

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

3RD CONFERENCE COMMITTEE
SUBSTITUTE FOR ENGROSSED
HOUSE BILL NO. 2905

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Tyler, Voskuhl and Weaver
of the House

and

Williams of the Senate

3RD CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to children; amending 10 O.S. 1991, Section 601.1, as last amended by Section 185, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 601.1), which relates to the Oklahoma Commission on Children and Youth; modifying membership; requiring certain report; amending 10 O.S. 1991, Section 601.9, which relates to the evaluation and review of services to children and youth; modifying contents of the State Plan for Services to Children and Youth; amending 10 O.S. 1991, Section 1150.2, as last amended by Section 1, Chapter 223, O.S.L. 1995 (10 O.S. Supp. 1997, Section 1150.2), which relates to the Child Death Review Board; modifying powers, duties, and responsibilities; defining term; providing civil remedy for disclosure of confidential information; authorizing issuance of subpoena under certain circumstances and providing procedures related thereto; providing for additional court supervision of certain cases; amending 10 O.S. 1991, Section 1116.3, as last amended by Section 4, Chapter 247, O.S.L. 1996 (10 O.S. Supp. 1997, Section 1116.3), which relates to postadjudication review boards; modifying duties; allowing review board member to attend certain court hearings; amending 10 O.S. 1991, Section 1125.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 5, Chapter 350, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7005-1.2), which relates to

children's records; specifying notice period for certain hearings; modifying construction of provisions of title and article of law; 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 20, Chapter 386, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7005-1.3), which relates to juvenile court records; modifying exceptions to confidentiality; amending 10 O.S. 1991, Section 1125.2A, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 9, Chapter 386, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7005-1.4), which relates to Department of Human Services records; modifying exceptions to confidentiality; defining term; amending Section 63, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7005-1.7), which relates to child abuse reporting records; authorizing certain persons and entities to receive information; making certain declarations; amending 21 O.S. 1991, Section 845, as renumbered by Section 20, Chapter 353, O.S.L. 1995, and as last amended by Section 10, Chapter 386, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7102), which relates to child abuse reporting; eliminating certain supervision requirement; modifying which entity is responsible for promulgating certain rules; modifying and adding definitions; amending 21 O.S. 1991, Section 846, as last amended by Section 3, Chapter 353, O.S.L. 1995, and as renumbered by Section 20, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7103), which relates to reporting child abuse; modifying provisions regarding responsibility of individual to report child abuse or neglect; requiring Department of Human Services to conduct investigations and assessments, assure access to services, and assist in the development and coordination of certain programs under certain circumstances; amending Section 6, Chapter 353, O.S.L. 1995, as amended by Section 12, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1997, Section 7106), which relates to response to reports of child abuse and neglect; authorizing assessment for services and initiation of investigation; requiring staff designation under certain circumstances; modifying parameters of certain determinations by the county office or Department; authorizing Department of Human Services to obtain certain records; requiring Department to conduct an assessment and begin an investigation under certain circumstances; requiring identification and provision of certain services; requiring documentation to comply with certain procedures; amending Section 7, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7107), which relates to penalty for releasing confidential child abuse reports; modifying references; amending Section 8, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7108), which relates to procedures to be followed after report of child abuse; requiring certain statements and information be provided; amending Section 9, Chapter 353, O.S.L. 1995, as amended by Section 2, Chapter 212, O.S.L. 1996 (10 O.S. Supp. 1997, Section 7109), which relates to release of information relating to child abuse; modifying type of information to be released to schools, hospitals or physicians; eliminating restriction; amending Section 10, Chapter 353, O.S.L. 1995, as last amended by Section 11, Chapter 386, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7110), which relates to multidisciplinary teams; authorizing teams to enter into agreements and conduct child death

and near death reviews under certain circumstances; requiring certain report; amending Section 11, Chapter 353, O.S.L. 1995, as last amended by Section 126, Chapter 133, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7111), which relates to central registry for child abuse reports; requiring certain information system; deleting obsolete language; requiring maintenance of certain system; modifying term; modifying contents of system; eliminating fine for unauthorized disclosure; amending Section 14, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7114), which relates to assessment of costs in child abuse cases; adding entities to list of persons to whom defendant may be ordered to pay costs; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 601.1, as last amended by Section 185, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 601.1), is amended to read as follows:

Section 601.1 A. There is hereby created the Oklahoma Commission on Children and Youth which shall be composed of ~~sixteen (16)~~ eighteen (18) members. The membership shall include:

1. The Director of the Department of Human Services, the State Commissioner of Health, the Commissioner of the Department of Mental Health and Substance Abuse Services, the State Superintendent of Public Instruction, the Administrator of the Oklahoma Health Care Authority, and the ~~Chairman~~ Chair of the SJR 13 Oversight Committee, ~~or their designees.~~ ~~A designee shall be a person knowledgeable regarding programs and services for children and youth provided by the agency the designee represents and shall have authority to act on the Commission for the designating officer;~~

2. The Executive Director of the Office of Juvenile Affairs ~~or a designee.~~ ~~A designee shall be a person knowledgeable regarding programs and services for children and youth provided by the Office of Juvenile Affairs and shall have authority to act on the Commission for the Executive Director of the Office of Juvenile Affairs;~~

3. ~~Five~~ Six members who shall be appointed by the Governor from a list submitted by the governing board of each of the following organizations:

- a. ~~a statewide association of children's institutions and agencies~~ the Oklahoma Association of Children's Institutions and Agencies,
- b. ~~a two~~ statewide ~~association~~ associations of youth services,
- c. the Oklahoma Bar Association,
- d. the Oklahoma District Attorney's Association, and
- e. a statewide court-appointed Special Advocate Association;

4. One member appointed by the Governor who shall represent one of the metropolitan juvenile bureaus;

5. One member from the public at large, appointed by the Governor;

6. One member, from the public at large, appointed by the Speaker of the House of Representatives;

7. One member, from the public at large, appointed by the President Pro Tempore of the Senate; and

8. One member elected by the Oklahoma Planning and Coordinating Council for Services to Children and Youth as provided by Section 601.8 of this title. ~~Said~~ The elected member shall serve a two-year term and may be reelected.

The appointed members shall have had active experience in services to children and youth, shall serve for a term of two (2) years, and may be reappointed.

