

ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 68

By: Roberts of the Senate
and
Steidley of the House

(children - court-appointed special advocate - ♥
effective date)

AMENDMENT NO. 1. Strike the stricken title, enacting clause and
entire bill and insert

An Act relating to children; amending 10 O.S. 1991,
Section 1101, as renumbered by Section 199, Chapter
352, O.S.L. 1995 and as last amended by Section 15,
Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1996,
Section 7001-1.3), which relates to the Oklahoma
Children's Code; modifying definitions; and
providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 1101, as
renumbered by Section 199, Chapter 352, O.S.L. 1995 and as last
amended by Section 15, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1996,
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 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. "Child-placing agency" means a private agency licensed to place children in foster family homes, group homes, adoptive homes, transitional or independent living programs, or family child care homes or other out-of-home placements; and which approves and monitors such placements and facilities in accordance with the licensing requirements established by the Oklahoma Child Care Facilities Licensing Act;

6. "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;

7. "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~~ over whom the district court exercises jurisdiction, based on the availability of volunteers, until discharged by the court. Provided that priority shall be given to cases wherein a juvenile petition has been filed. 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 financial responsibility in any matter relating to a child represented by the court-appointed special advocate;

8. "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;

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

10. 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 on the part of the child's 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,

(5) who is, due to improper parental care and guardianship, absent from school as specified in Section 10-106 of Title 70 of the Oklahoma Statutes, if said child is subject to compulsory school attendance, or

(6) whose parent or legal custodian for good cause desires to be relieved of 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;

11. "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;

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

13. "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;

14. "Foster care" or "foster care services" means continuous twenty-four-hour care and supportive services provided for a child, in foster placement, while the child needs foster care;

15. "Foster child" means a child placed in foster placement;

16. "Foster family" means all persons living in a foster family home, other than a foster child;

17. "Foster family home" means the private residence of a family which provides foster care services to a child. Such term shall include a foster family home, a therapeutic foster family home, the home of a relative, or a kinship care home;

18. "Foster parent" means any individual maintaining a foster family home, who is responsible for the care of a foster child;

19. "Foster placement" means a child-placing agency or foster family home providing foster care services;

20. "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;

21. "Independent living program" means a program specifically designed to assist a child to enhance those skills and abilities necessary for successful adult living. An independent living program may include, but shall not be limited to, minimal direct staff supervision, and supportive services to assist with activities necessary for finding an appropriate place of residence, completing an education or vocational training, obtaining employment, or obtaining other similar services;

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

23. "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;

24. "Kinship care" means full-time care of a child by relatives, members of the relative's clan, stepparents, or other adults who have an existing bond with the child and to whom have been ascribed a family relationship role with the child's parents and the child;

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

26. "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;

27. "Out-of-home placement" means a placement, other than a placement in the home of the parent or guardian from whose custody the court has removed the child, until the child is reunified with the child's parents;

28. "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, facility or day treatment program as defined in Section 175.20 of this title; or an owner, operator, or employee of a child care facility as defined by Section 402 of this title;

29. "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;

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

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

32. "Relative" means a grandparent, great grandparent, brother or sister of whole or half blood, aunt, uncle or any other person related to the child within the fourth degree of consanguinity;

33. "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;

34. "Responsible adult" for purposes of the release of a child from protective custody, means a stepparent, foster parent, person related to the juvenile in any manner who is eighteen (18) years of age or older, or any person having an obligation and authority to care for or safeguard the juvenile in another person's absence who is eighteen (18) years of age or older;

35. "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;

36. "Therapeutic foster home" means a foster family home which provides specific treatment services, pursuant to a therapeutic foster care contract, which are designed to remedy social and behavioral problems of a foster child residing in the home;

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

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

39. "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

40. "Treatment and service plan" means a written document which includes ~~as~~ at least the following:

- a. 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
- b. a plan for assuring that the child receives 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, 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 2. This act shall become effective November 1, 1997."

Passed the House of Representatives the 9th day of April, 1997.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1997.

President of the Senate