STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

3RD CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1927

By: Boyd (Laura) and Cox of the House

and

Brown of the Senate

3RD CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to children; amending 10 O.S. 1991, Section 21.1, which relates to order of preference for custody; adding certain determinations to be made by court; amending 10 O.S. 1991, Sections 1102.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 5, Chapter 200, O.S.L. 1996, 1105, as last amended by Section 19, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995, 1109, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 6, Chapter 200, O.S.L. 1996, 1115.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 20, Chapter 353, O.S.L. 1996, 1115.2, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 21, Chapter 353, O.S.L. 1996, 1117, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 10, Chapter 200, O.S.L. 1996, 1404, as last amended by Section 47, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995, and Section 3, Chapter 306, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1125.2A), as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 23, Chapter 297, O.S.L. 1996 (10 O.S. Supp. 1996, Sections 7002-1.2, 7003-3.5, 7003-3.7, 7003-5.3, 7003-5.4, 7003-7.1, 7004-1.1 and 7005-1.4), which relate to court procedures for deprived children; modifying procedure for submitting finding of certain preliminary inquiries or investigations; modifying duties of certain attorneys; modifying process for service of summons; modifying contents of certain plans; modifying conditions of certain placements; modifying reference; modifying term; modifying conditions for release of certain information; amending 21 O.S. 1991, Section 845, as renumbered by Section 20, Chapter 353, O.S.L. 1995, and as last amended by Section 16, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7115), which relates to protection of children; modifying provisions regarding child returned to family under certain circumstances; amending Section 10, Chapter 353, O.S.L. 1995, as amended by Section 13, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7110), which relate to criminal investigations of child abuse; modifying provisions regarding multidisciplinary teams;

amending Sections 5, 8 and 9, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1996, Sections 7205, 7208 and 7209), which relate to foster care placement; clarifying language; modifying provisions regarding rights of certain parties; amending 10 O.S. 1991, Section 1211, as last amended by Section 2, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1996, Section 1211), which relates to juvenile law training; modifying training provision for certain individuals; amending 10 O.S. 1991, Section 29.1, as amended by Section 21, Chapter 297, O.S.L. 1996 (10 O.S. Supp. 1996, Section 29.1), which relates to termination of parental rights; modifying citations; amending 10 O.S. 1991, Sections 60.6, as amended by Section 2, Chapter 253, O.S.L. 1993 and 60.7 (10 O.S. Supp. 1996, Section 60.6), which relate to adoptions; modifying citations; 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 definitions; modifying citations; amending 10 O.S. 1991, Section 1125.2, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 18, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7005-1.3), which relates to records; modifying citation; amending Section 4, Chapter 298, O.S.L. 1992, as amended by Section 5, Chapter 254, O.S.L. 1995 and Section 7, Chapter 298, O.S.L. 1992, as last amended by Section 6, Chapter 254, O.S.L. 1995 (43A O.S. Supp. 1996, Sections 5-504 and 5-507), which relate to children in need of mental health treatment; modifying citations; amending 21 O.S. 1991, Section 701.7, as amended by Section 1, Chapter 161, O.S.L. 1996 (21 O.S. Supp. 1996, Section 701.7), which relates to murder in the first degree; stating circumstances that shall constitute murder in the first degree; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 21.1, is amended to read as follows:

Section 21.1 A. Custody should be awarded or a guardian appointed in the following order of preference according to the best interests of the child to:

1. A parent or to both parents jointly except as otherwise provided in subsection B of this section;

2. A grandparent;

3. A person who was indicated by the wishes of a deceased parent;

4. A relative of either parent;

5. The person in whose home the child has been living in a wholesome and stable environment; or

6. Any other person deemed by the court to be suitable and able to provide adequate and proper care and guidance for the child.

B. When a parent having physical custody and providing support to a child becomes deceased, in awarding custody or appointing as guardian of the child the noncustodial parent, the court may deny the custody or guardianship only if:

1. The noncustodial parent has willfully failed, refused, or neglected to contribute to the support of the child for a period of at least twelve (12) months immediately preceding the determination of custody or guardianship action:

a. in substantial compliance with a support provision contained in a decree of divorce, or a decree of separate maintenance or an order adjudicating responsibility to support in a reciprocal enforcement of support proceeding, paternity action, juvenile proceeding, guardianship proceeding, or orders of modification to such decree, or other lawful orders of support entered by a court of competent jurisdiction adjudicating the duty, amount, and manner of support, or

b. according to such parent's financial ability to contribute to such child's support if no provision for support is provided in a decree of divorce or an order of modification subsequent thereto;

2. The noncustodial parent has abandoned the child; or

3. The court finds it would be detrimental to the health or safety of the child for the noncustodial parent to have custody or be appointed guardian.

C. The court may consider the preference of the child in awarding custody of said child if the child is of sufficient age to form an intelligent preference.

D. In every case involving the custody of, guardianship of or visitation with a child, the court shall consider evidence of

ongoing domestic abuse which is properly brought before it. If the occurrence of ongoing domestic abuse is established by clear and convincing evidence, there shall be a rebuttable presumption that it is not in the best interests of the child to have custody, guardianship or unsupervised visitation granted to the abusive person.

E. In every case involving the custody of, guardianship of or visitation with a child, the court shall determine whether any individual seeking custody of, guardianship of or visitation with a child is or has previously been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state. There shall be a rebuttable presumption that it is not in the best interests of the child to have custody, guardianship or unsupervised visitation granted to a person subject to or previously subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 1102.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 5, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1996, 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, for habeas corpus 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~~ and send a copy of its findings to said court within thirty (30) days of such notice and notify parties to the proceeding of the submission of the report to the court. The

district attorney shall advise said court within three (3) days of the receipt of said findings 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 the child or children 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, the evidence indicates that a child has been subject to abuse or neglect, the court shall appoint an attorney ~~for~~ to represent the best interests of the child for that proceeding and any related proceedings.

SECTION 3. AMENDATORY 10 O.S. 1991, Section 1105, as last amended by Section 19, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7003-3.5), is amended to read as follows:

Section 7003-3.5 A. Service of summons shall be made as provided for service in civil actions or service may be made by certified mail to such person's last-known address, requesting a return receipt from the addressee only. If the address of the person to be summoned is not known, or if the mailed summons is returned, the court may order that notice of the hearing be published once in a newspaper of general circulation in the county, and a copy of the summons shall be mailed by regular first-class mail to the last-known address of the parent.

B. 1. The court shall not hold the hearing until at least forty-eight (48) hours after the service of the summons, except with the consent of the parent or guardian.

2. If the parent is not served within the state, the court shall not hold the hearing until at least five (5) days after the

date of mailing the summons, except with the consent of the parent.

3. If notice is published, the court shall not hold the hearing until at least ten (10) days after the date of publication.