B. The Oklahoma Commission on Children and Youth shall provide a monthly report on commission member attendance to the appointing authorities.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 601.9, is amended to read as follows:

Section 601.9 The Oklahoma Commission on Children and Youth shall, with the assistance of the Oklahoma Planning and Coordinating Council for Services to Children and Youth, evaluate and review the development and quality of services to children and youth and shall:

1. Publish and distribute an annual report of its findings on or before January 1 of each year to the Governor, the Speaker of

the House of Representatives, the President Pro Tempore of the Senate, the Chief Justice of the Supreme Court of the State of Oklahoma, and to the chief administrative officer of each agency affected by the report. Such report shall include activities of the Commission, recommendations for the further development and improvement of services to children and youth, and budget and program needs; and

2. Beginning July 1, 1991, and on or before July 1 of each year thereafter, the Commission shall publish a State Plan for Services to Children and Youth for the next succeeding fiscal year. The State Plan for Services to Children and Youth shall:

- a. identify and establish goals and priorities for services for children and youth, and the estimated costs of implementing ~~said~~ such goals and priorities,
- b. show previous and current expenditures for state and state-supported services to children and youth,
- c. include information concerning the availability and accessibility of community-based programs that work to reduce the potential for abuse and neglect in at-risk families and establish a plan for developing preventive and intervention-related programs in areas of the state where the need for such services exists,
- d. include such other information or recommendations as may be necessary and appropriate for the improvement and coordinated development of the children and youth service system, and
- ~~d.~~ e. be distributed as provided by paragraph 1 of this section and shall be made available to the general public.

SECTION 3. AMENDATORY 10 O.S. 1991, Section 1150.2, as last amended by Section 1, Chapter 223, O.S.L. 1995 (10 O.S. Supp. 1997, Section 1150.2), is amended to read as follows:

Section 1150.2 A. There is hereby re-created until July 1, 2000, in accordance with the Oklahoma Sunset Law, Section 3901 et Req. No. 11773Page 5

seq. of Title 74 of the Oklahoma Statutes, the Child Death Review Board within the Oklahoma Commission on Children and Youth. The Board shall have the power and duty to:

1. Conduct case reviews of deaths and near deaths of children in this state;

2. Develop accurate statistical information and identification of deaths of children due to abuse and neglect;

3. Improve the ability to provide protective services to the surviving siblings of a child or children who die of abuse or neglect and who may be living in a dangerous environment; ~~and~~

4. Improve policies, procedures and practices within the agencies that serve children, including the child protection system; and

5. Enter into agreements with multidisciplinary teams established pursuant to Section 7110 of this title to carry out such duties and responsibilities as the Child Death Review Board shall designate, including reviewing cases assigned by the Board in the geographical area for that multidisciplinary team. The Oklahoma Commission on Children and Youth, with the advice of the Child Death Review Board, shall promulgate rules as necessary for the implementation and administration of the provisions of this paragraph.

B. In carrying out its duties and responsibilities the Board shall:

1. Establish criteria for cases involving the death or near death of a child subject to specific, in-depth review by the Board. As used in this section, the term "near death" means a child is in serious or critical condition, as certified by a physician, as a result of abuse or neglect;

2. Conduct a specific case review of those cases where the cause of death or near death is or may be related to abuse or neglect of a child;

3. Establish and maintain statistical information related to the deaths and near deaths of children, including, but not limited to, demographic and medical diagnostic information;

4. Establish procedures for obtaining initial information regarding near deaths of children from the Department of Human Services and law enforcement agencies;

5. Review the policies, practices, and procedures of the child protection system and make specific recommendations to the entities comprising the child protection system for actions necessary for the improvement of the system;

~~5.~~ 6. Review the extent to which the state child protection system is coordinated with foster care and adoption programs and evaluate whether the state is efficiently discharging its child protection responsibilities under the federal Child Abuse Prevention and Treatment Act state plan;

7. As necessary and appropriate, for the protection of the siblings of a child who dies and whose siblings are deemed to be living in a dangerous environment, refer specific cases to the Department of Human Services or the appropriate district attorney for further investigation;

~~6.~~ 8. Request and obtain a copy of all records and reports pertaining to a child whose case is under review including, but not limited to:

- a. the medical examiner's report,
- b. hospital records,
- c. school records,
- d. court records,
- e. prosecutorial records,
- f. local, state, and federal law enforcement records, including, but not limited to, the Oklahoma State Bureau of Investigation (OSBI),
- g. fire department records,
- h. State Department of Health records, including birth certificate records,
- i. medical and dental records,
- j. Department of Mental Health and Substance Abuse Services and other mental health records,
- k. emergency medical service records, and
- l. Department of Human Services' files.

Confidential information provided to the Board shall be maintained by the Board in a confidential manner as otherwise required by state and federal law. Any person damaged by disclosure of such confidential information by the Board, its local boards or their members not authorized by law, may maintain an action for damages, costs and attorney fees;

~~7.~~ 9. Maintain all confidential information, documents and records in possession of the Board ~~shall be~~ as confidential and not subject to subpoena or discovery in any civil or criminal proceedings; provided, however, information, documents and records otherwise available from other sources shall not be exempt from subpoena or discovery through those sources solely because such information, documents and records were presented to or reviewed by the Board;

~~8.~~ 10. Conduct reviews of specific cases of deaths and near deaths of children and request the preparation of additional information and reports as determined to be necessary by the Board including, but not limited to, clinical summaries from treating physicians, chronologies of contact, and second opinion autopsies;

~~9.~~ 11. Report, if recommended by a majority vote of the Board, to the President Pro Tempore of the Senate and the Speaker of the House of Representatives any gross neglect of duty by any state officer or state employee, or any problem within the child protective services system discovered by the Board while performing its duties;

~~10.~~ 12. Recommend, when appropriate, amendment of the cause or manner of death listed on the death certificate; and

13. Subject to the approval of the Oklahoma Commission on Children and Youth, exercise all incidental powers necessary and proper for the implementation and administration of the Child Death Review Board Act, Section 1150 et seq. of this title.

C. The review and discussion of individual cases of death or near death of a child shall be conducted in executive session and in compliance with the confidentiality requirements of Section ~~846~~ 7005-1.2 of ~~Title 21 of the Oklahoma Statutes~~ this title. All other business shall be conducted in accordance with the

provisions of the Oklahoma Open Meeting Act, ~~Section 301 et seq.~~
~~of Title 25 of the Oklahoma Statutes.~~ All discussions of
individual cases and any writings produced by or created for the
Board in the course of its remedial measure and recommended by the
Board as the result of a review of an individual case of the death
or near death of a child, shall be privileged and shall not be
admissible in evidence in any proceeding. The Board shall
periodically conduct meetings to discuss organization and business
matters and any actions or recommendations aimed at improvement of
the child protection system which shall be subject to the Oklahoma
Open Meeting Act. Part of any meeting of the Board may be
specifically designated as a business meeting of the Board subject
to the Oklahoma Open Meeting Act.

