

ENGROSSED HOUSE
BILL NO. 2053

By: Boyd (Laura), Weaver,
Cox, Voskuhl, Blackburn,
Sadler, Staggs, Askins,
Hutchison, Hilliard,
Kirby, Tyler, Paulk,
Adair and Cotner of the
House

and

Brown of the Senate

(child abuse - amending 17 sections in Title 10 - Oklahoma
Children's Code - disclosure of circumstances of death of
child - amending 63 O.S., Section 1-227.9 - codification
- effective date)

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 404.1, as
last amended by Section 1, Chapter 222, O.S.L. 1995 (10 O.S. Supp.
1995, Section 404.1), is amended to read as follows:

Section 404.1 A. The owner or administrator of a child care
facility, other than a day care center, providing full-time care or
twenty-four-hour supervised care shall arrange, prior to employment,
for a criminal history investigation conducted by the Oklahoma State
Bureau of Investigation for an applicant for employment.

B. 1. Every owner or administrator of a day care center and a
family day care home shall arrange, prior to employment, for a
criminal history investigation conducted by the Oklahoma State

Bureau of Investigation for an applicant for employment and for any adult residing in a family day care home.

2. Prior to the acceptance of a foster family home for placement of any child in the custody of the Department of Human Services, the Department shall arrange for a criminal history investigation, conducted by the Oklahoma State Bureau of Investigation, for a foster family applicant and for any adult residing in such foster family home. A criminal history investigation conducted by the Oklahoma State Bureau of Investigation shall be done for any adult who moves into the residence at a later time.

3. The Department shall promulgate rules to identify circumstances when a criminal history investigation of a foster family applicant and of any adult residing in such foster family home shall be expanded beyond the investigation conducted by the Oklahoma State Bureau of Investigation.

C. A conviction for a crime shall not be an absolute bar to employment, except as provided in subsection F of this section, but shall be considered in relation to specific employment duties and responsibilities.

D. 1. Information received pursuant to this section by an owner or administrator of a child care facility or a day care center shall be maintained in a confidential manner in a file that is separate from employment records, and may be transmitted to the Department of Human Services for child care facility licensing purposes.

2. Whenever an applicant is subsequently employed by the owner or administrator of a child care facility or a day care center, such information received pursuant to a criminal history investigation shall not be made a part of that individual's personnel records; provided, however, such information, along with any other information relevant to the individual's ability to perform tasks

that require direct contact with children, may be released to another child care facility or day care center in response to a request from an owner or administrator of a child care facility or day care center who is considering the individual for employment in a position that requires direct contact with children.

3. Requirements for confidentiality and record keeping with regard to such information shall be the same for the owner or administrator receiving such information in response to a request as those provided for in paragraph 1 of this subsection for the owner or administrator releasing such information.

E. 1. A criminal history investigation conducted by the Oklahoma State Bureau of Investigation shall include a search of Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act, Section 581 et seq. of Title 57 of the Oklahoma Statutes.

2. It shall be unlawful for any person who is required to register pursuant to the Sex Offenders Registration Act to work with or provide services to children and for any employer who offers or provides services to children to knowingly and willfully employ or allow continued employment of any person who is required to register pursuant to the Sex Offenders Registration Act. Upon a determination of any violation of the provisions of this section, the violator shall be subject to a civil fine not to exceed One Thousand Dollars (\$1,000.00). In addition, the violator may be liable for civil damages.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 1211, as last amended by Section 19, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1995, Section 1211), is amended to read as follows:

Section 1211. A. The Supreme Court is required to establish by rule, education and training requirements for judges, associate judges, special judges, and referees who have juvenile court docket responsibility. The Administrative Director of the Courts shall be

responsible for developing and administering procedures and rules for such courses for judicial personnel.

B. All judges having juvenile or domestic docket responsibility shall attend training pertinent to issues relating to juvenile law ~~and,~~ child abuse and neglect and domestic abuse issues. The Administrative Office of the Courts shall monitor the attendance of judges having juvenile docket responsibility at such training.

C. District attorneys and assistant district attorneys whose duties include responsibility for the juvenile court docket shall complete education and training courses in juvenile law and child abuse and neglect. The District Attorneys Council shall be responsible for developing and administering procedures and rules for such courses for district attorneys and assistant district attorneys.

D. Any public defender, or assistant public defender, whose duties include responsibility for a juvenile court docket shall complete education and training courses in juvenile law and child abuse and neglect. The public defender shall be responsible for developing and administering procedures and rules for such courses.

E. Any attorney employed by or under contract with the Oklahoma Indigent Defense System whose duties include responsibility for a juvenile court docket shall complete education and training courses in juvenile law and child abuse and neglect. The Executive Director of the Oklahoma Indigent Defense System shall be responsible for developing and administering procedures and rules for such courses.

F. Any court-appointed special advocate (CASA) available for appointment pursuant to the Oklahoma Children's Code or the Oklahoma Juvenile Code shall complete education and training courses in juvenile law and child abuse and neglect. The chief judge of the judicial district for which a court-appointed special advocate serves shall be responsible for developing and administering procedures and rules for such courses.

G. The training and education programs required by this section shall be developed and provided by or in cooperation with the Child Abuse Training and Coordinating Council.

SECTION 3. AMENDATORY 10 O.S. 1991, Section 1101, as last amended by Section 3, Chapter 352, O.S.L. 1995 and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7001-1.3), is amended to read as follows:

Section 7001-1.3 When used in the Oklahoma Children's Code, unless the context otherwise requires:

1. "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition pursuant to the provisions of Part 3 of Article III of this Code are supported by the evidence and whether a child should be adjudged to be a ward of the court;

2. "Child" means any person under eighteen (18) years of age except a person who has been legally emancipated and any person convicted of a crime specified in Section 7306-1.1 of this title or any person who has been certified as an adult pursuant to Section 7303-4.3 of this title and convicted of a felony;

3. "Child in need of mental health treatment" means a child in need of mental health treatment as defined by the Inpatient Mental Health Treatment of Children Act;

4. "Child with a disability" means any child who has a physical or mental impairment which substantially limits one or more of the major life activities of the child or who is regarded as having such an impairment by a competent medical professional;

5. "Community-based services" or "community-based programs" means services or programs which maintain community participation or supervision in their planning, operation, and evaluation.

