

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1224

By: Robinson of the Senate

and

Seikel of the House

COMMITTEE SUBSTITUTE

An Act relating to children; amending 10 O.S. 1991, Sections 404.1, as last amended by Section 20, Chapter 389, O.S.L. 1997, 1101, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 19, Chapter 386, O.S.L. 1997, 1150.2, as last amended by Section 1, Chapter 223, O.S.L. 1995, Section 13, Chapter 352, O.S.L. 1995, 1115.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 2, Chapter 389, O.S.L. 1997, 1115.2, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 3, Chapter 389, O.S.L. 1997, 1116, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 5, Chapter 389, O.S.L. 1997, 1116.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 6, Chapter 389, O.S.L. 1997, Section 3, Chapter 306, O.S.L. 1993, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 9, Chapter 386, O.S.L. 1997, 1130, as renumbered by Section 199, Chapter

352, O.S.L. 1995, and as last amended by Section 8, Chapter 389, O.S.L. 1997, Section 60.29, as renumbered by Section 59, Chapter 366, O.S.L. 1997 (10 O.S. Supp. 1997, Sections 404.1, 7001-1.3, 1150.2, 7003-2.4, 7003-5.3, 7003-5.4, 7003-5.5, 7003-5.6, 7005-1.4, 7006-1.1 and 7510-1.5), which relate to the Oklahoma Children's Code and the Child Death Review Board; expanding list of persons to whom certain requirement shall apply; providing penalties; prohibiting approval of foster home under certain conditions; requiring priority in certain court cases; deleting and modifying definitions; modifying powers, duties and responsibilities of the Child Death Review Board; expanding duties and powers of Board to include near deaths of children; requiring examination of certain policies, procedures and practices; prohibiting liability for disclosure of confidential information; requiring the Board to conduct certain review and evaluation; requiring establishment of specified local child death review boards; providing for appointment of members, duties and responsibilities, meetings, and promulgation of rules; providing criteria for making certain determination; requiring permanency hearing; construing law; modifying criteria for treatment and service plan; modifying criteria pertaining to information relating to certain deprived children; modifying criteria relating to dispositional orders, permanency hearings and additional actions required of the court; modifying conditions under which the contents of certain

records can be inspected and disclosed; stating conditions under which a petition to terminate parental rights shall or shall not be filed; construing section of law; stating conditions under which a child shall be eligible for adoption assistance payments; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 402, as last amended by Section 2, Chapter 122, O.S.L. 1993 (10 O.S. Supp. 1997, Section 402), is amended to read as follows:

Section 402. As used in the Oklahoma Child Care Facilities Licensing Act, ~~Section 401 et seq. of this title:~~

1. "Child" or "minor" means any person who has not attained the age of eighteen (18);

2. "Child care facility" means any public or private residential facility, child placing agency, foster family home, group home, day care center, part-day child care program, or family day care home, providing either full-time or part-time care for children away from their own homes, and which is owned or controlled by a political subdivision, a corporation, an unincorporated organization or association, or individual;

3. "Child placing agency" means a child welfare agency licensed to place children in foster family homes, group homes or adoptive homes;

4. "Full-time care" means continuous care given to a child beyond a minimum period of twenty-four (24) hours;

5. "Foster family home" means a family home, other than the home of a parent, stepparent, grandparent, brother, sister, uncle, or aunt, which provides full-time care for five or fewer children;

6. "Group homes" means homes providing full-time care and community-based services for more than five children but less than thirteen;

7. "Foster parent eligibility assessment" includes, but it not limited to, criminal background investigations, psychosocial information, a personality inventory, home assessments, a national criminal history records search for fingerprints, arrest check, and any other assessment required by the Department of Human Services or any child-placing agency. Criminal background investigations shall be similar to the procedures used by the Oklahoma Department of Public Safety;

8. "Day care" means the provision of care and supervision of a child who resides in its own home or with relatives but is in the care of another person for part of the day who is conducting a family day care home or persons conducting a day care center;

~~8.~~ 9. "Family day care home" means a licensed or approved family home which provides care and protection for seven or fewer children for part of the twenty-four-hour day. The term "day care home" shall not include informal arrangements which parents make independently with neighbors, friends, and others, or caretakers in the child's own home;

~~9.~~ 10. "Day care center" means a licensed or approved facility which provides care and supervision for eight or more children and which operates for more than thirty (30) hours per week. The term "day care center" shall not include informal arrangements which parents make independently with neighbors, friends, and others, or caretakers in the child's own home;