D. 1. The Board shall submit an annual statistical report on
the incidence and causes of death and near death of children in
this state for which the Board has completed its review during the
past calendar year ~~and submit a copy of this report,~~ including its
recommendations, to ~~the Governor,~~ the Oklahoma Commission on
Children and Youth, ~~the President Pro Tempore of the Senate and~~
~~the Speaker of the House of Representatives~~ on or before ~~January~~
~~31~~ May 1 of each year. The Board shall also prepare and make
available to the public, on an annual basis, a report containing a
summary of the activities of the Board relating to the review of
deaths and near deaths of children, the extent to which the state
child protection system is coordinated with foster care and
adoption programs, and an evaluation of whether the state is
efficiently discharging its child protection responsibilities.
The report shall be completed no later than December 31 of each
year.

2. The Oklahoma Commission on Children and Youth shall review
the report of the Board and, as appropriate, incorporate the
findings and recommendations into the annual Commission report and
the State Plan for Services to Children and Youth.

SECTION 4. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1150.2a of Title 10, unless
there is created a duplication in numbering, reads as follows:

A. In any investigation relating to the functions of the Child Death Review Board pursuant to Section 1150.2 of Title 10 of the Oklahoma Statutes, the Director of the Oklahoma Commission on Children and Youth, if recommended and approved by the Child Death Review Board and the legal counsel for the Governor, may require the production of, by subpoena, any records, including books, papers, documents, and other tangible things which constitute or contain evidence which the Board finds relevant or material to the investigation, if the Board has been unable to obtain the necessary information by requesting it. The production of records may be required from any place in the state to be forwarded to the Child Death Review Board. Reasonable copying fees shall be paid upon request.

B. Compliance with the subpoena may be accomplished by:

1. Producing documents, as requested; or
2. Notifying the Board, in writing, of refusal to produce documents, within ten (10) days of the date of service.

The subpoena form shall clearly set forth the optional means of compliance including instructions for sending written notice of refusal.

C. A subpoena issued pursuant to this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to the person. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

D. In the case of refusal to obey a subpoena issued to any person, the Director of the Oklahoma Commission on Children and Youth may invoke the aid of any district court of the state within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such

person conducts business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Director to produce records, if so ordered. Any failure to obey the order of the court may be punished by the court as an indirect contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

E. The district court of the county wherein the subpoena is served may quash a subpoena issued pursuant to this section upon a motion to quash the subpoena filed with the court by the party to whom the subpoena is issued.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7003-5.5a of Title 10, unless there is created a duplication in numbering, reads as follows:

Once any child of a family has been returned to a person named in a 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 of Human Services during this period shall be in accordance with rules promulgated by the Commission for Human Services.

SECTION 6. AMENDATORY 10 O.S. 1991, Section 1116.3, as last amended by Section 4, Chapter 247, O.S.L. 1996 (10 O.S. Supp. 1997, Section 1116.3), is amended to read as follows:

Section 1116.3 A. ~~Review~~ Postadjudication review boards shall function in an advisory capacity to the district court and, in accordance with the provisions of subsection C of this section, the district planning and coordination boards for services to children and youth of the Oklahoma Commission on Children and Youth.

The duties of a review board shall be to:

1. Review the case of every adjudicated deprived child at least once every six (6) months and submit to the court within ten (10) days of any review hearing its findings and recommendations~~+~~.

a. ~~such~~ Such review shall include, but not be limited to, consideration and evaluation of:

- (1) the appropriateness of the goals and objectives of the treatment and service plan, and
- (2) the appropriateness of the services provided to the child, and to the parent, stepparent, or other adult living in the home of the child, or legal guardian, or custodian~~+~~.

- b. ~~reviews~~ Reviews of cases and reports to the court shall be scheduled to ensure that the court receives the findings and recommendations of the review board prior to each regularly scheduled six-month review of the case by the court;

2. Review the case of every child alleged to be deprived and held in an out-of-home placement, other than a juvenile detention center, on a preadjudicatory or predisposition custody order for more than ninety (90) days. ~~Said~~ Such cases shall be reviewed by a review board not more than forty-five (45) days after the expiration of the ninety days. Such review shall include, but not be limited to, consideration and evaluation of:

- a. whether the continued out-of-home placement is in the best interests of the child in light of the child's need for permanency and recognizing that permanency is in the best interests of the child,
- b. the appropriateness of the continued out-of-home placement, and
- c. in the absence of a court-ordered treatment and service plan, the appropriateness of the services provided to the child and any family members or other adult living in the home of the child;

3. If ~~ordered~~ approved by the court, review the case of any juvenile ~~alleged to be~~ adjudicated delinquent or in need of supervision ~~held in an out-of-home placement, other than a juvenile detention center, on a preadjudicatory or predisposition custody order for more than ninety (90) days. Said cases shall be reviewed by a review board not more than forty-five (45) days after the expiration of the ninety (90) days.~~ Such review shall include, but not be limited to, consideration and evaluation of:

- a. the appropriateness of the ~~continued out-of-home~~ placement, ~~and~~
- b. ~~in the absence of a court-ordered treatment and service plan,~~ the appropriateness of the services provided to the child and any family members or other adult living in the home of the child, and
- c. the appropriateness of the goals and objectives of the treatment and service plan; and

4. Forward copies of the findings and recommendations of the review board to the court having jurisdiction of the case, the parent, legal guardian, attorney representing the child, custodian of the child, agency supervising the case or legal custodian of the child and to any other interested party as determined by the court. It shall be the duty of the court clerk to ensure that all documents filed pertaining to the case of an adjudicated child are properly noted and affixed in the file of the child prior to the commencement of the review process by the review board ~~and the~~. The bailiff or bailiffs of the judges having juvenile docket responsibility within the district shall transmit the information necessary for the case reviews to the review board for that district.

B. The review board's report of its findings and recommendations shall be admitted into evidence in any dispositional hearing, and may be relied upon to the extent of its probative value, even though not competent for purposes of an adjudicatory hearing.

C. In addition to its reviewing function, a review board, as directed by the Oklahoma Commission on Children and Youth and in coordination with the district planning and coordination boards shall:

1. Promote and encourage all child placement agencies to maximize family stability and continuity for a child by discouraging unnecessary changes in placement and by recruiting persons to provide placement who may be suitable and willing to adopt;

2. Review the efforts of agencies and institutions to find permanent placement for eligible children and report to the court;

3. Encourage a meeting between the various responsible public and private agencies, institutions, and officers of the court in order to facilitate cooperation and coordination of efforts; and

4. Assess community resources, and develop, if not already available, a directory of responsible persons, agencies, and institutions.