Community-based services and programs may include, but are not limited to, emergency shelter, crisis intervention, group work, case supervision, job placement, recruitment and training of volunteers, consultation, medical, educational, home-based services, vocational,

social, preventive and psychological guidance, training, counseling, early intervention and diversionary substance abuse treatment, sexual abuse treatment, transitional living, independent living, and other related services and programs;

6. "Court-appointed special advocate" or "CASA" means a responsible adult, other than an attorney for the parties, who has volunteered to be available for appointment by the court to serve as an officer of the court and represent any child wherein a juvenile petition has been filed, based on the availability of volunteers, until discharged by the court. It shall be the duty and responsibility of the court-appointed special advocate to advocate for the best interests of the child and to assist the child in obtaining a permanent, safe, homelike placement. A court-appointed special advocate shall not have any fiduciary responsibility in any matter relating to a child represented by the court-appointed special advocate;

7. "Day treatment" means a nonresidential program which provides intensive services to children who reside in their own home, the home of a relative, group home, a foster home or residential child care facility. Day treatment programs include, but are not limited to, educational services;

8. "Department" means the Department of Human Services;

9. a. "Deprived child" means a child:

(1) who is for any reason destitute, homeless, or abandoned,

(2) who does not have the proper parental care or guardianship or whose home is an unfit place for the child by reason of neglect, abuse, cruelty, ~~or~~ depravity or substance abuse on the part of his parents, legal guardian, or other person responsible for the child's health or welfare,

- (3) who is a child in need of special care and treatment because of his physical or mental condition including, but not limited to, a child born in a condition of dependence on a controlled dangerous substance, and his parents, legal guardian, or other custodian is unable or willfully fails to provide said special care and treatment,
 - (4) who is a child with a disability deprived of the nutrition necessary to sustain life or of the medical treatment necessary to remedy or relieve a life-threatening medical condition in order to cause or allow the death of said child if such nutrition or medical treatment is generally provided to similarly situated children without a disability or children with disabilities; provided that no medical treatment is necessary if, in the reasonable medical judgment of the attending physician, such treatment would be futile in saving the life of the child, or
 - (5) whose parent or legal custodian for good cause desires to be relieved of ~~his~~ custody.
- b. (1) Nothing in the Oklahoma Children's Code shall be construed to mean a child is deprived for the sole reason the parent, guardian, or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

- (2) Nothing contained in this subparagraph shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.

The phrase "dependent and neglected" shall be deemed to mean deprived;

10. "Dispositional hearing" means a hearing to determine the order of disposition which should be made with respect to a child adjudged to be a ward of the court;

11. "Emergency custody" means court-ordered custody of a child prior to adjudication of the child;

12. "Facility" means a place, an institution, a building or part thereof, a set of buildings, or an area whether or not enclosing a building or set of buildings used for the lawful custody and treatment of children;

13. "Group home" means a residential facility housing no more than twelve children with a program which emphasizes family-style living in a homelike environment. Said group home may also offer a program within the community to meet the specialized treatment needs of its residents;

14. "Independent living program" means a program designed to assist a child to enhance skills and abilities necessary for successful adult living and may include, but shall not be limited to, minimal direct staff supervision and supportive services in making the arrangements necessary for an appropriate place of residence, completing an education, vocational training, obtaining employment, or other similar services;

15. "Institution" means a residential facility offering care and treatment for more than twenty residents;

16. "Investigation" means a mandatory preadjudicatory process by the Department to determine the safety of a child and to make a

recommendation to the district attorney as to whether a petition should be filed alleging a child to be a deprived child or whether other nonadjudicatory alternatives are available;

17. "Mental health facility" means a mental health facility as defined by the Inpatient Mental Health Treatment of Children Act;

18. "Multidisciplinary personnel" means any team of three or more persons who are trained in the prevention, identification, investigation, prosecution and treatment of child physical and sexual abuse cases and who are qualified to facilitate a broad range of interventions and services related to child abuse;

19. "Person responsible for a child's health or welfare" includes a parent, a legal guardian, custodian, a foster parent, a person eighteen (18) years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child, or an owner, operator, or employee of a child care facility as defined by Section 402 of this title;

20. "Preliminary inquiry" means an assessment and determination as to whether there is sufficient information to proceed with an investigation of abuse or neglect of a child or an investigation of failure to protect by the person responsible for the child when there are allegations of abuse or neglect;

21. "Permanent custody" means court-ordered custody of an adjudicated deprived child whose parental rights have been terminated;

22. "Protective custody" means custody of a child taken pursuant to Part 2 of Article III of this Code;

23. "Residential child care center" means a twenty-four-hours-a-day residential group care facility at which a specified number of children, normally unrelated, reside with adults other than their parents;

24. "Secure facility" means a facility which is designed and operated to ensure that all entrances and exits from the facility

are subject to the exclusive control of the staff of the facility, whether or not the juvenile being detained has freedom of movement within the perimeter of the facility, or a facility which relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents;

25. "Training school" means an institution maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of juvenile delinquents;

26. "Temporary custody" means court-ordered custody of an adjudicated deprived child;

27. "Transitional living program" means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting children to develop the skills and abilities necessary for successful adult living. Said program may include, but shall not be limited to, reduced staff supervision, vocational training, educational services, employment and employment training, and other appropriate independent living skills training as a part of the transitional living program; and

28. "Treatment and service plan" means a written document which includes as least the following: a description of the type of home or facility in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the judicial determination made with respect to the child; and a plan for assuring that the child receive proper care and that services are provided to the parents, child, and placement providers in order to improve the conditions in the parents' home, facilitate return of the child to the child's own home or to an alternate permanent placement of the child and address the needs of the child while in out-of-home care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

SECTION 4. AMENDATORY Section 4, Chapter 352, O.S.L.

1995 (10 O.S. Supp. 1995, Section 7002-1.1), is amended to read as follows:

Section 7002-1.1 A. 1. Upon the filing of a petition, or upon the assumption of custody pursuant to the provisions of Article III of this Code, the district court of the county in which an alleged deprived child:

- a. resides,
- b. is found, or
- c. where the alleged acts of deprivation occurred,

shall have jurisdiction of any child who is or is alleged to be deprived, shall have jurisdiction of the parent, guardian, legal custodian, legal guardian or stepparent of said child, regardless of where the parent, guardian, legal custodian, legal guardian or stepparent is found and shall have jurisdiction of any other adult person living in the home of such child.

2. When jurisdiction has been obtained over a child who is or is alleged to be a deprived child, such jurisdiction may be retained until the child becomes eighteen (18) years of age.

3. For the convenience of the parties and in the interest of justice, a proceeding under this chapter may be transferred to the district court in any other county.

4. When it is in the best interests of the child, a proceeding under this chapter shall be transferred to the district court in another county.

B. The district court in which a petition is filed which alleges that a child is deprived can issue any temporary order or grant any interlocutory relief authorized by this chapter notwithstanding the fact that another district court within the state has jurisdiction of the child or has jurisdiction to determine the custody or support of the child.