4. If one or more persons must be served by publication, the court may delay the date of the hearing, with reasonable notice to the other persons who have been served or are properly and legally notified, to any date that the court determines to be reasonable and may proceed with the action.

C. An order determining that a child is deprived shall not become final until thirty (30) days after the date of the publication of the notice.

SECTION 4. AMENDATORY 10 O.S. 1991, Section 1109, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 6, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1996, 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 <u>make arrangements to</u> meet with the child as soon as possible after receiving notification of the appointment. Except for good cause shown, the attorney shall meet with the child not less than twenty-four (24) hours prior to any hearing in such proceeding.

The attorney may speak with the child over the telephone if a personal visit is not possible due to exigent circumstances. If a meaningful attorney-client relationship between the child and the attorney is prohibited due to age or disability of the child, the attorney shall contact the custodian or caretaker of the child prior to the hearing.

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 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 the attorney of the child. ~~The~~ A Court-Appointed Special Advocate Program shall be 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 including reports generated by service providers.

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 5. AMENDATORY 10 O.S. 1991, Section 1115.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 20, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7003-5.3), is amended to read as follows:

Section 7003-5.3 A. An individual treatment and service plan shall be filed with the court within thirty (30) days after the child has been adjudicated to be deprived.

B. The plan shall be filed by the Department or the agency responsible for the supervision of the case, or by the Department or the agency or licensed child care facility having custody of the child if the child has been removed from the custody of its lawful parent or parents.

C. The treatment and service plan shall be based upon a comprehensive assessment and evaluation of the child and family. The plan shall be:

1. Developed in conference with the parent, guardian, or custodian of the child and, if appropriate, the child;

2. Written simply and clearly in English. If English is not the principal language of the child's parent, guardian, or custodian and such person is unable to read or comprehend the English language, to the extent possible the plan shall be written in such person's principal language;

3. Subject to modification based on changing circumstances consistent with the correction of the conditions that led to the adjudication of the child; and

4. Reasonable, accurate, and in compliance with the requirements of other court orders.

D. The individual treatment and service plan shall include but not be limited to:

1. A history of the child and family, including identification of the problems leading to the deprived child adjudication. The statement of the conditions leading to the adjudication shall include a statement of the methods to be used to correct those conditions or to achieve permanent placement of the child;

2. Identification of the specific services to be provided to the child, including but not limited to educational, vocational educational, medical, drug or alcohol abuse treatment, or counseling or other treatment services, and identification of the services to be provided to the parent, legal guardian, legal custodian, stepparent, other adult person living in the home or other family members, to remediate or alleviate the conditions that led to the adjudication, including services needed to assist the family to provide proper care of the child or to prevent further harm to the child;

3. A tentative schedule of the frequency of services or treatment and the means by which delivery of the services or treatment will be assured or, as necessary, the proposed means by which support services or other assistance will be provided to enable the parent or the child to obtain the services or treatment;

4. ~~The name and location of the service provider;~~

~~5.~~ The name of the social worker assigned to the case;

~~6.~~ 5. If the child is placed outside the home:

a. the services to be provided during and after any such placement,

b. the reasons for such placement and a statement as to the unavailability or inappropriateness of local placement, or other good cause, for any placement more than forty (40) miles from the home of the child,

c. the services to be provided to the child while in such placement and the projected date of discharge,

d. the services necessary to assist the child to reintegrate with the child's family or other community-based placement and a description of acts by and conduct that is expected of the parent or parents, legal guardian, legal custodian, or stepparent or other adult person living in the home that would alleviate the conditions that resulted in the removal of the child before the child can be returned home,

e. if the child is sixteen (16) years of age or older, the services necessary to make the transition from foster care or other community placement to independent living,

f. a description of the permanency goal for the child, including the type of placement,

g. a description of the type of placement in which the child is to be placed,

h. a description of the initial support obligation to the child, as determined by the court,

i. a description of the visitation rights and obligations of the parent or parents during the period the child is in care, and

j. a discussion of the appropriateness of the child's placement, which placement is intended to be in the least restrictive and most family-like setting available, consistent with the best interest and special needs of the child and in as close proximity as possible to the child's home;

~~7.~~ 6. Performance criteria that will measure the progress of the child and family toward completion of the treatment and service plan including, but not limited to, time frames for achieving objectives and addressing the identified problems;

~~8.~~ 7. A projected date for the completion of the treatment and service plan; and

~~9.~~ 8. The name and business address of the attorney representing the child, if any.

E. The individual treatment and service plan shall include the following statement:

TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. ITS PURPOSE IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE HOME WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE HOME, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU.

F. Whenever a child who is subject to the provisions of this section is committed for inpatient mental health treatment pursuant to the Inpatient Mental Health Treatment of Children Act, the individual treatment and service plan shall be amended as necessary and appropriate, including but not limited to identification of the treatment and services to be provided to the child and his family upon discharge of the child from inpatient mental health treatment.

G. In addition to the information required pursuant to subsection A of this section, when a child born in a condition of dependence on a controlled dangerous substance has been removed from the home, the Department of Human Services, subject to court approval:

1. May require, as part of the treatment and service plan, that the mother of such child complete a treatment program approved by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority prior to the return of the child to the home;

2. May require, as part of the treatment and service plan, that the father of the child, legal guardian, legal custodian, stepparent or other adult person living in the home who is a drug-dependent person, as such term is defined by Section 3-403 of Title 43A of the Oklahoma Statutes, and whose conduct has contributed to the dependency of such child or mother on the controlled dangerous substance, or to the conditions which caused the child to be adjudicated deprived, complete a treatment program approved by the Alcohol and Drug Abuse Prevention, Training,

Treatment and Rehabilitation Authority prior to the return of the child to the home; and

3. May require testing for substance abuse of the mother, father, legal guardian, legal custodian, stepparent or other adult person living in the home, on a monthly basis for a twelve-month period following completion of the substance abuse program and after return of the child to the home. A positive test of any such person shall be presented to the Department of Human Services and the district attorney.

H. Testing ordered by the court pursuant to subsection F of this section shall be admissible only for the purposes of deprived child and custody proceedings.

I. The services delineated in the individual treatment and service plan shall be designed to improve the conditions in the family home and aid in maintaining the child in the home, to facilitate the return of the child to the family home, or to facilitate the permanent placement of the child. The plan shall focus on clearly defined objectives and shall provide the most efficient path to quick reunification or permanent placement. To the extent possible, the plan shall contain outcome based evaluation criteria that measure success in the reunification or permanent placement process.

J. In the event that the parents are unwilling to participate in the development or implementation of the individual treatment and service plan, the Department shall document such unwillingness in writing to the parent and shall file the document with the court.