D. A review board may solicit the attendance at its meetings of persons known to the board with information concerning the case of any child subject to its review. However, no employee of the Office of Juvenile Affairs shall be required to attend a review board meeting.

E. A review board shall report annually its findings, recommendations, and assessments of the effectiveness of sections of law pertaining to individual treatment plans, information to accompany deprived children placed outside the home, and dispositional orders and Sections 1116.2 through 1116.6 of this title to the Administrator of the Courts, the Supreme Court, to the court having jurisdiction of the case, to the State Postadjudication Review Advisory Board, and the Oklahoma Commission on Children and Youth and provide such other reports as deemed proper or that may be requested from time to time by the Oklahoma Commission on Children and Youth, the Governor, the Legislature, or the Supreme Court.

F. It shall be the duty of the court having jurisdiction of the case to acknowledge the receipt of the recommendations of the review board and note to the review board the actions of the court regarding the recommendations submitted by the review board.

G. A review board member may attend any court hearing concerning the case of any child subject to review by the board.

SECTION 7. AMENDATORY 10 O.S. 1991, Section 1125.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 5, Chapter 350, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7005-1.2), is amended to read as follows:

Section 7005-1.2 A. Except as provided by this section and except as otherwise specifically provided by state and federal laws, the following records are confidential and shall not be open to the general public or inspected or their contents disclosed:

1. Juvenile court records;
2. Agency records;
3. District attorney's records;
4. Law enforcement records;
5. Nondirectory education records; and
6. Social records.

B. The limitation of subsection A of this section shall not apply to statistical information and other abstract information obtained pursuant to the provisions of ~~this~~ the Oklahoma Children's Code.

C. Except as authorized by Section 620.6 of this title and this article and except as otherwise specifically provided by state and federal laws pertaining to the confidentiality of records and information and the inspection, release, disclosure, correction or expungement of such information, including, but not limited to, state and federal laws pertaining to education records, medical records, drug or alcohol treatment records, law enforcement, or social service records, the records listed in subsection A of this section shall be confidential and shall be inspected, released, disclosed, corrected or expunged only pursuant to an order of the court. Except as otherwise provided in Section 601.6 of this title, no subpoena or subpoena duces tecum purporting to compel disclosure of such information or record shall be valid.

D. An order of the court authorizing the inspection, release, disclosure, correction or expungement of confidential records shall be entered by the court only after a review of the records by the court and a determination by the court, with due regard for the confidentiality of the records and the privacy of persons identified in the records, that a compelling reason exists and such inspection, release or disclosure is necessary for the protection of a legitimate public or private interest.

1. Except for district attorney's records, any order authorizing the disclosure, release or inspection of ~~said~~ such records pursuant to this subsection may be conditioned on such terms and restrictions as the court deems necessary and appropriate.

2. Upon the filing of a petition for an order of the court pursuant to this section, the court shall set a date for a hearing and shall provide ~~for reasonable~~ three (3) judicial days' notice to the agency holding the records and the person who is the subject of the record if ~~said~~ such person is eighteen (18) years of age or older or to the parents of a child less than ~~age~~ eighteen (18) years of age who is the subject of the record, to the attorneys, if any, of such person, child or parents and any other interested party as ordered by the court. The hearing may be closed at the court's discretion.

E. Any agency or person may seek an order from the juvenile court prohibiting the release of information subject to disclosure without an order of the court pursuant to Section 620.6 of this title and this article. The court may, for good cause shown, prohibit the release of such information or authorize release of the information upon such conditions as the court deems necessary and appropriate.

F. The court may authorize a designated person to review juvenile court confidential reports and records and collect statistical information and other abstract information for research purposes. Such authorization shall be in writing and state specifically the type of information which may be reviewed.

Each person granted permission to inspect confidential reports and records for research purposes shall present a notarized statement to the court stating that the names of children, parents and such other persons required by the court to be confidential will remain confidential.

G. Nothing in Section 620.6 of this title and this article shall be construed as:

1. Authorizing the inspection of records or the disclosure of information contained in records relating to the provision of

benefits or services funded, in whole or in part, with federal funds, except in accord with federal statutes and regulations governing the receipt or use of such funds;

2. Authorizing the disclosure of papers, records, books or other information relating to the adoption of a child required to be kept confidential. The disclosure of such information shall be governed by the provisions of the Oklahoma Adoption Act;

3. Abrogating any privilege, including the attorney-client privilege, or affecting any limitation on such privilege found in any other statutes;

4. Limiting or otherwise affecting access of parties to a deprived proceeding to records filed with or submitted to the court;

5. Limiting or otherwise affecting access of agencies to information subject to disclosure, review, or inspection by contract or as a condition for the receipt of public funds or participation in any program administered by the agency; ~~and~~

6. Prohibiting the Department of Human Services from summarizing the outcome of an investigation to the person who reported a known or suspected instance of child abuse or neglect or to any person providing services to a child who is or is alleged to be a victim of child abuse;

7. Authorizing the disclosure of the identity or location information of any person who has reported an allegation of known or suspected child abuse or neglect unless such disclosure is specifically ordered by the court; or

8. Prohibiting the Department of Human Services from providing a summary of allegations and findings of an investigation involving a child care facility that does not disclose identities but that permits parents to evaluate the facility.

H. The confidential records listed in subsection A of this section may be inspected and their contents disclosed without a court order to a school district in which the child who is the subject of the record is currently enrolled. The inspection of records and disclosure authorized by this subsection may be

limited to summaries or to information directly necessary for the purpose of such inspection or disclosure. Upon request by the school district, the agency in possession of the records shall provide the requested information to the school district. Any records disclosed as provided by this subsection shall remain confidential. The use of any information shall be limited to the purposes for which disclosure is authorized.

SECTION 8. 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 20, Chapter 386, O.S.L. 1997 (10 O.S. Supp. 1997, 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 the provisions of Section 7003-5.1 et seq. 1116.2 of this title, the 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 that~~ includes, but is 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, including the attorney representing a child pursuant to the provisions of subsection C of Section 7002-1.2 of this title or representing a child pursuant to the provisions of subsection A of Section 7112 of this title. ~~Said~~ Such 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~~ such 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 provisions of 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. Persons authorized by and in the manner provided in the Oklahoma Child Abuse Reporting and Prevention Act; and

16. 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 9. AMENDATORY 10 O.S. 1991, Section 1125.2A, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 9, Chapter 386, O.S.L. 1997 (10 O.S. Supp. 1997, 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. Any district court which has ordered a home study by the Department in an action for divorce, annulment, custody of a child, or appointment of a guardian of a child, or any subsequent proceeding in such actions; provided, however, the Department may limit disclosure in the home study to summaries or to information directly related to the purpose of such disclosure;