C. If the district court in which a petition is filed pursuant to subsection B of this section sustains the petition, the district court shall have the jurisdiction to make a final determination on the petition or to transfer the proceedings to a court having prior jurisdiction over the child. Where the other proceeding is pending in the same judicial district in which the petition is filed, the chief judge of the judicial district shall determine if the proceedings shall be consolidated and, if consolidated, which judge shall try the issues when the judges to whom the cases have been assigned are unable to agree on the procedure that should be followed.

SECTION 5. AMENDATORY 10 O.S. 1991, Section 1102.1, as amended by Section 5, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7002-1.2), is amended to read as follows:

Section 7002-1.2 A. If the evidence in an action for a divorce, for alimony without a divorce, for an annulment, for custody of a child or for the appointment of a guardian of the person of a child, or in subsequent proceedings in such actions, indicates that a child is deprived, the referring court shall notify the appropriate county office of the Department of Human Services that the child may be a victim of abuse or neglect. The county office shall conduct a preliminary inquiry or investigation concerning such report in accordance with priority guidelines established by the Department of Human Services. The Department shall submit all findings regarding the preliminary inquiry or investigation to the office of the district attorney. The Department shall also send a copy of its findings to said court and notify

parties to the proceeding of the submission of the report to the court. The district attorney shall advise said court whether a deprived petition will be filed by their office. If no deprived petition is filed, the court may take appropriate action regarding the custody of or appointment of a guardian for the child or children.

B. Nothing in this section shall preclude the referring court from entering an order to have the child or children taken into protective custody if evidence presented to the referring court indicates a child is in surroundings that are such as to endanger the welfare of the child. If a child is taken into protective custody by such an order, the provisions of Article III of the Oklahoma Children's Code shall apply.

C. If, in any proceeding listed in subsection A of this section, it is alleged that a child has been subject to abuse or neglect, the court shall appoint an attorney for the child for that proceeding and any related proceedings.

SECTION 6. AMENDATORY 10 O.S. 1991, Section 1107, as last amended by Section 10, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7003-2.1), is amended to read as follows:

Section 7003-2.1 A. A child may be taken into protective custody prior to the filing of a petition:

1. By a peace officer or employee of the court, without a court order if the child's surroundings are such as to endanger the welfare of the child;

2. By an order of the district court issued upon the application of the office of the district attorney. The application presented by the district attorney may be supported by a sworn

affidavit which may be based upon information and belief. The application shall state facts sufficient to demonstrate to the court that there is reasonable suspicion to believe the child is in need of protection due to abandonment, abuse or neglect, or is in surroundings that are such as to endanger the welfare of the child. The application may be verbal, which shall be supported by facts sufficient to demonstrate to the court that there is reasonable suspicion to believe that the child is in need of protection due to abandonment, abuse or neglect or is in surroundings that are such as to endanger the welfare of the child. If verbal, a written application shall be submitted to the district court no later than the close of the next day that the court is open for business; and

3. By order of the district court when the child is in need of medical treatment or mental health treatment in order to protect the child's health or welfare and the child's parent, legal guardian, legal custodian or other person having custody or control of the child is unwilling or unavailable to consent to such medical or mental health treatment or other action pursuant to this article.

B. Whenever a child is taken into protective custody:

1. Such child may be taken to a children's shelter located within the county where protective custody is assumed or, if there is no children's shelter within the county, to a children's shelter designated by the court;

2. Except as otherwise provided by subsection C of this section, such child may be taken before a judge of the district court for the purpose of obtaining an order for protective custody. The child may be placed in the custody of the Department, if ordered by the court, for placement in a relative's home or in foster care if such placement is determined by the Department to meet the needs of the child;

3. Such child may be taken directly to or retained in a health care facility for medical treatment, when it reasonably appears to

the peace officer or court employee that the child is in need of immediate medical treatment to preserve the child's health, or as otherwise directed by the court. Whenever a child is taken to a health care facility as provided by this paragraph, the child shall receive prompt examination and treatment; or

4. Such child may be taken directly to or retained in a mental health facility for mental health care, or inpatient mental health evaluation or inpatient mental health treatment, in accordance with the provisions of the Inpatient Mental Health Treatment of Children Act, when it reasonably appears to the peace officer or court employee that the child is in need of emergency mental health care to preserve the child's health, or as otherwise directed by the court; and

5. Except as otherwise provided by subsection C of this section, the district court of the county where the protective custody is assumed shall be immediately notified, verbally or in writing, that the child has been taken into protective custody. If notification is verbal, written notification shall be sent to the district court by the close of business on the next day that the court is open for business.

C. The court may provide, in an order issued pursuant to this section or by a standing order or rule, for the disposition of children taken into protective custody and notification of the protective custody. Such order or rule shall be consistent with the provisions of subsection B of this section, but may also:

1. Designate a licensed child care facility other than a children's shelter appropriate for the temporary care of deprived children if such facility is willing to provide care;

2. Authorize the release of a child from protective custody in accord with such criteria as the court specifies or the placement of a child with such responsible persons as the court may designate and

who are willing to provide care for the child pending further proceedings; and

3. Require such notice to the court concerning the assumption of protective custody and the disposition of children taken into protective custody as the court may direct.

D. No child taken into protective custody pursuant to this section shall be confined in any jail, adult lockup, or adult or juvenile detention facility. No child shall be transported or detained in a secure facility in association with delinquent, criminal, vicious, or dissolute persons.

SECTION 7. AMENDATORY 10 O.S. 1991, Section 1109, as last amended by Section 21, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7003-3.7), is amended to read as follows:

Section 7003-3.7 A. If the parents, guardian, or other legal custodian of the child requests an attorney and is found to be without sufficient financial means, counsel shall be appointed by the court if a petition has been filed alleging that the child is a deprived child or if termination of parental rights is a possible remedy, provided that the court may appoint counsel without such request, if it deems representation by counsel necessary to protect the interest of the parents, guardian or other legal custodian. If the child is not otherwise represented by counsel, whenever a petition is filed pursuant to the provisions of this part, the court shall appoint a separate attorney, who shall not be a district attorney, for the child regardless of any attempted waiver by the parent or other legal custodian of the child of the right of the child to be represented by counsel. The attorney appointed for the child shall meet with the child at least twenty-four (24) hours prior to any hearing for the child.

B. Whenever a petition is filed alleging that a child is a deprived child, the court may appoint a guardian ad litem for the

child at any time subsequent to the filing of the petition and shall appoint a guardian ad litem upon the request of the child or ~~his~~ the attorney of the child and whenever a court-appointed special advocate is available to the court to serve as a guardian ad litem regardless of whether or not a guardian ad litem has been requested by the child or ~~his~~ the attorney of the child. ~~The availability of a court-appointed special advocate~~ Court-Appointed Special Advocate Program shall be ~~determined by the executive director of the court appointed special advocate program for the county~~ made available to each judicial district.