~~10.~~ 11. "Part-day child care program" means a licensed facility which provides care and supervision for eight or more children and

which operates for more than fifteen (15) but less than thirty (30) hours per week;

~~11.~~ 12. "Department" means the Department of Human Services;

~~12.~~ 13. "Commission" means the Commission for Human Services, the policy-making and general supervisory body of the Department; and

~~13.~~ 14. "Division" means the division of the Department of Human Services of the State of Oklahoma assigned responsibilities pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 404.1, as last amended by Section 1 of Enrolled House Bill No. 3348 of the 2nd Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 404.1 A. 1. The Department of Human Services shall require a criminal history investigation, conducted by the Oklahoma State Bureau of Investigation, or a foster parent eligibility assessment for child care facilities for those facilities providing foster care services for any person making application to establish or operate a child care facility prior to the issuance of a license to operate such facility.

2. a. Every child care facility shall arrange, prior to employment, for a criminal history investigation or a foster parent eligibility assessment for child care facilities for those facilities providing foster care services to be conducted by the Oklahoma State Bureau of Investigation for any person to be employed by the child care facility.

b. In addition, any child care facility, licensed or approved pursuant to the Oklahoma Child Care Facilities Licensing Act, and located in a private residence, shall arrange for a criminal background

investigation or a foster parent eligibility assessment for child care facilities for those facilities providing foster care services for any adult residing in the child care facility. A criminal history investigation conducted by the Oklahoma State Bureau of Investigation or a foster parent eligibility assessment for child care facilities for those facilities providing foster care services shall also be completed for any adult who subsequently moves into the private residence.

3. a. Any child care facility, contracting with any person for foster family home services or in any manner for services for the care and supervision of children, shall also, prior to executing a contract, arrange for a ~~criminal history investigation~~ foster parent eligibility assessment, as appropriate, for the contractor ~~conducted by the Oklahoma State Bureau of Investigation.~~
- b. Any child care facility contracting with any person for foster family home services shall arrange for a ~~criminal background investigation~~ foster parent eligibility assessment for any adult residing in the foster family home. A ~~criminal history investigation conducted by the Oklahoma State Bureau of Investigation~~ foster parent eligibility assessment shall also be completed for any adult who subsequently moves into the residence.
- c. Any child care facility contracting with any person for foster family home services shall request the Office of Juvenile Justice for a juvenile justice information system review pursuant to Sections 7302-9.6 and 7302-3.8 of this title for any child over the

age of thirteen (13) years residing in the foster family home, other than a foster child, or who subsequently moves into the private residence. As a condition of contract, the child care facility shall obtain the consent of the parent or guardian of the child for such review.

4. If the applicant planning to establish or operate a child care facility, or an employee or contract employee of the child care facility, or an adult residing in a private residence where a child care facility is located, or the contractor of the child care facility has resided in Oklahoma for less than one (1) year, the criminal history investigation or foster parent eligibility assessment, as appropriate, shall also be obtained from such person's previous state of residence.

B. 1. Prior to contracting with a foster family home for placement of any child who is in the custody of the Department of Human Services, the Department shall arrange for a ~~eriminal history investigation, conducted by the Oklahoma State Bureau of Investigation,~~ foster parent eligibility assessment for such foster family applicant and for any adult residing in such foster family home. A ~~eriminal history investigation conducted by the Oklahoma State Bureau of Investigation~~ foster parent eligibility assessment shall also be completed for any adult who subsequently moves into the residence.

2. The Department shall provide for a juvenile justice information system review pursuant to Section 7302-3.8 of this title for any child over the age of thirteen (13) years residing in a foster family home, other than the foster child, or who subsequently moves into the private residence.

C. The Commission for Human Services shall promulgate rules to identify circumstances when a criminal history investigation or foster parent eligibility assessment, as appropriate, for an

applicant or contractor, or any person over the age of thirteen (13) years residing in a private residence in which a child care facility is located, shall be expanded beyond the investigation conducted by the Oklahoma State Bureau of Investigation or as otherwise provided pursuant to this section.

D. 1. The following persons shall not be required to obtain a criminal history investigation pursuant to this section:

- a. a parent volunteer who transports children on an irregular basis, and
- b. a child of a day care center or family child care home operator who became an adult during continuous residence at the licensed or approved facility.

2. These exemptions shall not preclude the Department from requesting a criminal history investigation or foster parent eligibility assessment, as appropriate, or investigating criminal, abusive or harmful behavior of such persons, if warranted.