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 or upon their request in their official capacity as advisor to a grand jury proceeding;

~~3.~~ 4. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of this title including the attorney representing a child pursuant to the provisions of

subsection C of Section 7002-1.2 of this title or representing a child pursuant to the laws relating to child abuse and neglect. ~~Said~~ Such 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.~~ 5. Employees of juvenile bureaus in the course of their official duties;

~~5.~~ 6. 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.~~ 7. The Oklahoma Commission on Children and Youth as provided by Sections 601.2 and 601.6 of this title;

~~7.~~ 8. The Office of Juvenile Affairs;

~~8.~~ 9. Persons and agencies authorized by Section 7005-1.7 of this title;

~~9.~~ 10. 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.~~ 11. A physician who has before him or her 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, legal guardian, foster parent, custodian or other family members;

~~11.~~ 12. 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.~~ 13. 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.~~ 14. 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.~~ 15. 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.~~ 16. Persons authorized by and in the manner provided in the Oklahoma Child Abuse Prevention and Reporting Act;

17. 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.~~ 18. 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.~~ 19. The Oklahoma Health Care Authority;

~~18.~~ 20. Any member of the Legislature approved by the Speaker of the House of Representatives or the President Pro Tempore of the Senate; ~~and~~

~~19.~~ 21. 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; and

22. Employees of the Department of Corrections in the performance of their official duties concerning presentence investigations or supervision of a parent of an alleged or adjudicated deprived child or the legal guardian, custodian or any other adult member of the child's home who is responsible for the care of the child.

B. In accordance with the rules adopted for such purpose pursuant to the provisions of 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. 1. In cases involving the death or near 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 or near 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 or near death of the child and any

other investigations concerning that child, or other children living in the same household.

2. 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~~ a. 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~~ b. confirmation as to whether previous reports have been made and the dates thereof, a summary of those previous reports, 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~~;~~ and
- ~~3. The~~ c. the dates of any judicial proceedings prior to the child's death or near death, a summary of each participant's recommendations made at the judicial proceedings, and the rulings of the court.

3. 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.

F. For purposes of this section, the term "near death" means the child is in serious or critical condition, as certified by a physician, as a result of abuse or neglect.

SECTION 10. AMENDATORY Section 63, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7005-1.7), is amended to read as follows:

Section 7005-1.7 ~~When rules pertaining~~ A. Pursuant to the provisions of the federal Child Abuse Prevention and Treatment Act which ~~provide~~ provides for expanded disclosure and sharing of records and reports with persons and entities who have a reason for the records and reports to protect children from child abuse and neglect are promulgated by the Administration of Children, Youth and Families of the federal Department of Health and Human Services, the Oklahoma Commission for Human Services shall promulgate emergency and permanent rules which will provide for disclosure of all relevant information to any federal, state or local governmental entity, or any agent of such entity, with a predetermined need for such information persons and entities authorized by this article, the Child Abuse Reporting and Prevention Act, the Oklahoma Foster Care and Out-of-Home Placement Act, and any other person or entity specifically authorized by law in order to carry out ~~its~~ their responsibilities under law to provide services to children and to protect children from abuse and neglect. Rules shall provide for the disclosure of all relevant information concerning reports of child abuse and neglect to the persons or entities authorized by law to receive such information.

B. The State of Oklahoma declares that the receipt of confidential information by persons authorized to receive confidential information relating to children, pursuant to the provisions of subsection A of this section, is essential to the responsibility of the state to care for and protect its children.

SECTION 11. AMENDATORY 21 O.S. 1991, Section 845, as renumbered by Section 20, Chapter 353, O.S.L. 1995, and as last amended by Section 10, Chapter 386, O.S.L. 1997 (10 O.S. Supp. 1997, 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 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 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~~ responding to a report of child abuse ~~and or~~ 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~~ and 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~~ safety by a person responsible for the child's health or ~~welfare~~ safety including sexual abuse and sexual exploitation;

2. "Harm or threatened harm to a child's health or ~~welfare~~ safety" includes, but is not limited to:

a. nonaccidental physical or mental injury~~;~~;

b. sexual abuse~~;~~;

c. 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,~~;

d. neglect, or

e. failure or omission to provide protection from harm or threatened harm;

3. "Neglect" means failure or omission to provide:

a. adequate food, clothing, shelter, medical care, and supervision, or

b. special care made necessary by the physical or mental condition of the child;

4. "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.~~ 5. "Person responsible for a child's health or ~~welfare~~ safety" 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.~~ 6. "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~~ safety;

~~6.~~ 7. "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~~ safety 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~~ safety;

~~7.~~ 8. "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 or neglect cases and who are qualified to facilitate a broad range of interventions and services related to child abuse or neglect;

~~8. "Ruled out"~~ 9. "Assessment" means a systematic process utilized by the Department of Human Services to respond to reports

of alleged child abuse or neglect which, according to priority guidelines established by the Department, do not constitute a serious and immediate threat to the child's health or safety. The assessment includes, but is not limited to, the following elements: an evaluation of the child's safety, a determination of the factors of the alleged abuse or neglect, and a determination regarding the family's need for prevention and intervention-related services;

10. "Investigation" means an approach utilized by the Department to respond to reports of alleged child abuse or neglect which, according to priority guidelines established by the Department, constitute a serious and immediate threat to the child's health or safety. An investigation includes, but is not limited to, the following elements: an evaluation of the child's safety, a determination whether or not child abuse or neglect occurred, and a determination regarding the family's need for prevention and intervention-related services;

11. "Services not needed determination" means a report in 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,~~ after initiating an investigation or assessment, determines that there is no identified risk of abuse or neglect;

~~9.~~ 12. "Services recommended determination" means a report which is determined to be unfounded or for which there is insufficient evidence to fully determine whether child abuse or neglect has occurred, but one in which the Department determines that the child and the child's family could benefit from receiving prevention and intervention-related services;

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

which is of such a nature that the Department recommends prevention and intervention-related services for the parents or persons responsible for the care of the child or children, but for which initial court intervention is not required;

~~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.~~ 14. "Confirmed report - court intervention" means a report which is determined by a child protective services worker, based upon some credible evidence, to constitute child abuse or neglect which is of such a nature that the Department finds that the child's health or safety is threatened;

15. "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.~~ 16. "Department" means the Department of Human Services;
~~and~~

~~13.~~ 17. "Commission" means the Commission for Human Services;
~~and~~

18. "Prevention and intervention-related services" means community-based programs that serve children and families on a voluntary and time-limited basis to help reduce the likelihood or incidence of child abuse and neglect.