1. The guardian ad litem shall not be a district attorney, an employee of the office of the district attorney, an employee of the court, an employee of a juvenile bureau, or an employee of any public agency having duties or responsibilities towards the child.

2. Whenever a court-appointed special advocate is available for appointment as a guardian ad litem as provided by this subsection, the court shall give priority to the appointment of a court-appointed special advocate as the guardian ad litem of a deprived child.

C. 1. The court-appointed special advocate shall be given access to the court file and access to all records and reports relevant to the case and to any records and reports of examination of the child's parent or other custodian, made pursuant to the laws relating to child abuse and neglect.

2. A court-appointed special advocate shall serve without compensation and shall have such other qualifications and duties and responsibilities as may be prescribed by rule by the Supreme Court.

3. Any person participating in a judicial proceeding as a court-appointed special advocate shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any civil liability that otherwise might be incurred or imposed. Any person serving in positions of management of a CASA organization, including

members of the Board of Directors acting in good faith, shall be immune from any civil liability or any vicarious liability for the negligence of any CASA organization advocates, managers, or directors.

SECTION 8. AMENDATORY 10 O.S. 1991, Section 1123, as amended by Section 35, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7003-6.2), is amended to read as follows:

Section 7003-6.2 A. Any interested party aggrieved by any order or decree may appeal to the Supreme Court in the same manner as other appeals are taken to the Supreme Court of this state.

B. The pendency of an appeal thus taken shall not suspend the order of the district court regarding a child, nor shall it remove the child from the custody of that court or of the person, institution or agency to whose care such child has been committed, unless the Supreme Court shall so order, except as provided in subsection C of this section. The pendency of an appeal from an order of adjudication shall not prevent the district court from holding a dispositional hearing unless the appellate court shall so order.

C. At a hearing where it is determined that a child in state custody will be released from state custody, the district attorney, the attorney for the child or the Department of Human Services may give verbal notice to the court of an objection to the order of the court and an intention to seek review of that order based on the grounds that the order of the court creates an unreasonable risk of physical or sexual abuse to the child. Upon giving the notice described in this subsection, the court issuing the custody order in question shall stay the custody order pending the filing of an application and completion of review as provided in this section. The district attorney, attorney for the child or the Department shall file with the court clerk a written application for review

within five (5) judicial days from the custody order. An additional five (5) judicial days may be granted for good cause shown to the reviewing court.

If the custody order in question has been issued by a special or associate district judge, the order shall be reviewed by a district judge of the judicial district. If the custody order is issued by a district judge, the order shall be reviewed by the administrative presiding judge for the judicial district, or another district judge designated by the administrative presiding judge. The review shall be completed within seven (7) judicial days of the filing of the written application for review. An additional seven (7) judicial days may be granted by the reviewing court upon its own motion or for good cause shown. The review conducted by the reviewing judge shall be de novo and shall address the question of whether the custody creates an unreasonable risk of physical or sexual abuse to the child. The reviewing court shall review all relevant portions of the record of the case including but not limited to partial or complete transcripts, written stipulations of facts, relevant exhibits or any other relevant evidence. At the conclusion of the review, the reviewing court shall issue its findings of fact and conclusions of law and report them to the court issuing the original custody order. A finding by the reviewing court that the original custody order regarding the child is inappropriate as a result of an unreasonable risk of physical or sexual abuse to the child shall be controlling and the court issuing the original custody order shall proceed to enter a different custody order. If the reviewing court finds that the original custody order did not place the child at risk of physical or sexual abuse and that the original custody order is appropriate then that original order shall be subject to appeal pursuant to normal appeal procedures. The failure of any court to issue the stay mandated by this subsection shall be subject to immediate mandamus to an appropriate court.

SECTION 9. AMENDATORY 10 O.S. 1991, Section 1117, as last amended by Section 38, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7003-7.1), is amended to read as follows:

Section 7003-7.1 A. 1. Whenever the court transfers custody of a child as provided in this article, 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, medical care, education, and discipline for the child. The court shall complete a form approved by the Oklahoma Supreme Court to verify information that has been considered prior to the custody transfer. 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 Part 3 and Part 5 of this article 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 10. AMENDATORY 10 O.S. 1991, Section 1119, as amended by Section 40, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7003-8.1), is amended to read as follows:

Section 7003-8.1 A. In placing a child in the custody of an individual or in the custody of a private agency or institution, the court shall, if at all possible, select a person or an agency or institution governed by persons of the same religious faith as that of the parents of the child, or in case of a difference in the religious faith of the parents, then of the religious faith of the

child, or, if the religious faith of the child is not ascertainable, then of the faith of either of the parents. ~~However, it~~ It shall be left to the discretion of the judge to place children where their total needs will best be served. Under no circumstances shall a child be placed in the custody of an individual subject to the Oklahoma Sex Offenders Registration Act or an individual that has been convicted of any crime involving domestic abuse or who is a known homosexual, lesbian or bisexual.

B. Prior to placing a child in the custody of an individual, the court shall inquire as to whether the individual has been previously convicted of a felony or a misdemeanor involving moral turpitude or has any pending felony or misdemeanor charges involving moral turpitude and whether or not the individual is a homosexual, lesbian or bisexual. The person shall respond by certified affidavit or through sworn testimony to the court and shall provide a criminal background check to the court prior to the custody order being entered.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7005-1.9 of Title 10, unless there is created a duplication in numbering, reads as follows:

In cases involving the death of a child as the result of abuse, neglect or abandonment, there shall be a presumption that the best interest of the child and the siblings of the child and the public interest will be served by full public disclosure of the circumstances of the investigation of the death of the child and any other investigation concerning the child and the siblings of the child.

Records of the Department of Human Services that pertain to investigations regarding a child that died as a result of abuse, neglect or abandonment shall be submitted to the Oklahoma Commission on Children and Youth within seven (7) days of the death.

The Oklahoma Commission on Children and Youth may release summary information to the public, including:

1. A confirmation that an investigation has been conducted concerning the alleged victim;
2. The dates and brief description of procedural activities undertaken during the Department's investigation; and
3. The date of each judicial proceeding, a summary of each participant's recommendations made at the judicial proceedings, and the rulings of the court.

The summary information may not include the name of the victim or other identifying information with respect to the victim identified in any investigation.

SECTION 12. AMENDATORY Section 6, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7106), is amended to read as follows:

Section 7106. A. 1. Any county office of the Department of Human Services receiving a child abuse or neglect report as provided in Section ~~3~~ 7103 of this ~~act~~ title shall promptly investigate said report in accordance with priority guidelines established by the Department of Human Services. The Department may assign priorities to investigations based on the severity and immediacy of the alleged harm to the child. The Department shall adopt the priority system pursuant to rules promulgated by the Commission for Human Services. The primary purpose of the investigation shall be the protection of the child.