K. The parents shall be provided a copy of the treatment and service plan approved by the court.

SECTION 6. AMENDATORY 10 O.S. 1991, Section 1115.2, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 21, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7003-5.4), is amended to read as follows:

Section 7003-5.4 A. The court shall ensure that the following information accompanies any deprived child placed

outside the child's home as soon as the information becomes available:

1. Demographic information;

2. Strengths, needs and general behavior of the child;

3. Circumstances which necessitated placement;

4. Type of custody and previous placement;

5. Pertinent family information including, but not limited to, the names of family members who are and who are not, by court order, allowed to visit the child and the child's relationship to the family which may affect placement;

6. ~~Important~~ Relevant, known, important life experiences and relationships which may significantly affect the child's feelings, behavior, attitudes or adjustment;

7. Whether the child has third-party insurance coverage which may be available to the child;

8. Education history to include present grade placement, last school attended, and special strengths and weaknesses. The Department of Human Services shall also assist the foster parents in getting the foster child's school records and assistance in school admission;

9. Known or available medical history including, but not limited to:

a. allergies,

b. immunizations,

c. childhood diseases,

d. physical handicaps,

e. psycho-social information, and

f. the name of the child's last doctor, if known; and

10. Copies of policies and procedures of the placement agency which pertain to placement operations of the agency, and which may be necessary to properly inform the institution, foster parent or other custodian of the duties, rights and responsibilities of the custodian.

B. When the Department places a child in out-of-home care, the Department shall provide the placement providers with sufficient medical information to enable the placement providers

to care for the child appropriately. Such medical information shall include, but not be limited to:

1. Any medical or psychological conditions;

2. Diseases, illnesses, accidents, allergies, and congenital defects; and

3. Immunization history.

C. 1. When the Department places a child in out-of-home care, the placement providers may request the Department to provide contagious or infectious screening examinations or tests on the child and provide the results to such placement providers.

2. The Department shall provide for the examinations or tests on the child in accordance with rules promulgated by the Department and based on the Centers for Disease Control guidelines for time and frequency of testing, and shall, for a child in the Department's emergency or temporary custody, obtain the parental consent or, if parental consent cannot be obtained due to refusal or inability to locate, the Department shall request an order from the district court authorizing such examinations or tests and the release of such results to the placement providers. Any parental consent or judicial authorization received by the Department, pursuant to the provisions of this section, shall also apply to any future examinations or tests and release of such results as deemed necessary by the Department upon the request of the placement providers. The Department has the authority to consent to the examinations or tests and the release of such test results for a child in the Department's permanent custody.

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

SECTION 7. AMENDATORY 10 O.S. 1991, Section 1117, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 10, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1996, 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 instances where an emergency exists, as determined by competent medical authority.

B. 1. If the child is placed in the custody of the Department of Human Services, whether in emergency, temporary or permanent custody, the Department shall determine the appropriate placement of the child. However, under no circumstances may the Department of Human Services return a child to a parent that contributed to the child being deprived due to abuse or neglect, without prior approval of the court. Any change in the placement of a child adjudicated to be deprived shall be in accord with the provisions of subsection ~~F~~ B of Section ~~7003-5.6~~ 7003-5.4a of this title.

2. 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~~ Sections 7003-3.1 et seq. and 7003-5.1 et seq. of this ~~article~~ title and shall be allowed to intervene upon application as a party to all court proceedings pertaining to the care and custody of the child including, but not limited to: adjudication, disposition, review of disposition, termination of parental rights and proceedings pursuant to the Inpatient Mental Health Treatment of Children Act.

SECTION 8. AMENDATORY 10 O.S. 1991, Section 1404, as last amended by Section 47, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7004-1.1), is amended to read as follows:

Section 7004-1.1 A. In addition to the other powers and duties prescribed by law, the Department shall have the power and duty to:

1. Provide for the temporary care and treatment of children taken into protective or emergency custody pursuant to ~~Article III of this Code~~ Section 7003-1.1 et seq. of this title and placed in the Department's custody by an order of the juvenile court.

In providing for the temporary care and treatment of an alleged deprived child placed in the Department's custody, the Department shall:

a. place such children in a children's shelter, a foster home or a relative's home,

b. if ordered by the court, provide supervision of children alleged to be deprived who are placed by the court in the custody of a parent, relative or other responsible person. Such supervision shall, in accordance with standards established by rules promulgated by the Department, consist of periodic visitation with the child, the child's custodian, and such other persons as may be necessary to assess the safety of the child and to offer voluntary services. Such supervision shall not exceed the period allowed for the filing of a petition or, if a petition is filed, the period authorized by the court,

c. admit an alleged deprived child in the Department's emergency custody to a hospital or mental health facility as provided in Section 5-507 of Title 43A of the Oklahoma Statutes and shall, if such child is found by the court to be a child in need of mental health treatment, place the child, as provided in paragraph 2 of subsection D of Section 5-512 of Title 43A of the Oklahoma Statutes,

d. provide such outpatient mental health care and treatment as may be necessary to preserve the health and safety of an alleged deprived child in emergency custody and as prescribed by a qualified mental health professional. Each child placed in the Department's emergency custody shall receive, as soon as practicable, educational instruction through enrollment in a public school or an alternative program consistent with the needs and abilities of the child,

e. provide or prescribe treatment services for the family of an alleged deprived child placed in the Department's emergency custody if such services are voluntarily requested and the family is otherwise eligible under application law and rules promulgated by the Department for the services offered, and

f. provide for each child placed in the Department's emergency custody to receive, as soon as practicable after the filing of the petition, an initial health screening to identify any health problems that require immediate treatment, to diagnose infections and communicable diseases and to evaluate injuries or other signs of neglect or abuse. The Department shall provide such medical care as is necessary to preserve the child's health and protect the health of others in contact with the child;

2. Provide for the care and treatment of an adjudicated deprived child placed in the Department's custody by an order of the juvenile court. In providing for the care and treatment of an adjudicated deprived child placed in the Department's custody, the Department:

a. shall review and assess each deprived child placed in its custody to determine the type of placement and services consistent with the needs of the child in the nearest geographic proximity to the home of the child. Such review and assessment shall include an investigation of the personal and family history of the child and his environment, and any necessary physical or mental examination. In making such review, the Department may use any facilities, public or private, which offer aid to it in the determination of the correct placement of the child,

b. shall develop and, upon approval by the court, implement an individual treatment and service plan for each deprived child placed in the Department's custody in accord with the requirements of ~~Part 5 of~~

~~Article III of this Code~~ Section 7003-5.1 et seq. of this title,

c. may place a deprived child in the home of the child with prior approval of the court pursuant to subsection B of Section 7003-7.1 of this title, in the home of a relative of the child, in a foster home, in a public or private children's shelter, in a group home, in an independent living program, or in any licensed facility established for the care of deprived children. No deprived child shall be placed in an institution operated by the Department,

d. may admit a deprived child in the Department's custody to a hospital or mental health facility as provided in Section 5-507 of Title 43A of the Oklahoma Statutes and shall, if such child is found by the court to be a child in need of mental health treatment, place the child as provided in paragraph 2 of subsection D of Section 5-512 of Title 43A of the Oklahoma Statutes,

e. may provide such outpatient mental health care and treatment as may be necessary to meet the treatment needs of a deprived child in the Department's custody and as prescribed by a qualified mental health professional, and

f. shall, if ordered by the court, provide supervision of children adjudicated deprived who are placed by the court in the custody of a parent, relative or other responsible person. Such supervision shall, in accordance with standards established in rules promulgated by the Department, consist of periodic visitation with the child, the child's custodian, and such other persons as may be necessary to determine compliance with the court-approved individual treatment and service plan. Such supervision shall not exceed a period of six (6)

months unless extended by the court for good cause shown;