SECTION 12. AMENDATORY 21 O.S. 1991, Section 846, as last amended by Section 3, Chapter 353, O.S.L. 1995, and as renumbered by Section 20, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7103), is amended to read as follows:

Section 7103. A. 1. Every:

- a. physician or surgeon, including doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, examining, attending or treating a child under the age of eighteen (18) years,

- b. registered nurse examining, attending or treating such a child in the absence of a physician or surgeon,
- c. teacher of any child under the age of eighteen (18) years, and
- d. other person

having reason to believe that a child under the age of eighteen (18) years ~~has had physical injury or injuries inflicted upon the child by other than accidental means where the injury appears to have been caused as a result of physical abuse, sexual abuse, or neglect~~ is a victim of abuse or neglect, shall report the matter promptly to the county office of the Department of Human Services in the county wherein the suspected ~~injury~~ abuse or neglect occurred. Such reports may be made by telephone, in writing, personally or by any other method prescribed by the Department. Any report of abuse or neglect made pursuant to this section shall be made in good faith.

2. Every physician or surgeon, including doctors of medicine, licensed osteopathic physicians, residents and interns, or any other health care professional attending the birth of a child who appears to be a child born in a condition of dependence on a controlled dangerous substance shall promptly report the matter to the county office of the Department of Human Services in the county in which such birth occurred.

3. No privilege or contract shall relieve any person from the requirement of reporting pursuant to this section.

4. The reporting obligations under this section are individual, and no employer, supervisor or administrator shall impede or inhibit the reporting obligations of any employee or other person. No employer, supervisor or administrator of ~~a~~ any employee or other person required to provide information pursuant to this section shall discharge, or in any manner discriminate or retaliate against, ~~any such~~ the employee or other person who in good faith provides such child abuse reports or information, testifies, or is about to testify in any proceeding involving child abuse or neglect; provided, that ~~such~~ the person did not

perpetrate or inflict such abuse or neglect. Any ~~such~~ employer, supervisor or administrator who discharges, discriminates or retaliates against ~~such~~ the employee or other person shall be liable for damages, costs and attorney fees. Internal procedures to facilitate child abuse or neglect reporting and ~~apprise~~ inform employers, supervisors and administrators of ~~reports reported~~ suspected child abuse or neglect may be established provided that they are not inconsistent with the provisions of this section and that such procedures shall not relieve the employee or such other person from the individual reporting obligations required by this section.

5. Every physician or surgeon making a report of abuse or neglect as required by this subsection or examining a child to determine the likelihood of abuse, ~~sexual abuse,~~ or neglect and every hospital or related institution in which the child was examined or treated shall provide copies of the results of the examination or copies of the examination on which the report was based and any other clinical notes, x-rays, photographs, ~~or~~ and other previous or current records relevant to the case to law enforcement officers conducting a criminal investigation into the case and to employees of the Department of Human Services conducting an investigation of alleged abuse or neglect in the case.

B. If the report is not made in writing in the first instance, it shall be reduced to writing by the Department of Human Services, in accordance with rules promulgated by the Commission for Human Services, as soon as may be after it is initially made by telephone or otherwise and shall contain the following information:

1. The names and addresses of the child and the child's parents or other persons responsible for the child's care;
2. The child's age;
3. The nature and extent of the ~~child's injuries~~ abuse or neglect, including any evidence of previous injuries;
4. The nature and extent of the child's dependence on a controlled dangerous substance; and

5. Any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person or persons responsible therefor if such information or any part thereof is known to the person making the report.

C. Any person who knowingly and willfully fails to promptly report any incident as provided in this section may be reported by the Department of Human Services to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.

D. 1. Any person who knowingly and willfully makes a false report pursuant to the provisions of this section or a report that the person knows lacks factual foundation may be reported by the Department of Human Services to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.

2. If a court determines that an accusation of child abuse or neglect made during a child custody proceeding is false and the person making the accusation knew it to be false at the time the accusation was made, the court may impose a fine, not to exceed Five Thousand Dollars (\$5,000.00) and reasonable attorney fees incurred in recovering the sanctions, against the person making the accusation. The remedy provided by this paragraph is in addition to paragraph 1 of this subsection or to any other remedy provided by law.

E. 1. Nothing in this section shall be construed to mean a child is abused or neglected for the sole reason the parent, legal 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 subsection shall prevent a court from immediately assuming custody of a child, pursuant to the Oklahoma Children's Code, and ordering whatever action may be

necessary, including medical treatment, to protect the child's health or welfare.

F. Nothing contained in this section shall be construed to exempt or prohibit any person from reporting any suspected child abuse or neglect pursuant to subsection A of this section.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7105.1 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Department of Human Services shall seek to promote the safety of children and the integrity and preservation of their families by conducting investigations or assessments on a priority basis in response to reports of child abuse or neglect.

B. The Oklahoma Commission on Children and Youth and the Oklahoma Youth Services Association, in cooperation with the Department of Human Services, shall:

1. Identify community-based prevention and intervention-related services and facilitate access to such services for children and families at risk of future abuse or neglect; and

2. Assist in the development and coordination of community-based programs that work to reduce the potential for abuse and neglect in at-risk families.

SECTION 14. AMENDATORY Section 6, Chapter 353, O.S.L. 1995, as amended by Section 12, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1997, Section 7106), is amended to read as follows:

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

for Human Services. The primary purpose of the investigation or assessment shall be the protection of the child.

2. The Department, when feasible, shall designate certain staff in each county office to only handle reports requiring an investigation and shall designate other staff to conduct assessments in response to reports which do not require an investigation. In county offices of the Department where an Integrated Family Services Program exists, the Department shall utilize such program staff to assist in linking families who have agreed to accept such services with prevention and intervention-related services, and to assist in the development of such services within the community.

3. If an investigation or assessment conducted by the Department of Human Services ~~of~~ in response to any report of child abuse or neglect shows that the incident reported was the result of the reasonable exercise of parental discipline as defined in Section 844 of Title 21 of the Oklahoma Statutes, ~~then~~ the investigation or assessment will proceed no further. If such incident was the result of the reasonable exercise of parental discipline, all records regarding the incident shall be expunged.

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

1. The nature, extent and cause of the abuse or neglect, if applicable;

2. The identity of the person responsible for the abuse or neglect, if applicable;

3. The names and conditions of any other children in the home;

4. An evaluation of the parents or persons responsible for the care of the child;

5. The adequacy of the home environment;

6. The relationship of the child to the parents or persons responsible for the care of the child; ~~and~~

7. Any service needs of the child and the parents or persons responsible for the care of the child and any other children in the home to reduce the potential for abuse and neglect; and

8. All other pertinent data.

C. 1. The investigation or assessment shall include a visit to the child's home, unless there is reason to believe that there is an extreme safety risk to the child or worker or it appears that the referral has been made in bad faith, and shall also include an interview with and examination of the subject child. The interview with and examination of the child may be conducted at any reasonable time and at any place, including, but not limited to, the child's school. It shall be the responsibility of the Department of Human Services to notify the parents of a child who has been interviewed at a school. The investigation or assessment may include an interview with the child's parents or any other person responsible for a child's health or welfare and an interview with and examination of any child in the home.