2. If an investigation by the Department of Human Services of any report of child abuse shows that the incident was the result of the reasonable exercise of parental discipline as defined in Section 844 of Title 21 of the Oklahoma Statutes then the investigation will proceed no further. Any record of such a report shall be kept confidential within the Department of Human Services and shall not be reported further.

3. For purposes of this subsection, the reasonable exercise of parental discipline does not include: throwing, kicking, burning, biting or cutting a child; striking a child with a closed fist; shaking of any child less than two (2) years of age; nonaccidental action that results in any injury to a child under eighteen (18) months of age; interfering with a child's breathing; threatening a child with a deadly weapon; striking a child on the head or fracturing any bone of a child.

4. Any report of a parent or guardian engaged in the activities outlined in paragraph 3 of this subsection will be verified by sworn statement of an accuser or verified by a peace officer, before the Department may begin an investigation and begin reporting as required by Section 7111 of this title.

B. As necessary to complete a thorough investigation, the county office or the Department shall determine:

1. The nature, extent and cause of the abuse or neglect;
2. The identity of the person responsible for the abuse or neglect;
3. The names and conditions of any other children in the home;
4. An evaluation of the parents or persons responsible for the care of the child;
5. The adequacy of the home environment;
6. The relationship of the child to the parents or persons responsible for the care of the child; and
7. All other pertinent data.

C. 1. The investigation shall include a visit to the child's home, unless the alleged abuse or neglect can be confirmed or clearly ruled out without a home visit, and an interview with and examination of the subject child. The interview with and examination of the child may be conducted at any reasonable time and at any place, including but not limited to the child's school. The investigation may include an interview with the child's parents or

any other person responsible for a child's health or welfare and an interview with and examination of any child in the home.

2. The investigation may include a medical, psychological, or psychiatric examination of any child in that home. If admission to the home, school, or any place where the child may be located cannot be obtained, then the district court having jurisdiction, upon application by the district attorney and upon cause shown, shall order the parents or the persons responsible for the health or welfare of the child, or the person in charge of any place where the child may be located, to allow entrance for the interview, the examination and the investigation. If the parents or person responsible for the child's health or welfare does not consent to a medical, psychological or psychiatric examination of the child that is requested by the county office or the Department, the district court having jurisdiction, upon application by the district attorney and upon cause shown, shall order the examination to be made at the times and places designated by the court.

3. The investigation may include an inquiry into the possibility that the child, a parent or a person responsible for the child's health or welfare has a history of mental illness. If a parent or person responsible for the child's health or welfare does not allow the county office or the Department to have access to mental health records or treatment plans, requested by the county office or the Department, which may relate to the abuse or neglect, the district court having jurisdiction, upon application by the district attorney and upon good cause shown, shall by order allow the county office or the Department to have access to the records pursuant to terms and conditions prescribed by the court.

4. a. If the court determines that the parent or person responsible for the child's health or welfare is indigent, the court shall appoint an attorney to represent the parent or person responsible for the

child's health or welfare at the hearing to obtain mental health records.

- b. A parent or person responsible for the child's health or welfare is entitled to notice and a hearing when the county office or the Department seeks a court order to allow a medical, psychological or psychiatric examination or access to mental health records.
- c. Access to mental health records does not constitute a waiver of confidentiality.

5. The investigation of sexual abuse or serious physical abuse or both sexual abuse and serious physical abuse shall be conducted, when appropriate and possible, using a multidisciplinary approach.

D. If, before the investigation is complete, the opinion of the child protective services worker is that immediate removal of the child is necessary to protect the child from further abuse or neglect, the child protective services worker shall recommend that the child be taken into custody pursuant to the Oklahoma Children's Code.

E. The county office shall make a complete written report of the investigation. The report, together with its recommendations, shall be submitted to the appropriate district attorney's office.

F. 1. Whenever, after a preliminary inquiry or investigation, the Department of Human Services determines that an alleged abuse or neglect of a child:

- a. was perpetrated by someone other than a person responsible for the child's health and welfare, and
- b. does not appear to be attributable to failure on the part of a person responsible for the child's health or welfare to provide protection for the child,

the Department shall immediately verbally notify an appropriate local law enforcement agency for the purpose of conducting a possible criminal investigation. The verbal notification to the

local law enforcement agency shall be followed by written referral. After making the referral, the Department shall not be responsible for further investigation of the case unless notice is received from the law enforcement agency as provided by ~~subparagraph~~ paragraph 2 of this ~~paragraph~~ subsection. The Commission for Human Services shall promulgate rules for the implementation of the provisions of this subsection. Such rules shall include but not be limited to provision for adequate and appropriate inquiry or investigation by the Department prior to notification of a local law enforcement agency.

2. Any law enforcement agency conducting an investigation of alleged child physical abuse or neglect shall provide the local child welfare office of the Department of Human Services with a copy of the report of its investigation.

3. Whenever, in the course of a criminal investigation related to child abuse or neglect, a law enforcement agency determines that there is cause to believe that the alleged abuse or neglect was perpetrated by a person responsible for the health and welfare of the child or is attributable to failure on the part of a person responsible for the child's health or welfare to provide protection for the child, the law enforcement agency shall immediately contact the county office for the purpose of an investigation by that office. If the notification is verbal, the notification to the county office shall be followed by a written referral.

G. If the Department has reason to believe that a parent of the child or other person may remove the child from the state before the investigation is completed, the Department may request the district attorney to file an application for a temporary restraining order in any district court without regard to continuing jurisdiction of the child. After a hearing on the application, the court may enter a temporary restraining order prohibiting the parent or other person from removing the child from the state pending completion of the

investigation if the court finds that the county office or the Department has probable cause to conduct the investigation.

SECTION 13. AMENDATORY Section 10, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7110), is amended to read as follows:

Section 7110. A. By July 1, 1997, in coordination with the Child Abuse Training and Coordinating Council, ~~the~~ each district attorney's ~~office in counties having fifty or more incidents of confirmed child sexual abuse or physical abuse reported to the Department of Human Services in the preceding year~~ district shall be responsible for convening a meeting of a coordinated multidisciplinary team, if such a team is not already in existence. If it is feasible to establish such a team, the lead agency shall be chosen by the members of the team. The team shall intervene in reports involving sexual abuse or severe physical abuse and neglect in order to make responsible efforts to minimize the number of interviews necessary with a child-victim.