3. Transfer any child in its custody from any authorized placement to another authorized placement if such transfer is consistent with the treatment needs of the child or as may be required in an emergency, subject to the provisions of ~~subsections E and F of~~ Section ~~7003-5.6~~ 7003-5.4a of this title;

4. In providing for the outpatient mental health care and treatment of children in its custody, utilize, to the maximum extent possible and appropriate, the services available through:

a. the guidance centers operated by the State Department of Health,

b. the Department of Mental Health and Substance Abuse Services, and

c. community-based private nonprofit agencies and organizations; and

5. Provide, when voluntarily requested by a parent, legal guardian or legal custodian pursuant to rules promulgated by the Department, family preservation or other services aimed at the prevention of child abuse or neglect.

B. The Department may participate in federal programs relating to deprived children and services for such children; and apply for, receive, use and administer federal funds for such purposes.

C. The Department shall receive interest earnings on the investment by the State Treasurer of monies, to be credited to an agency special account, for the benefit of and held in trust for persons placed in the custody of the Department or in residence at facilities maintained by the Department.

SECTION 9. AMENDATORY Section 3, Chapter 306, O.S.L. 1993 (10 O.S. Supp. 1993, Section 1125.2A), as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 23, Chapter 297, O.S.L. 1996 (10 O.S. Supp. 1996, 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. A parent or guardian 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;

17. The Oklahoma Health Care Authority;

18. Any member of the Legislature approved by the Speaker of the House of Representatives or the President Pro Tempore of the Senate; and

19. Any person or agency authorized to receive any paper, record, book or other information pursuant to the Oklahoma Adoption Act pertaining to a child who is the subject of an adoption proceeding or the parents, grandparents or relatives of such child.

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 participating agencies.

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.

E. In cases involving the death of a child when a person responsible for the child has been charged by information or indictment with committing a crime resulting in the child's death, there shall be a presumption that the best interest of the public

will be served by public disclosure of certain information concerning the circumstances of the investigation of the death of the child and any other investigations concerning ~~the~~ that child, or other children living in the same household.

At any time subsequent to seven (7) days of the date the person responsible for the child has been criminally charged the Department of Human Services, the Oklahoma Commission on Children and Youth, or the district attorney may release the following information to the public:

1. A confirmation that a report has been made concerning the alleged victim or other children living in the same household and whether an investigation has begun;

2. Confirmation as to whether previous reports have been made and the dates thereof, the dates and outcome of any investigations or actions taken by the Department of Human Services in response to any report of child abuse or neglect, and any actions taken by the district attorney after submission of any investigative report;

3. The dates of any judicial proceedings prior to the child's death, a summary of each participant's recommendations made at the judicial proceedings, and the rulings of the court.

Any disclosure of information pursuant to this section shall not identify or provide an identifying description of any complainant or reporter of child abuse or neglect, and shall not identify the name of the child victim's siblings or other children living in the same household, the parent or other person responsible for the child or any other member of the household, other than the person criminally charged.

SECTION 10. AMENDATORY 21 O.S. 1991, Section 845, as renumbered by Section 20, Chapter 353, O.S.L. 1995, and as last amended by Section 16, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1996, 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,~~ been abused

or neglected and who 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~~ any child of a family has been returned to a person named in the petition, a period of supervision by the court of not less than twelve (12) months shall occur prior to dismissal by the court, subject to the availability of funds. Supervision by the Department during this period shall be in accordance with rules promulgated by the Department.

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 any person under the age of eighteen (18) years 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;

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, 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;

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 7110 of this 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 11. AMENDATORY Section 10, Chapter 353, O.S.L. 1995, as amended by Section 13, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1996, 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, each district attorney's district shall be responsible for convening a meeting of a coordinated multidisciplinary team, if such a team is not already in existence. <u>If the district attorney's office is unwilling or unable to convene the meeting, the meeting shall be convened by one of the other entities listed in subsection B of this section.</u> 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 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 12. AMENDATORY Section 5, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7205), is amended to read as follows:

Section 7205. A. Except as otherwise provided by this section, no child in the custody of the Department of Human Services or the Department of Juvenile Justice shall be placed with any foster placement unless ~~such~~ the foster placement has a current license or authorization issued pursuant to the Oklahoma Child Care Facilities Licensing Act or meets licensing standards as required by the Oklahoma Child Care Facilities Licensing Act and is otherwise approved for foster care by the state agency for children within its custody.

B. Except as otherwise provided by this section, no person, corporation or other legal entity shall receive a child for foster care or provide foster care services to a child unless such legal entity has a license or meets licensing standards as required by the Oklahoma Child Care Facilities Licensing Act, and is otherwise approved by the state agency for children within its custody.

C. The provisions of this section shall not be construed to prohibit foster placement of children in foster homes licensed or

approved by Indian tribes, pursuant to the terms in Section 40.8 of this title.

SECTION 13. AMENDATORY Section 8, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7208), is amended to read as follows:

Section 7208. A. In making placements in foster care, the Department of Human Services, the Department of Juvenile Justice and any child-placing agency shall, if possible, arrange for a preplacement visit for the child with the persons who will be providing foster care.

B. If a child placed in the custody of a child-placing agency by the court has resided with a foster parent for three (3) or more months:

1. Except in an emergency, the state agency or child-placing agency shall:

a. give a minimum of five (5) days' advance notice to the foster care family before removing a child from their care, and

b. at the time of such notification, provide the foster family with a written statement of the reasons for removing a child; and

2. The foster parent shall be entitled to submit to the court written reports or present testimony concerning the strengths, needs, behavior, important experiences, and relationships of the child, in addition to such other information the court may request.

C. When a child, under the jurisdiction of a court pursuant to the Oklahoma Children's Code, is placed in the custody of the Department of Human Services, or a child, under the jurisdiction of a court pursuant to the Juvenile Justice Code is placed in the custody of the Department of Juvenile Justice, or is placed in the custody of any child-placing agency, the state agency or child-placing agency shall have discretion to determine an appropriate foster placement for the child. Except as provided in this section, the state agency or child-placing agency may remove a child in its custody from a foster placement whenever the state

agency or child-placing agency determines that removal is in the best interests of the deprived child, or the delinquent child or the child in need of supervision, consistent with the state's interest in the protection of the public.