2. The investigation or assessment may include a medical, psychological, or psychiatric examination of any child in that home. If admission to the home, school, or any place where the child may be located cannot be obtained, then the district court having jurisdiction, upon application by the district attorney and upon cause shown, shall order the parents or ~~the~~ other persons responsible for the health or welfare of the child, or the person in charge of any place where the child may be located, to allow entrance for the interview, the examination and the investigation or assessment. If the parents or ~~person~~ other persons responsible for the child's health or welfare ~~does~~ do not consent to a medical, psychological or psychiatric examination of the child that is requested by the county office or the Department, the district court having jurisdiction, upon application by the district attorney and upon cause shown, shall order the examination to be made at the times and places designated by the court. As necessary in the course of conducting an investigation, the Department may request and obtain, without a court order, copies of the prior medical records of a child including, but not limited to, hospital records and medical and dental records. The physician-patient privilege shall not constitute grounds for failure to produce such records.

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

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

b. A parent or person responsible for the child's health or welfare is entitled to notice and a hearing when the county office or the Department seeks a court order to allow a medical, psychological or psychiatric examination or access to mental health records.

c. Access to mental health records does not constitute a waiver of confidentiality.

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

D. The Department shall conduct an assessment in response to reports initially referred for an investigation, if it is determined that a complete investigation is not required.

E. The Department shall immediately commence an investigation if it is determined, at any time during the assessment process,

that an investigation is warranted as provided for in the priority guidelines established by the Department.

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

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

~~F. 1. Whenever, after a~~ H. The Department shall identify prevention and intervention-related services available in the community and arrange for such services to be provided to the family when an investigation or assessment indicates the family would benefit from such services, or the Department may provide such services directly. The Department shall thoroughly document in the record its attempts to provide, or arrange for the provision of, voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect to the child. If the family continues to refuse voluntary services, and it is determined by the child protective services worker that the child needs to be protected, the Department may initiate an investigation.

I. Except as otherwise provided by the Oklahoma Child Abuse Reporting and Prevention Act, the preliminary inquiry or investigation, ~~the Department of Human Services determines that an alleged abuse or neglect of a child:~~

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

~~the Department shall immediately verbally notify an appropriate local law enforcement agency for the purpose of conducting a~~

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

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

~~3. Whenever, in the course of a criminal investigation related to child abuse or neglect, a law enforcement agency determines that there is cause to believe that the alleged abuse or neglect was perpetrated by a person responsible for the health and welfare of the child or is attributable to failure on the part of a person responsible for the child's health or welfare to provide protection for the child, the law enforcement agency shall immediately contact the county office for the purpose of an investigation by that office. If the notification is verbal, the notification to the county office shall be followed by a written referral of a child abuse or neglect report shall comply with the provisions of Section 7003-1.1 of this title.~~

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

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

SECTION 15. AMENDATORY Section 7, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7107), is amended to read as follows:

Section 7107. A. Except as otherwise provided by the Oklahoma Child Abuse Reporting and Prevention Act, the reports required by Section ~~3~~ 7103 of this ~~act~~ title or any other information acquired pursuant to the Oklahoma Child Abuse Reporting and Prevention Act shall be confidential and may be disclosed only as provided in Section 7111 of this title and the Oklahoma Children's Code.

B. Except as otherwise provided by the Oklahoma Child Abuse Reporting and Prevention Act, any violation of the confidentiality requirements of the Oklahoma Child Abuse Reporting and Prevention Act shall, upon conviction, be a misdemeanor punishable by up to six (6) months in jail ~~or,~~ by a fine of Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

SECTION 16. AMENDATORY Section 8, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7108), is amended to read as follows:

Section 7108. A. As soon as possible after initiating an investigation of a parent or other person having responsibility for the health or ~~welfare~~ safety of ~~a~~ the child pursuant to the Oklahoma Child Abuse Reporting and Prevention Act, the ~~county office~~ child protective services worker shall provide to the parent or person a brief and easily understood ~~summary~~ written description of the investigation process. Such notice shall include:

1. The A statement that the investigation is being undertaken by the Department of Human Services pursuant to the requirements of the Oklahoma Child Abuse Reporting and Prevention Act in response to a report of child abuse or neglect;

2. A statement that the identity of the person who reported the incident of abuse is confidential and may not even be known to the Department since the report could have been made anonymously;

3. A statement that the investigation is required by law to be conducted in order to enable the Department of Human Services to identify incidents of abuse or neglect in order to provide protective or preventive social services to families who are in need of such services;

4. A statement that, upon completion of the investigation, the parent or other person will receive a letter from the Department which will inform such parent or other person:

- a. that the Department has found insufficient evidence of abuse or neglect, or
- b. that there appears to be probable cause to suspect the existence of child abuse or neglect in the judgment of the Department;

5. An explanation of the procedures of the Department of Human Services for conducting an investigation of alleged child abuse or neglect, including:

- a. a description of the circumstances under which the Department would seek to remove the child from the home through the judicial system, and
- b. an explanation that the law requires the Department to refer all reports of alleged criminal child abuse or neglect to a law enforcement agency for a separate determination of whether a criminal violation occurred;

~~2.~~ 6. The procedures to follow if there is a complaint regarding the actions of the Department or to request a review of the findings made by the Department ~~in the investigation~~ during or at the conclusion of the investigation;

~~3.~~ 7. The person's right to review all records filed with the court concerning the investigation, provided the review shall not include the name of the person who filed the report specified in Section ~~3~~ 7103 of this ~~act~~ title, and provided the review would not jeopardize an ongoing criminal investigation or adjudicatory hearing;

~~4.~~ 8. The person's right to seek legal counsel;

~~5.~~ 9. References to the statutory and regulatory provisions governing child abuse and neglect and how the person may obtain copies of those provisions; and

~~6.~~ 10. The process the person may use to acquire access to the child if the child is removed from the home.

B. If the Department determines that a family assessment may be needed, the Department shall, at the time of the initial contact, provide the parent of the child with the following information:

1. The purpose of the contact with the family;

2. The name of the child protective services worker responding and such person's office telephone number; and

3. The assessment process to be followed during the Department's intervention with the family including the possibility that the family may be referred for prevention or intervention-related services and that the family may be expected to participate in such services.