B. The coordinated multidisciplinary team may include but need not be limited to:

1. Mental health professionals licensed pursuant to the laws of this state or licensed professional counselors;

2. Police officers or other law enforcement agents with a role in, or experience or training in child abuse investigation;

3. Medical personnel with experience in child abuse identification;

4. Child protective services workers within the Department of Human Services;

5. Multidisciplinary team coordinators, or a Child Advocacy Center Director; and

6. A county district attorney or a designee.

C. 1. To the extent that resources are available to each of the various multidisciplinary child abuse and neglect teams

throughout the state, the functions of the team shall include, but not be limited to, the following specific functions:

- a. review investigations, assess service delivery, and facilitate efficient and appropriate disposition of cases through the criminal justice system,
- b. develop a written protocol for investigating child sexual and serious physical abuse cases and for interviewing child abuse victims. In addition, each team shall develop agreements signed by member agencies that specify the role of the team,
- c. increase communication and collaboration among the professionals responsible for the reporting, investigation, prosecution and treatment of child abuse and neglect cases,
- d. eliminate duplicative efforts in the investigation and the prosecution of child abuse cases,
- e. identify gaps in service or all untapped resources within the community to improve the delivery of services to the victim and family,
- f. encourage the development of expertise with discipline-specific training and cross-discipline training,
- g. formalize a case review and case tracking process for all or problematic cases of child abuse and neglect, and
- h. standardize investigative procedures for the handling of child abuse and neglect cases.

2. All investigations of child sexual abuse and serious physical abuse and interviews of child abuse victims shall be carried out by appropriate personnel using the protocols and procedures specified in this section.

3. If trained personnel are not available in a timely fashion and, in the judgment of a law enforcement officer or the Department of Human Services, there is reasonable cause to believe a delay in investigation or interview of the child abuse victim could place the child in jeopardy of harm or threatened harm to a child's health or welfare, the investigation may proceed without full participation of all personnel. This authority applies only for as long as reasonable danger to the child exists. A reasonable effort to find and provide a trained investigator or interviewer shall be made.

D. Nothing in this section shall preclude the use of:

1. Hospital or treatment-based team reviews for client-specific purposes; and

2. Teams in existence prior to July 1, 1995, and coordination of such teams.

E. Such multidisciplinary service team shall have full access to any service or treatment plan and any personal data known to the Department which is directly related to the implementation of this section.

SECTION 14. AMENDATORY Section 12, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7112), is amended to read as follows:

Section 7112. A. In every case filed pursuant to the Oklahoma Child Abuse Reporting and Prevention Act, the judge of the district court shall appoint an attorney-at-law to appear for and represent a child who is the alleged subject of child abuse or neglect in such case. The judge of the district court may appoint an attorney-at-law to represent an alleged abused or neglected child prior to a case being filed if necessary to protect the rights and best interests of the child. The attorney may be allowed a reasonable fee for such services to be paid from the court fund to be fixed by the district court. The attorney shall meet with the child at least twenty-four (24) hours prior to any hearing and shall attend all

court proceedings prior to receiving any fee for legal services rendered.

The attorney shall be given access to all reports relevant to the case and to any reports of examination of the child's parents or other custodian made pursuant to this section. The attorney shall be charged with the representation of the child's best interests. To that end, the attorney shall make such further investigation as the attorney deems necessary to ascertain the facts, to interview witnesses, examine and cross-examine witnesses at the preliminary hearing and trial, make recommendations to the court, and participate further in the proceedings to the degree appropriate for adequately representing the child.

B. A court-appointed special advocate as defined by the Oklahoma Children's Code and the Oklahoma Juvenile Code may be appointed to represent a child who is the alleged subject of child abuse or neglect. The court-appointed special advocate shall be given access to all reports relevant to the case and to any reports of examination of the child's parents or other custodian made pursuant to this section.

C. At such time as the information maintained by the statewide registry for child abuse, sexual abuse, and neglect is indexed by perpetrator and the necessary and appropriate due process procedures are established by the Department of Human Services, a court-appointed special advocate organization, in accordance with the policies and rules of the Department, may utilize the registry for the purpose of completing background screenings of volunteers with the organization.

SECTION 15. AMENDATORY 21 O.S. 1991, Section 843, as amended by Section 15, Chapter 353, O.S.L. 1995, and as renumbered by Section 20, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7115), is amended to read as follows:

Section 7115. Any parent or other person who shall willfully or maliciously engage in child abuse or neglect or who shall otherwise

willfully or maliciously injure, torture, maim, use unreasonable force upon a child under the age of eighteen (18), or sexually abuse, sexually exploit or otherwise abuse or neglect such child, or who shall willfully or maliciously cause, procure or permit any of said acts to be done, shall upon conviction be punished by imprisonment in the State Penitentiary not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment. As used in this section, "permit" means that a person knows or could reasonably be expected to know that a child is at risk of being abused while being cared for by an individual.

SECTION 16. AMENDATORY 21 O.S. 1991, Section 845, as last amended by Section 2, Chapter 353, O.S.L. 1995, and as renumbered by Section 20, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7102), is amended to read as follows:

Section 7102. A. 1. It is the policy of this state to provide for the protection of children who have had physical injury inflicted upon them and who, in the absence of appropriate reports concerning their condition and circumstances, may be further threatened by the conduct of persons responsible for the care and protection of such children. Once conditions of a court-ordered service plan have been met or when allegations in a petition have been corrected, a three-month period of monitoring by the court shall occur prior to dismissal by the court.

2. It is the policy of this state that in investigating allegations of child abuse and neglect, in any necessary removal of a child from the home, in placements of a child required pursuant to the Oklahoma Child Abuse Reporting and Prevention Act or in any administrative or judicial proceeding held pursuant to the

provisions of the Oklahoma Child Abuse Reporting and Prevention Act, the best interests of the child shall be of paramount consideration.

B. As used in the Oklahoma Child Abuse Reporting and Prevention Act:

1. "Abuse and neglect" means harm or threatened harm to a child's health or welfare by a person responsible for the child's health or welfare;

2. "Harm or threatened harm to a child's health or welfare" includes but is not limited to nonaccidental physical or mental injury; sexual abuse; sexual exploitation; or negligent treatment or maltreatment including but not limited to the failure or omission to provide adequate food, clothing, shelter, or medical care or protection from harm or threatened harm;

3. "Child" means a person under the age of eighteen (18) years;

4. "Person responsible for a child's health or welfare" includes a parent; a legal guardian; custodian; a foster parent; a person eighteen (18) years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child; an agent or employee of a public or private residential home, institution or facility; or an owner, operator, or employee of a child care facility as defined by Section 402 of Title 10 of the Oklahoma Statutes;

5. "Sexual abuse" includes but is not limited to rape, incest and lewd or indecent acts or proposals, as defined by law, by a person responsible for the child's health or welfare;

6. "Sexual exploitation" includes but is not limited to allowing, permitting, or encouraging a child to engage in prostitution, as defined by law, by a person responsible for the child's health or welfare or allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic photographing, filming, or depicting of a child in those acts as defined by the

state law, by a person responsible for the child's health or welfare;