D. 1. In order to promote stability for foster children and limit repeated movement of such children from one foster placement to another, the state agency or child-placing agency, except as otherwise provided by this subsection, shall not change the foster home placement of a child without the approval of the court in the following circumstances:

a. the child has been moved once since the last court hearing, as provided in Section ~~22~~ 7003-5.4a of this ~~act~~ title, ~~and~~ or

b. a foster parent with whom the child has resided for more than one (1) year objects, in writing pursuant to the provisions of this subsection, after notice of the removal of the child by the state agency or the child-placing agency.

2. The objection shall be filed with the court by the foster parent and served on the state agency or child-placing agency within five (5) ~~working~~ days after receipt of the notice from the state agency or child-placing agency regarding removal of the child. The court shall provide for notice to other parties in the case.

3. Timely filing and service of the objection shall stay removal of the child pending review of the court unless the state agency's or child-placing agency's stated reason for removal is:

a. substantial noncompliance by the foster parent with applicable foster family home standards and agreements,

b. pending investigation of allegations of abuse or neglect of the child by a foster parent or other person residing in the foster family home, or

c. reunification with a parent that contributed to the child being deprived, with the prior approval of the court.

4. The court shall conduct a hearing within fifteen (15) working days on any objection filed pursuant to this section. The court may order that the child remain in or be returned to the objecting foster parent's home if the court finds that the Department of Human Services or child-placing agency's decision to remove the child was arbitrary or was inconsistent with the child's treatment and service plan.

SECTION 14. AMENDATORY Section 9, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7209), is amended to read as follows:

Section 7209. A. 1. Except as otherwise provided by law, the Department of Human Services or the Department of Juvenile Justice shall not place a child in out-of-home placement unless a criminal background investigation has been completed as required by the Oklahoma Child Care Facilities Licensing Act.

2. The Department of Human Services, pursuant to Section 7003-5.3 of ~~Title 10 of the Oklahoma Statutes~~ this title, and the Department of Juvenile Justice, pursuant to Section 7303-5.2 of ~~Title 10 of the Oklahoma Statutes~~ this title, shall conduct an assessment of each child in its custody which shall be designed to establish an appropriate treatment and service plan for the child.

B. 1. A child-placing agency may place a child who is in the custody of the agency in out-of-home placement provided a criminal background investigation has been completed for each individual required to be investigated pursuant to the Oklahoma Child Care Facilities Licensing Act.

2. In addition, a satisfactory assessment of the out-of-home placement shall be conducted by the child-placing agency prior to foster placement.

C. 1. Whenever a court awards custody of a child to an individual or a child-placing agency other than the Department of Human Services or the Department of Juvenile Justice, the court shall:

a. require that when custody is placed with an individual, ~~require that~~ a home study and a criminal

history investigation be conducted of the foster parents prior to placement of the child, and

b. require that if custody is awarded to a child-placing agency, ~~require that~~ the home study or placement study and criminal history investigation be conducted as otherwise required by the Oklahoma Child Care Facilities Licensing Act.

2. ~~Within~~ A child-placing agency other than the Department of Human Services or the Office of Juvenile Affairs shall, within thirty (30) days of placement, ~~the court shall~~ provide for an assessment of the child for the purpose of establishing an appropriate treatment and service plan for the child. The court shall require the treatment and service plan to be completed in substantially the same form and with the same content as required by the Oklahoma Children's Code for a deprived child or as required by the Juvenile Justice Code for a delinquent child or a child in need of supervision.

3. The child shall receive a complete medical examination within thirty (30) days of initial placement unless a medical examination was conducted on the child upon the removal of the child and the court finds no need for an additional examination.

4. The child may receive such further diagnosis and evaluation as necessary as determined by the court to preserve the physical and mental well-being of the child.

D. 1. When the court awards custody of a child to an individual or a child-placing agency as provided by this subsection, the individual or child-placing agency shall be responsible for the completion of and costs of the home study, criminal history investigation, preparation of a treatment and service plan, and the medical examination required by this subsection.

2. The Department of Human Services and the Department of Juvenile Justice shall be responsible for the completion of and costs of the home study, criminal history investigation, preparation of a treatment and service plan, and the medical examination required by this subsection only for the children

placed in the custody of the state agency. The state agency may provide for reimbursement of such expenses, costs and charges so incurred pursuant to the Oklahoma Children's Code and the Juvenile Justice Code, as applicable.

E. 1. Upon any voluntary out-of-home placement of a child by a parent into foster care with a child-placing agency, the child-placing agency shall conduct an assessment of the child in its custody which shall be designed to establish an appropriate plan for placement of the child. Following the assessment, the child-placing agency shall establish an individual treatment and service plan for the child. A copy of each plan shall be provided to the child if the child is twelve (12) years of age or older and to the child's parent or guardian. The plan shall at a minimum:

a. be specific,

b. be in writing,

c. be prepared by the agency in conference with the child's parents,

d. state appropriate deadlines,

e. state specific goals for the treatment of the child,

f. describe the conditions or circumstances causing the child to be placed in foster care,

g. describe the services that are necessary to remedy and that have a reasonable expectation of remedying the conditions or circumstances causing the child to be placed in foster care,

h. state to whom the services will be delivered and who will deliver the services, and

i. prescribe the time the services are expected to begin and the time within which expected results can reasonably be accomplished.

2. The child shall receive a complete medical examination within thirty (30) days of placement in foster care.

F. The child may receive such further diagnosis and evaluation as is necessary to preserve the physical and mental well-being of the child.

G. Subsequent to initial placement, the child placed in foster placement shall have a medical examination, at periodic intervals, but not less than once each year.

H. Prior to any proposed counseling, testing or other treatment services, the court or child-placing agency shall first determine that the proposed services are necessary and appropriate.

I. 1. If the assessment and medical examination disclose no physical, mental or emotional reasons for therapeutic foster care, a child voluntarily placed with a child-placing agency shall be placed in a regular foster home. If therapeutic foster care is required, the child may be placed only in foster homes that are certified as therapeutic foster care homes pursuant to the Oklahoma Child Care Facilities Licensing Act.

2. No child shall be eligible for any reimbursement through the state Medicaid program for placement in therapeutic foster care unless such placement has been reviewed and approved pursuant to rules regarding medical necessity for therapeutic foster care placement promulgated by the Oklahoma Health Care Authority Board.

SECTION 15. AMENDATORY 10 O.S. 1991, Section 1211, as last amended by Section 2, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1996, 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 <u>at least twelve (12) hours of</u> training <u>per year</u> pertinent to issues relating to juvenile law ~~and~~<u>,</u> child abuse and neglect ~~and~~<u>,</u> domestic abuse issues <u>and other issues relating to children such as foster care and parental divorce</u>. 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 and other issues relating to children such as foster care and parental divorce. 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 and other issues relating to children such as foster care and parental divorce. 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 and other issues relating to children such as foster care and parental divorce. 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 attorney or retained attorney whose duties routinely include responsibility for a juvenile court docket shall complete education and training courses in juvenile law, child abuse and neglect and other issues relating to children such as foster care and parental divorce. The chief judge of the judicial district for which a court-appointed attorney serves shall be responsible for developing and administering procedures and rules for such courses.