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

F. 1. Information received pursuant to this section by an owner or administrator of a child care facility shall be maintained in a confidential manner in a file that is separate from employment records. The information may be transmitted to the Department for child care facility licensing purposes.

2. Whenever an applicant is subsequently employed by or contracts with a child care facility, the information received pursuant to a criminal history investigation or foster parent eligibility assessment, as appropriate, shall not be made a part of that individual's personnel or contract records. Such information, along with any other information relevant to the individual's ability to perform tasks that require direct contact with children,

may be released to another child care facility in response to a request from the child care facility that is considering employing or contracting with the individual.

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

G. 1. A criminal history investigation conducted by the Oklahoma State Bureau of Investigation or a foster parent eligibility assessment for child care facilities for those facilities providing foster care services shall include a search of Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act.

2. a. It shall be unlawful for any person who is required to register pursuant to the Sex Offenders Registration Act to work with or provide services to children or to reside in a child care facility and for any employer who offers or provides services to children to knowingly and willfully employ or contract with, or allow continued employment of or contracting with any person who is required to register pursuant to the Sex Offenders Registration Act. Any person required to register pursuant to the Sex Offenders Registration Act who violates any provision of this ~~act~~ paragraph shall, upon conviction, be guilty of a felony punishable by incarceration in a correctional facility for a period of not more than five (5) years and a fine of not more than Five Thousand Dollars (\$5,000.00) or both such fine and imprisonment.

b. Upon a determination by the Department of any violation of the provisions of this section, the

violator shall be subject to and the Department may pursue:

- (1) an emergency order,
- (2) license revocation, denial or nonrenewal,
- (3) injunctive proceedings,
- (4) an administrative penalty not to exceed Ten Thousand Dollars (\$10,000.00), and
- (5) referral for criminal proceedings.

c. In addition to the penalties specified by this section, the violator may be liable for civil damages.

3. On and after the effective date of this act, approval of a foster home shall not be granted in any case in which:

- a. a foster parent eligibility assessment reveals a felony conviction for child abuse or neglect, domestic abuse, a crime against children, including, but not limited to, child pornography, or a crime involving violence, such as rape, sexual assault, or homicide, but not including other convictions for felony assault or battery, or
- b. a foster parent eligibility assessment reveals a felony conviction for assault, battery, or a drug-related offense and the felony was committed within the past five (5) years.

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 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~~ Examine and improve policies, procedures and practices within the agencies that serve children, including the child protection system;

5. 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 Child Abuse Prevention and Treatment Act State plan; and

6. Establish a minimum of two local child death review boards in the state and appoint to such boards volunteer members who are broadly representative of the community in which such boards are established. Such appointed members shall have expertise in the prevention and treatment of child abuse and neglect, and shall include, but not be limited to, children's attorneys, child advocates and court-appointed special advocate (CASA) volunteers, parent or consumer representatives, health and mental health professionals, prosecutors, law enforcement officials, and others as representative of the Child Death Review Board. The local boards shall have such duties and responsibilities as the Child Death Review Board shall designate, including, but not limited to, the examination of policy and procedures within the agencies that serve children, and shall review cases assigned by the Board in the local board's geographical area. Each local board established shall meet not less than once every three (3) months. The Board shall, subject to approval of the Oklahoma Commission on Children and Youth,

promulgate such other rules as necessary for the implementation and administration of the local boards.

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;

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 of children, including, but not limited to, demographic and medical diagnostic information;

4. Review the policies, practices, and procedures of the child protection system and the extent to which such system is coordinated with foster care and adoption programs, and make specific recommendations to the entities comprising the child protection system for actions necessary for the improvement of the system;

5. 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. 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 disclosure of such confidential information by the Board, its local boards, or their members not authorized by law shall be subject to damages, costs and attorney fees;

7. All information, documents and records in possession of the Board shall be 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. 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. Recommend, when appropriate, amendment of the cause or manner of death listed on the death certificate; and

10. 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 of Title 21 Article V~~ of the Oklahoma ~~Statutes~~ Children's Code. 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 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 of each year. In addition each local board shall develop an annual report, which shall be available to the public no later than December 31 of each year. The report shall contain a summary

of the boards' activities, as well as recommendations of the boards, based upon their activities and findings.

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.

E. As used in this section, the term "near death" means a child is in serious or critical condition, as certified by a physician licensed pursuant to the laws of this state.