7. "Multidisciplinary personnel" means any team established pursuant to Section ~~40~~ 7110 of this ~~act~~ title of three or more persons who are trained in the prevention, identification, investigation, prosecution and treatment of child physical and sexual abuse cases and who are qualified to facilitate a broad range of interventions and services related to child abuse;

8. "Ruled out" means a report which is determined by a child protective services worker:

- a. to be false,
- b. to be unfounded,
- c. to be inherently improbable,
- d. to involve an accidental injury where neglect was not a factor, or
- e. as not constituting child abuse or neglect;

9. "Confirmed report" means a report which is determined by a child protective services worker, based upon some credible evidence, to constitute child abuse or neglect;

10. "Uncertain report" means a report which is not ruled out by a child protective services worker, but which has inconclusive findings and for which there is insufficient evidence to determine whether child abuse or neglect has occurred;

11. "Child protective services worker" means a person employed by the Department of Human Services with sufficient experience or training as determined by the Department in child abuse prevention and identification;

12. "Department" means the Department of Human Services; and

13. "Commission" means the Commission for Human Services.

SECTION 17. AMENDATORY 63 O.S. 1991, Section 1-227.9, as amended by Section 1, Chapter 101, O.S.L. 1994 (63 O.S. Supp. 1995, Section 1-227.9), is amended to read as follows:

Section 1-227.9 A. There is hereby created the Child Abuse Training and Coordination Council.

B. The Oklahoma Commission on Children and Youth shall appoint a Child Abuse Training and Coordination Council which shall be composed of nineteen (19) members, as follows:

1. One member shall be a representative of child welfare services within the Department of Human Services;

2. One member shall be a representative of juvenile services within the Department of Human Services;

3. One member shall be a representative of maternal and child health services within the State Department of Health;

4. One member shall be a representative of the State Department of Health;

5. One member shall be a representative of the State Department of Education;

6. One member shall be a representative of the Department of Mental Health and Substance Abuse Services;

7. One member shall be a representative of the Oklahoma State Medical Association and shall be a member of the Oklahoma Chapter of the American Academy of Pediatrics;

8. One member shall be a representative of the judiciary;

9. One member shall be a representative of the Oklahoma Osteopathic Association and shall be a pediatric osteopathic physician;

10. One member shall be a representative of the District Attorney's Council;

11. One member shall be a representative of the Council on Law Enforcement, Education and Training;

12. One member shall be a representative of the Department of Corrections;

13. One member shall be a representative of Court Appointed Special Advocates;

14. One member shall be a representative of the Oklahoma Bar Association;

15. One member shall be a representative of the Oklahoma Psychological Association;

16. One member shall be a representative of the Oklahoma Chapter of the National Association of Social Workers;

17. One member shall be a representative of the Oklahoma Association of Youth Services;

18. One member shall be a representative of the Indian Child Welfare Association; and

19. One member shall be a representative of the Advisory Task Force on Child Abuse and Neglect appointed by the Governor.

C. The appointed members shall be persons having expertise in the dynamics, identification and treatment of child abuse and neglect and child sexual abuse.

D. The Training and Coordination Council shall:

1. Establish objective criteria and guidelines for multidisciplinary and, as appropriate for each discipline, discipline-specific training on child abuse and neglect for professionals with responsibilities affecting children, youth and families;

2. Review curricula and make recommendations to state agencies and professional organizations and associations regarding available curricula and curricula having high standards of professional merit;

3. Review curricula regarding child abuse and neglect used in law enforcement officer training by the Oklahoma Council on Law Enforcement Education and Training (CLEET) and make recommendations regarding the curricula to CLEET;

4. Cooperate with and assist professional organizations and associations in the development and implementation of ongoing training programs and strategies to encourage professionals to participate in said training programs; and

~~4.~~ 5. Make reports and recommendations regarding the continued development and improvement of said training programs to the State Commissioner of Health, the Oklahoma Commission on Children and Youth, and each affected agency, organization and association.

SECTION 18. AMENDATORY 10 O.S. 1991, Section 1125.2, as last amended by Section 59, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7005-1.3), is amended to read as follows:

Section 7005-1.3 A. Juvenile court records may be inspected, and their contents shall be disclosed, without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. The court having the child currently before it in any proceeding pursuant to this title, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, and court-appointed special advocates;

2. Members of review boards established pursuant to Part 5 of Article III of this Code, Child Death Review Board, and multidisciplinary personnel. In addition to juvenile court records, members of such review boards may inspect, without a court order, information including but not be limited to:

- a. psychological and medical records,
- b. placement history and information, including the names and addresses of foster parents,
- c. family assessments,
- d. treatment or service plans, and
- e. school records;

3. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to this title or the prosecution of crimes against children;

4. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of this title or representing a child pursuant to subsection B of Section 846 of Title 21 of the Oklahoma Statutes. Said attorney may also access other records listed in subsection A of Section 7005-1.2 of this title for use in the legal representation of the child;

5. Employees of juvenile bureaus in the course of their official duties pursuant to this title, and employees of the Department of Human Services in the course of their official duties ~~pursuant to this title and Title 56 of the Oklahoma Statutes;~~

6. Employees of a law enforcement agency of this or another state and employees of a child protective service of another state in the course of their official duties pertaining to investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

7. Persons and agencies authorized by Section 7005-1.7 of this title;

8. The Oklahoma Commission on Children and Youth as provided by Sections 601.2 and 601.6 of this title;

9. The Department of Human Services or other public or private agency or individual having court-ordered custody or custody pursuant to Department of Human Services placement of the child who is the subject of the record;

10. The Office of Juvenile Affairs;

11. The child who is the subject of the record and the parents, legal guardian, legal custodian or foster parent of said child;

12. A federally recognized Indian tribe in which the child who is the subject of the record is a member or is eligible to become a member of the tribe and is the biological child of a member of an Indian tribe pursuant to the Federal Indian Child Welfare Act, P.L. 95-608, and the Oklahoma Indian Child Welfare Act, Section 40 et

seq. of this title; provided such Indian tribe, in the course of its official duties, is:

- a. investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody, or
- b. providing services to or for the benefit of a child including but not limited to protective, emergency, social and medical services, or
- c. the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

The records that are to be provided to Indian tribes under this subsection shall include all case records, reports, and documents as defined in Section 7005-1.1 of this title;

13. The Governor or to any person the Governor designates, in writing, and any federal official of the United States Department of Health and Human Services; ~~and~~

14. The chairman of any standing or special committee of the Legislature where a subpoena, authorized by law, has been issued by the committee requesting the records; and

15. A foster parent, with regard to records concerning the social, medical, psychological or educational needs of a child currently placed with that foster parent or of a child being considered for placement with that foster parent.