G. 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 and other issues relating to children such as foster care and parental

divorce. 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.~~ H. 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 16. AMENDATORY 10 O.S. 1991, Section 29.1, as amended by Section 21, Chapter 297, O.S.L. 1996 (10 O.S. Supp. 1996, Section 29.1), is amended to read as follows:

Section 29.1 A. Whenever the mother of a child born out of wedlock who has custody of the child executes a relinquishment for the purpose of adoption pursuant to the provisions of Section 28 of this title, the person or agency to whom such relinquishment is made shall file a petition with the district court of the county in which the relinquishment was executed for the termination of the parental rights of the persons entitled to notice pursuant to subsection B of this section unless such rights have been previously terminated or relinquished.

B. Persons entitled to notice, pursuant to this section, shall include:

1. Any person adjudicated by a court in this state to be the father of the child;

2. Any person who is recorded on the child's birth certificate as the child's father;

3. Any person who is openly living with the child and the child's mother at the time the proceeding is initiated or at the time the child was placed in the care of an authorized agency, and who is holding himself out to be the child's father;

4. Any person who has been identified as the child's father by the mother in a sworn statement;

5. Any person who was married to the child's mother within ten (10) months prior or subsequent to the birth of the child; and

6. Any person who has filed with the paternity registry an instrument acknowledging paternity of the child, pursuant to Section 55.1 of this title.

C. The court, as necessary, shall order the Department to provide the person or agency filing the petition with the name and address of any person on the registry established pursuant to Section 55.1 of this title who must be notified pursuant to the provisions of this section.

D. Notice and hearing pursuant to this section shall comply with the provisions of Section 7006-1.2 of this title. The notice shall also apprise such person of his legal rights and shall include a clear statement that failure to appear at the hearing shall constitute a denial of interest in the child which denial may result, without further notice of this proceeding or any subsequent proceeding, in the termination of his parental rights and the transfer of the child's care, custody or guardianship or in the child's adoption.

E. A person may waive their right to notice under this section. The waiver, signed by such person, shall include a statement affirming that the person signing the waiver understands that the waiver shall constitute grounds for the termination of the parental rights of such person pursuant to the provisions of this section and Section 60.6 of this title.

F. 1. At the hearing the court may, if it is in the best interest of the child:

a. accept a relinquishment or consent to adoption executed by the father or putative father of the child, or

b. determine that the consent of the father or putative father to the adoption of the child is not required and may terminate any parental rights which the father or putative father may have, or

c. terminate the parental rights of the father or putative father, pursuant to the provisions of this section or Section ~~1130~~ 7006-1.1 of this title, or

d. grant custody of the child to the father or putative father, if the court determines the person to be the father of the child.

2. The court shall terminate the rights of a father or putative father if he fails to appear at the hearing or has waived notice under this section.

G. No order of the court shall be vacated, annulled, or reversed upon the application of any person who was properly served with notice in accordance with this section but failed to appear or who waived notice pursuant to subsection E of this section.

H. An appeal may be taken from any final order, judgment, or decree rendered pursuant to this section to the Supreme Court by any person aggrieved thereby, in the manner provided for appeals from the court as provided in this subsection.

1. All appeals of cases concerning the relinquishment of a child or the termination of parental rights pursuant to this section shall be initiated by filing a petition in error in the Supreme Court within thirty (30) days of the filing of the order, judgment, or decree appealed from. The record on appeal shall be completed within thirty (30) days from the filing of the petition in error. Any response to the petition in error shall be filed within twenty (20) days from the filing of the petition in error.

2. The briefing schedule is established as follows:

a. appellant's brief in chief shall be filed twenty (20) days after the trial court clerk notifies all parties that the record is complete and such notice has been filed in the office of the Clerk of the Supreme Court,

b. appellee's answer brief shall be filed fifteen (15) days after the appellant's brief in chief is filed, and

c. appellant's reply brief may be filed within ten (10) days after the appellee's answer brief is filed.

I. Any appeal when docketed shall have priority over all cases pending on said docket. Adjudication of the appeals and in any other proceedings concerning the relinquishment of the child or the termination of parental rights pursuant to this section shall be expedited by the Supreme Court.

SECTION 17. AMENDATORY 10 O.S. 1991, Section 60.6, as amended by Section 2, Chapter 253, O.S.L. 1993 (10 O.S. Supp. 1996, Section 60.6), is amended to read as follows:

Section 60.6 A child under eighteen (18) years of age cannot be adopted without the consent of its parents, if living, except that consent is not required from:

1. A parent whose parental rights have been terminated pursuant to the provisions of Sections ~~1130, 1131~~ 7006-1.1, 7006-1.2, or 29.1 of this title; or

2. A parent who, for a period of twelve (12) months immediately preceding the filing of a petition for adoption of a child, has willfully failed, refused, or neglected to contribute to the support of such child:

a. in substantial compliance with a support provision contained in a decree of divorce, or a decree of separate maintenance or an order adjudicating responsibility to support in a reciprocal enforcement of support proceeding, paternity action, juvenile proceeding, guardianship proceeding, or orders of modification to such decree, or other lawful orders of support entered by a court of competent jurisdiction adjudicating the duty, amount, and manner of support, or

b. according to such parent's financial ability to contribute to such child's support if no provision for support is provided in a decree of divorce or an order of modification subsequent thereto; or and where any of the above conditions exist it shall not be necessary to terminate parental rights under Section ~~1130~~ 7006-1.1 of this title prior to the adoption of said child. Provided that any decree of adoption heretofore entered by any court of appropriate jurisdiction within the State of Oklahoma wherein termination of parental rights, as prescribed in Section ~~1130~~ 7006-1.1 of this title, was not obtained shall not be invalid on the ground

that such termination of parental rights was not obtained.

The incarceration of a parent shall not prevent termination of parental rights under this section; or

3. The father or putative father of a child born out of wedlock if:

a. prior to the hearing provided for in Section 29.1 of this title, and having actual knowledge of the birth or impending birth of the child believed to be his child, he fails to acknowledge paternity of the child or to take any action to legally establish his claim to paternity of the child or to exercise parental rights or duties over the child, including failure to contribute to the support of the mother of the child to the extent of his financial ability during her term of pregnancy, or

b. at the hearing provided for in Section 29.1 of this title:

(1) he fails to prove that he is the father of the child, or

(2) having established paternity, he fails to prove that he has exercised parental rights and duties toward the child unless he proves that prior to the receipt of notice he had been specifically denied knowledge of the child or denied the opportunity to exercise parental rights and duties toward the child. As used in this subparagraph, specific denial of knowledge of the child or denial of the opportunity to exercise parental rights and duties toward the child shall not include those instances where the father or putative father fails to prove to the satisfaction of the court that he made a sufficient attempt to discover if he had fathered the child or to exercise parental

rights and duties toward the child prior to the receipt of notice, or

c. he waives in writing his right to notice of the hearing provided for in Section 29.1 of this title, or

d. he fails to appear at the hearing provided for in Section 29.1 of this title if all notice requirements continued in or pursuant to Section ~~1131~~ 7006-1.2 of this title have been met.