SECTION 17. AMENDATORY Section 9, Chapter 353, O.S.L. 1995, as amended by Section 2, Chapter 212, O.S.L. 1996 (10 O.S. Supp. 1997, Section 7109), is amended to read as follows:

Section 7109. A. The Department of Human Services may provide information to a person or agency that provides professional services such as medical examination of or therapeutic intervention with a victim of abuse ~~and~~ or neglect. This information may include, but is not limited to:

1. The investigative determination; or

2. The services offered and provided.

B. The Department shall forward to any hospital or any physician, including, but not limited to, doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, reporting the ~~physical~~ abuse or ~~sexual abuse~~ neglect of a child pursuant to Section 7103 of this title, information including the investigative determination, the services offered or provided, and such other information deemed necessary by the Department. Such information shall be entered and maintained in the child's medical records.

C. 1. The Department of Human Services shall forward to the school principal of the school in which a child is enrolled making a child abuse report pursuant to Section 7103 of this title a summary of any confirmed report of sexual abuse or severe physical abuse of the Department concerning the child. The summary shall include a brief description of the circumstances of sexual abuse or serious physical abuse, the name of the parent or person responsible for the child's health or welfare, and the name of a Department employee who serves as a contact person regarding the case.

2. The Department shall not release data that would identify the person who made the initial child abuse or neglect report, other than an employee of the Department, or who cooperated in a subsequent investigation unless a court of competent jurisdiction orders release of the information for good cause shown.

3. The school principal shall forward to the receiving school all confirmed reports of sexual abuse and severe physical abuse received from the Department whenever a child transfers from one school district to another, and shall notify the Department of the child's new school, and address, if known.

4. Records maintained and transmitted pursuant to this section shall be confidential and shall be maintained and transmitted in the same manner as Special Education records or other such records, pursuant to Title 70 of the Oklahoma Statutes. Access to such records may be made available by the principal or designee to a person designated to assist in the treatment of or with services provided to the child. Such records shall be destroyed when the student reaches eighteen (18) years of age.

D. The transmission of and access to such records shall not constitute a waiver of confidentiality.

~~E. This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse if the disclosure would be prohibited by any federal law applicable to the reports or records relevant to the reports of child abuse.~~

~~F.~~ It shall be unlawful pursuant to the Oklahoma Child Abuse Reporting and Prevention Act for the Commission for Human Services, or any employee working under the direction of the Department of Human Services, any other public officer or employee, or any court-appointed special advocate to furnish or permit to be taken off of the records any information therein contained for commercial, political or any other unauthorized purpose.

~~G.~~ F. Any person to whom disclosure is made shall not disclose to any other person reports or other information obtained pursuant to this section.

~~H.~~ G. The Department shall submit the summary of confirmed sexual abuse or severe physical abuse of a child on forms developed by the Department. Such forms shall contain a warning that the information contained therein is confidential and may only be released to a person designated by the principal to assist in the treatment of or with services provided to a child.

SECTION 18. AMENDATORY Section 10, Chapter 353, O.S.L. 1995, as last amended by Section 11, Chapter 386, O.S.L. 1997 (10 O.S. Supp. 1997, 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. 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. 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. A multidisciplinary team may enter into an agreement with the Child Death Review Board within the Oklahoma Commission on Children and Youth and, in accordance with rules promulgated by the Oklahoma Commission on Children and Youth, conduct case reviews of deaths and near deaths of children within the geographical area of that multidisciplinary team.

E. Any multidisciplinary team reviewing deaths and near deaths of children shall prepare and make available to the public, on an annual basis, a report containing a summary of the activities of the team relating to the review of the deaths and near deaths of children and a summary of the extent to which the state child protection system is coordinated with foster care and adoption programs and whether the state is efficiently discharging its child protection responsibilities. The report shall be completed no later than December 31 of each year.

F. 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. G.~~ 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 19. AMENDATORY Section 11, Chapter 353, O.S.L. 1995, as last amended by Section 126, Chapter 133, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7111), is amended to read as follows:

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

B. The ~~Child Welfare~~ Division of Children and Family Services of the Department of Human Services shall be responsible for maintaining ~~the registry, which shall be a~~ suitably cross-indexed, system of all ~~such reported findings~~ the reports.

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

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

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

3. The plan for rehabilitative treatment; and

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

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

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

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

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

G. ~~Any No person employed in the central registry who permits shall allow~~ the data and information ~~stored in the registry maintained~~ to be released ~~without authorization to persons or agencies other than those specified by law shall be guilty of a felony. The fine for a violation of this subsection shall not be more than One Thousand Dollars (\$1,000.00) except as authorized by~~ Article V of the Oklahoma Children's Code.

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

SECTION 20. AMENDATORY Section 14, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7114), is amended to read as follows:

Section 7114. A. 1. In addition to any other costs which a court is authorized to require a defendant to pay, upon conviction of any offense involving child abuse or neglect, the court may require that the defendant pay court-appointed attorney fees for the ~~victim~~ child to any local or state agency incurring the cost or any other person or entity providing services to or on behalf of the child, and the cost of any medical examinations conducted on the ~~victim~~ child in order to determine the nature or extent of the abuse or neglect.

2. If the court determines that the defendant has the ability to pay all or part of the ~~medical examination~~ costs, the court may set the amount to be reimbursed and order the defendant to pay that sum to the local or state agency or other person or entity incurring the cost in the manner in which the court believes reasonable and compatible with the defendant's financial ability.

3. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of

any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

B. 1. In addition to any other costs which a court is authorized to require a defendant to pay, upon conviction of any offense involving sexual abuse, the court may require that the defendant pay, to the local or state agency incurring the cost, the cost of any medical examinations conducted on the ~~victim~~ child for the collection and preservation of evidence.

2. If the court determines that the defendant has the ability to pay all or part of the cost of the medical examination, the court may set the amount to be reimbursed and order the defendant to pay that sum to the local or state agency incurring the cost, in the manner in which the court believes reasonable and compatible with the defendant's financial ability.

3. In making the determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

4. In no event shall a court penalize an indigent defendant by imposing an additional period of imprisonment in lieu of payment.

C. 1. The court shall require the defendant to pay, upon conviction of any offense involving the sexual or physical abuse of a child, for the psychological evaluation to determine the extent of counseling necessary for the victim of the abuse and any necessary psychological counseling deemed necessary to rehabilitate the ~~victim~~ child.

2. Such evaluations and counseling may be performed by psychiatrists, psychologists, licensed professional counselors or social workers. The results of the examination shall be included in the court records and in information contained in the central registry.

SECTION 21. This act shall become effective November 1, 1998.

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