B. In accordance with the rules adopted for such purpose pursuant to Section 620.6 of this title, records listed in subsection A of Section 7005-1.2 of this title may be inspected and their contents disclosed without a court order to:

1. Participating agencies; and

2. The following, provided that the inspection of records and disclosure authorized by this paragraph may be limited to summaries or to information directly necessary for the purpose of such inspection or disclosure:

- a. pursuant to the provisions of this title, a person, agency, hospital or clinic authorized or directed by the court or the Department of Human Services to care for, treat, examine, evaluate or supervise a child or to treat, examine, or evaluate the parent, legal guardian, or an adult person living in the home of the child,
- b. a legally recognized school that is not a participating agency in which the child who is the subject of the record is currently enrolled, and
- c. individuals or agencies engaged in legitimate research for educational, scientific or public purposes or for the purpose of an audit authorized by law. No information identifying the subjects of the records shall be made available or disclosed unless it is essential to the research or audit purpose.

C. Records and their contents disclosed without an order of the court as provided by this section shall remain confidential. The use of such information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for commercial, political or any other unauthorized purpose.

SECTION 19. AMENDATORY Section 3, Chapter 306, O.S.L. 1993, as amended by Section 60, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7005-1.4), is amended to read as follows:

Section 7005-1.4 A. Department of Human Services agency records pertaining to a child may be inspected and their contents disclosed without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. The court having the child currently before it in any proceeding pursuant to this title, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, postadjudicatory review boards, court-appointed special advocates, and members of the Child Death Review Board;

2. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to this title or the prosecution of crimes against children;

3. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of this title or representing a child pursuant to the laws relating to child abuse and neglect. Said attorney may also access other records listed in subsection A of Section 7005-1.2 of this title for use in the legal representation of the child;

4. Employees of juvenile bureaus in the course of their official duties;

5. Employees of a law enforcement agency of this or another state and employees of a child protective service of another state or federally recognized Indian tribe in the course of their official duties pertaining to investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

6. The Oklahoma Commission on Children and Youth as provided by Sections 601.2 and 601.6 of this title;

7. The Office of Juvenile Affairs;

8. Persons and agencies authorized by Section 7005-1.7 of this title;

9. Members of multidisciplinary teams or multidisciplinary personnel designated by the Department of Human Services, investigating a report of known or suspected child abuse or neglect or providing services to a child or family which is the subject of the report;

10. A physician who has before him a child whom the physician reasonably suspects may be abused or neglected or any health care or mental health professionals involved in the evaluation or treatment of the child, the child's parents, guardian, custodian or other family members;

11. Any public or private agency or person authorized by the Department to diagnose, or provide care, treatment, supervision or other services to a child who is the subject of a report or record of child abuse or neglect, provided the Department may limit such disclosure to summaries or to information directly necessary for the purpose of such disclosure;

12. Any federally recognized Indian tribe or state or county child protective services or child welfare agency providing for or supervising the diagnosis, care, treatment, supervision or other services provided such child;

13. The parents of the child who is the subject of such records; provided that records pertaining to any alleged or adjudicated abuse or neglect of said child shall not be inspected or disclosed pursuant to this paragraph;

14. Any person or agency for research purposes, if all of the following conditions are met:

- a. the person or agency conducting such research is employed by the State of Oklahoma or is under contract with this state and is authorized by the Department of Human Services to conduct such research, and

- b. the person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to such documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed;

15. A foster parent, with regard to records concerning the social, medical, psychological or educational needs of a child currently placed with that foster parent or of a child being considered for placement with that foster parent;

16. The Governor or to any person the Governor designates, in writing, and any federal official of the United States Department of Health and Human Services; ~~and~~

~~16.~~ 17. The Oklahoma Health Care Authority; and

18. Any other persons authorized by law to receive such information pursuant to their lawful duties.

B. In accordance with the rules adopted for such purpose pursuant to Section 620.6 of this title, records may be inspected and their contents disclosed without a court order to the following:

1. Participating agencies;

2. The following, provided that the inspection of records and disclosure authorized by this paragraph may be limited to summaries or to information directly necessary for the purpose of such inspection or disclosure:

- a. pursuant to the provisions of this title, a person, agency, hospital or clinic authorized or directed by the court or the Department of Human Services to care for, treat, examine, evaluate or supervise a child or to treat, examine, or evaluate the parent, legal

guardian, or an adult person living in the home of the child,

- b. a legally recognized school that is not a participating agency in which the child, who is the subject of the record, is currently enrolled, and
- c. individuals or agencies engaged in legitimate research for educational, scientific or public purposes or for the purpose of an audit authorized by law. No information identifying the subjects of the records shall be made available or disclosed unless it is essential to the research or audit purpose.

C. Nothing in this section shall be construed as prohibiting the Department from disclosing such confidential information as may be necessary to secure appropriate care, treatment, protection or supervision of a child alleged to be abused or neglected.

D. Records and their contents disclosed pursuant to this section shall remain confidential. The use of such information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for any unauthorized purpose.

SECTION 20. AMENDATORY Section 11, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7111), is amended to read as follows:

Section 7111. A. There is hereby established within the Department of Human Services a statewide central registry for child abuse, sexual abuse, and neglect made pursuant to the Oklahoma Child Abuse Reporting and Prevention Act. Any additional requirements required by this section that are not already within the existing statewide central registry for child abuse, sexual abuse, and neglect shall be fully implemented by January 1, 1996.

B. The Child Welfare Division of the Department of Human Services shall be responsible for maintaining the registry, which shall be suitably cross-indexed, of all such reported findings.

C. The central registry shall contain, but shall not be limited to:

1. All information in the written report required by Section 3 7103 of this ~~act~~ title;

2. A record of the final disposition of the report including services offered and services accepted;

3. The plan for rehabilitative treatment;

4. The names and identifying data, dates, and circumstances of any persons requesting or receiving information from the registry; and

5. Any other information which might be helpful in furthering the purposes of this section.

D. Data and information related to individual cases in the central registry shall be confidential and shall be made available only as authorized by state or federal law.

E. The Commission for Human Services shall promulgate rules governing the availability of such data and information.

F. Rules promulgated by the Commission shall encourage cooperation with other states in exchanging reports in order to effect a national registration system.

G. Any person employed in the central registry who permits the data and information stored in the registry to be released without authorization to persons or agencies other than those specified by law shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than two and one-half (2 1/2) years, or by both such fine and imprisonment.

H. Any court or agency records relating to confirmed, ruled out or unconfirmed reports shall be maintained by the court or agency until otherwise provided by law.

SECTION 21. This act shall become effective November 1, 1996.

Passed the House of Representatives the 28th day of February,
1996.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1996.

President of the Senate