A determination that the consent of the father or putative father of a child born out of wedlock to the adoption of the child is not required shall not, by itself, act to relieve such father or putative father of his obligation to provide for the support of the child as otherwise required by law; or

4. A parent who is entitled to custody of a child and has abandoned the child; or

5. A parent of a child who is deprived, as defined by Section ~~1101~~ 7001-1.3 of this title, if:

a. such condition is caused by or contributed to by acts or omissions of his parent, and

b. the parent has failed to show that the condition which led to the making of said finding has ~~not~~ been corrected although the parent has been given three (3) months to correct the condition; provided, that the parent shall be given notice of any hearing to determine if the condition has been corrected. The court may extend the time in which such parent may show the condition has been corrected, if, in the judgment of the court, such extension of time would be in the best interest of the child. During the period that the parent has to correct the condition the court may return the child to the custody of its parent or guardian, subject to any conditions which it may wish to impose or the court may place the child with an individual or an agency; or

6. A parent who has been convicted in a criminal action pursuant to the provisions of Sections ~~843, 845,~~ 7102 and 7115 of this title and Sections 1021.3, 1111 and 1123 of Title 21 of the Oklahoma Statutes or who has either:

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

b. physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse subsequent to a previous finding that such parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse; or

7. A parent who has been convicted in a criminal action of having caused the death of a sibling of the child as a result of the physical or sexual abuse or chronic neglect of such sibling; or

8. A parent of a child who is deprived, as defined by Section ~~1101~~ 7001-1.3 of this title, if:

a. the parent has been sentenced to a period of incarceration of not less than ten (10) years, and

b. the continuation of parental rights would result in harm to the child based on consideration of the following factors, among others: the duration of incarceration and its detrimental effect on the parent/child relationship; any previous incarcerations; any history of criminal behavior, including crimes against children; the age of the child; the evidence of abuse or neglect of the child or siblings of the child by the parent; and the

current relationship between the parent and the child and the manner in which the parent has exercised parental rights and duties in the past; or

9. A parent of a child who is deprived, as defined by Section ~~1101~~ 7001-1.3 of this title, if:

a. the parent has a mental illness or mental deficiency, as defined by paragraphs f and g of Article II of Section 6-201 of Title 43A of the Oklahoma Statutes, which renders the parent incapable of adequately and appropriately exercising parental rights, duties and responsibilities, and

b. the continuation of parental rights would result in harm or threatened harm to the child, and

c. the mental illness or mental deficiency of the parent is such that it will not respond to treatment, therapy or medication and, based upon competent medical opinion, the condition will not substantially improve.

SECTION 18. AMENDATORY 10 O.S. 1991, Section 60.7, is amended to read as follows:

Section 60.7 A. Prior to a court hearing on a petition for adoption without the consent of a parent or parents, as provided for in Section 60.6 of this title, the consenting parent, legal guardian, or person having legal custody of the child to be adopted shall file an application stating the reason that the consent of the other parent or parents is not necessary. The application shall be heard by the court and an order entered thereon in which said child is determined to be eligible for adoption pursuant to the provisions of Section 60.6 of this title.

B. Prior to a hearing on the application, notice shall be given the parent whose consent is alleged to be unnecessary. The notice of the application shall contain the name of each child for whom application for adoption is made, the date for hearing on the application, and the reason that said child is eligible for adoption without the consent of said parent. Notice shall be served upon said parent in the same manner as a summons is served

in civil cases, not less than ten (10) days prior to the hearing. If said parent resides outside of the county, said notice shall be served upon said parent in the same manner as a summons is served in civil cases, not less than fifteen (15) days prior to the hearing. If the location of said parent is not known and this fact is attested to by affidavit of the consenting parent, legal guardian, or person having legal custody of the child, notice by publication shall be given by publishing notice one time in a newspaper qualified as a legal newspaper, pursuant to the laws relating to service of notice by publication, in the county where the petition for adoption is filed. The publication shall not be less than fifteen (15) days prior to the date of the hearing.

C. The provisions of this section shall not be construed to require notice to a parent whose parental rights have been previously terminated pursuant to ~~Sections 1130, 1131~~ Section 7006-1.1, 7006-1.2 or 29.1 of this title.

SECTION 19. 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~~ Section 7003-3.1 et seq. of this title 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, 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 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~~ Section 7003-2.1 et seq. of this title;

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 20. AMENDATORY 10 O.S. 1991, Section 1125.2, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 18, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1996, 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~~ Section 7003-5.1 et seq. of this title, 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~~ A of Section ~~846~~ 7112 of ~~Title 21 of the Oklahoma Statutes~~ this title. 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;

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;

14. Any member of the Legislature approved by the Speaker of the House of Representatives or the President Pro Tempore of the Senate; 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 participating agencies.

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 21. AMENDATORY Section 4, Chapter 298, O.S.L. 1992, as amended by Section 5, Chapter 254, O.S.L. 1995 (43A O.S. Supp. 1996, Section 5-504), is amended to read as follows:

Section 5-504. A. Upon the filing of a petition alleging that a child is a child in need of mental health treatment and requires inpatient mental health treatment, or upon the assumption of protective or emergency custody of an alleged deprived child pursuant to the provisions of Section ~~1107~~ 7003-2.1 of Title 10 of the Oklahoma Statutes, or when a child is the ward of the court, the judge of the district court having juvenile docket responsibility shall have jurisdiction of any child who is or is alleged to be in need of mental health treatment and of the parent or legal custodian of said child, regardless of where the parent or legal custodian is found. When jurisdiction has been obtained over a child who is or is alleged to be in need of mental health treatment, such jurisdiction may be retained until the child is discharged from mental health treatment ordered by the court. For the convenience of the parties and in the interest of justice, a proceeding under the Inpatient Mental Health Treatment of Children Act may be transferred to the district court in any other county.

1. The venue for legal proceedings pursuant to the Inpatient Mental Health Treatment of Children Act shall be:

a. the county where the child resides,

b. when the child is in the custody of a public or private child care agency, the county in which the child resides at the time legal proceedings are initiated, or

c. the county of original jurisdiction.

