged to the appropriate agency where the child qualifies for the care under law, rule, regulation or administrative order or decision.

3. Nothing in this subsection shall be interpreted to:

a. relieve a parent of the obligation to provide for the support of the child as otherwise provided by law, or

b. limit the authority of the court to order a parent to make support payments or to make payments or reimbursements for medical care or treatment, including mental health care or treatment, to the person, institution, agency or Department having custody of the child, or

c. abrogate the right of the child to any benefits provided through public funds for which the child is otherwise eligible.

4. No person, agency or institution shall be liable in a civil suit for damages for authorizing or not authorizing surgery or extraordinary care in an emergency, as determined by competent medical authority.

B. The person, institution, agency, or Department having legal custody of a child pursuant to an order of the court shall receive notice of court proceedings regarding the child as provided in Sections 1105 and 1115 of this title and shall be allowed to intervene upon application as a party to all court proceedings pertaining to the care and custody of the child including, but not limited to: adjudication, disposition, review of disposition, termination of parental rights and proceedings pursuant to the Inpatient Mental Health Treatment of Children Act.

SECTION 3. This act shall become effective September 1, 1994.

Passed the House of Representatives the 7th day of March, 1994.

Speaker of the House of Representatives

Passed the Senate the 29th day of March, 1994.

President of the Senate