2. The district court in which a petition is filed or the district court in which custody has been assumed pursuant to the provisions of Section ~~1107~~ 7003-2.1 of Title 10 of the Oklahoma Statutes may retain jurisdiction of a child in need of mental health treatment in such proceeding even if the child is subject to the jurisdiction of another district court within the state. Any orders made by the court in which said petition is filed shall control over prior orders in regard to the child.

3. The district court in which a petition is filed which alleges that a child is in need of mental health treatment may issue any temporary order or grant any interlocutory relief authorized by the Inpatient Mental Health Treatment of Children Act even if another district court within the state has jurisdiction of the child or has jurisdiction to determine the custody or support of the child.

4. If the district court in which a petition is filed pursuant to either ~~paragraphs~~ paragraph 2 or 3 of this subsection 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 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.

B. Unless otherwise specifically provided by the Inpatient Mental Health Treatment of Children Act and Title 43A of the Oklahoma Statutes, the rules of civil procedure shall apply to all legal proceedings pursuant to the Inpatient Mental Health Treatment of Children Act.

SECTION 22. AMENDATORY Section 7, Chapter 298, O.S.L. 1992, as last amended by Section 6, Chapter 254, O.S.L. 1995 (43A O.S. Supp. 1996, Section 5-507), is amended to read as follows:

Section 5-507. A. No child who is taken into protective or emergency custody pursuant to Section ~~1107~~ 7003-2.1 of Title 10 of the Oklahoma Statutes or an alleged deprived child, or who is a ward of the court shall be admitted to a hospital or mental health facility:

1. On an emergency psychiatric basis except as provided by subsection C of this section;

2. For an inpatient mental health evaluation except as provided by subsection D of this section; or

3. For inpatient mental health care and treatment except upon a commitment order of the court after a finding that the child requires such services as provided by Section 5-512 of this title.

B. 1. Whenever a child is taken into protective custody as provided by Section ~~1107~~ 7003-2.1 of Title 10 of the Oklahoma Statutes and is believed to be a child in need of mental health treatment, the child shall be taken to a shelter, hospital, foster home or other appropriate place as designated by the court, or the child shall be taken immediately before a judge of the district court for the purpose of obtaining an order for protective custody. When a child has been taken into protective custody as a child in need of mental health treatment without a court order, the peace officer or employee of the court taking the child into protective custody shall immediately report the fact of the detention of the child to a judge of the district court in the county in which the child was taken into protective custody. If no judge is available locally, the detention shall be reported immediately to the presiding judge of the judicial administrative district, or if the presiding judge of the judicial administrative district cannot be reached, then to any judge regularly serving within the judicial administrative district.

2. The parent or legal guardian of the child shall be given immediate notice of the protective custody of the child whenever possible and prior adequate notice of any hearing pursuant to this

subsection. Within the next two (2) judicial days following the taking of the child into protective custody, and thereafter at such intervals as may be determined by the court, the court shall conduct a hearing to determine whether the child should remain in protective custody or be released to the parent, guardian, legal custodian or another responsible person pending further proceedings pursuant to the Inpatient Mental Health Treatment of Children Act.

3. The court may release a child alleged to be in need of mental health treatment from protective custody upon such conditions as the court finds reasonably necessary for the protection of the child or others.

C. After a prescreening examination and a determination by a licensed mental health professional that there is reasonable cause to believe that as a result of a demonstrable mental illness there exists an imminent danger that the child will intentionally or unintentionally seriously physically injure himself or another person, a child may be admitted to a hospital or mental health facility on an emergency psychiatric basis. Except upon an order of the court for an inpatient mental health evaluation of the child as provided by subsection D of this section, such emergency psychiatric admission shall be for not more than two (2) days, excluding weekends and legal holidays.

D. After a prescreening mental health evaluation and upon an application by the district attorney, the court may issue an order for a mental health evaluation of a child who is a ward of the court, or who has been taken into protective or emergency custody as otherwise provided by Title 10 of the Oklahoma Statutes, and who appears to be a child in need of mental health treatment. The evaluation shall be made by an independent licensed mental health professional.

1. The court shall order an inpatient mental health evaluation only after a finding that there exists an imminent danger that the child will cause serious physical injury to that child or another person and therefore the mental health evaluation

cannot be conducted on an outpatient basis. Such finding shall be based upon clear and convincing evidence.

2. In all other cases, the court shall order the mental health evaluation of the child to be conducted on an outpatient basis in or near the community in which the child resides at the time of such order.

E. An order committing a child who is a ward of the court for inpatient evaluation shall order the commitment of the child for not more than three (3) days, excluding weekends and holidays.

1. A child admitted pursuant to this section shall be evaluated within forty-eight (48) hours of admission by an independent licensed mental health professional and a report of the evaluation shall be submitted to the district attorney.

2. If after the inpatient evaluation it appears that the child may require inpatient mental health treatment, the district attorney may file a petition with the court requesting an order committing the child to a mental health facility for inpatient mental health treatment. After the filing of a petition and upon an order of the court, the child may be detained in the mental health facility for no longer than necessary for a hearing on the petition and further order of the court.

F. Nothing in this section shall be interpreted to preclude or prohibit:

1. The admission of a child to a hospital for needed medical care and services, other than mental health treatment or examination; or

2. A parent having physical custody of a child who is a ward of the court from arranging for an emergency psychiatric admission of the child. In such cases, the parent shall immediately notify the person responsible for the supervision of the case of said admission.

SECTION 23. AMENDATORY 21 O.S. 1991, Section 701.7, as amended by Section 1, Chapter 161, O.S.L. 1996 (21 O.S. Supp. 1996, Section 701.7), is amended to read as follows:

Section 701.7 A. A person commits murder in the first degree when that person unlawfully and with malice aforethought causes

the death of another human being. Malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.

B. A person also commits the crime of murder in the first degree, regardless of malice, when that person or any other person takes the life of a human being during, or if the death of a human being results from, the commission or attempted commission of murder of another person, shooting or discharge of a firearm or crossbow with intent to kill, forcible rape, robbery with a dangerous weapon, kidnapping, escape from lawful custody, first degree burglary, first degree arson, unlawful distributing or dispensing of controlled dangerous substances, or trafficking in illegal drugs.

C. A person commits murder in the first degree when the death of a child results from the willful or malicious injuring, torturing, maiming or using of unreasonable force by said person or who shall willfully cause, procure or permit any of said acts to be done upon the child pursuant to Section ~~843~~ 7115 of ~~this title~~ Title 10 of the Oklahoma Statutes. It is sufficient for the crime of murder in the first degree that the person either willfully tortured or used unreasonable force upon the child or maliciously injured or maimed the child.

D. A person commits murder in the first degree when that person unlawfully and with malice aforethought solicits another person or persons to cause the death of a human being in furtherance of unlawfully manufacturing, distributing or dispensing controlled dangerous substances, as defined in the Uniform Controlled Dangerous Substances Act, unlawfully possessing with intent to distribute or dispense controlled dangerous substances, or trafficking in illegal drugs.

SECTION 24. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.