SECTION 4. AMENDATORY 10 O.S. 1991, Section 1101, as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7001-1.3), and as last amended by Section 2 of Enrolled House Bill No. 3348 of the 2nd Session of the 46th Oklahoma Legislature, is amended to read as follows:

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

1. "Abandoned infant" means a child under the age of one (1) year who has been deserted by the person responsible for the child, and such person has not stated or implied any plans to return for the child;

2. "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition pursuant to the provisions of Section 7003-3.1 et seq. of this title are supported by the evidence and whether a child should be adjudged to be a ward of the court;

~~2.~~ 3. "Child" means any person under eighteen (18) years of age except any person convicted of a crime specified in Section 7306-1.1 of this title or any person who has been certified as an adult pursuant to Section 7303-4.3 of this title and convicted of a felony;

~~3.~~ 4. "Child in need of mental health treatment" means a child in need of mental health treatment as defined by the Inpatient Mental Health Treatment of Children Act;

~~4.~~ 5. "Child with a disability" means any child who has a physical or mental impairment which substantially limits one or more of the major life activities of the child or who is regarded as having such an impairment by a competent medical professional;

~~5.~~ 6. "Child-placing agency" means a private agency licensed to place children in foster family homes, group homes, adoptive homes, transitional or independent living programs, or family child care homes or other out-of-home placements; and which approves and monitors such placements and facilities in accordance with the licensing requirements established by the Oklahoma Child Care Facilities Licensing Act;

~~6.~~ 7. "Community-based services" or "community-based programs" means services or programs which maintain community participation or supervision in their planning, operation, and evaluation. Community-based services and programs may include, but are not limited to, emergency shelter, crisis intervention, group work, case supervision, job placement, recruitment and training of volunteers, consultation, medical, educational, home-based services, vocational, social, preventive and psychological guidance, training, counseling, early intervention and diversionary substance abuse treatment, sexual abuse treatment, transitional living, independent living, and other related services and programs;

~~7.~~ 8. "Court-appointed special advocate" or "CASA" means a responsible adult, other than an attorney for the parties, who has volunteered to be available for appointment by the court to serve as an officer of the court and represent any child over whom the district court exercises jurisdiction, based on the availability of volunteers, until discharged by the court. Provided that priority shall be given to cases wherein a juvenile petition has been filed. It shall be the duty and responsibility of the court-appointed special advocate to advocate for the best interests of the child and to assist the child in obtaining a permanent, safe, homelike

placement. A court-appointed special advocate shall not have any financial responsibility in any matter relating to a child represented by the court-appointed special advocate;

~~8.~~ 9. "Day treatment" means a nonresidential program which provides intensive services to children who reside in their own home, the home of a relative, group home, a foster home or residential child care facility. Day treatment programs include, but are not limited to, educational services;

~~9.~~ 10. "Department" means the Department of Human Services;

~~10.~~ 11. a. "Deprived child" means a child:

- (1) who is for any reason destitute, homeless, or abandoned,
- (2) who does not have the proper parental care or guardianship or whose home is an unfit place for the child by reason of neglect, abuse, cruelty, or depravity on the part of the child's parents, legal guardian, or other person responsible for the child's health or welfare,
- (3) who is a child in need of special care and treatment because of ~~his~~ the child's physical or mental condition including, but not limited to, a child born in a condition of dependence on a controlled dangerous substance, and ~~his~~ the child's parents, legal guardian, or other custodian is unable or willfully fails to provide ~~said~~ such special care and treatment,
- (4) who is a child with a disability deprived of the nutrition necessary to sustain life or of the medical treatment necessary to remedy or relieve a life-threatening medical condition in order to cause or allow the death of ~~said~~ the child if such nutrition or medical treatment is generally

provided to similarly situated children without a disability or children with disabilities;

provided that no medical treatment ~~is~~ shall be necessary if, in the reasonable medical judgment of the attending physician, such treatment would be futile in saving the life of the child,

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

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

b. (1) Nothing in the Oklahoma Children's Code shall be construed to mean a child is deprived for the sole reason the parent, guardian, or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

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

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

~~11.~~ 12. "Dispositional hearing" means a hearing to determine the order of disposition which should be made with respect to a child adjudged to be a ward of the court;

~~12.~~ 13. "Emergency custody" means ~~court-ordered~~ the custody of a child prior to adjudication of the child following issuance of an order of the district court pursuant to Section 7003-2.1 of this title or following issuance of an order of the district court pursuant to a show cause hearing, as specified by Section 7003-2.4 of this title;

~~13.~~ 14. "Facility" means a place, an institution, a building or part thereof, a set of buildings, or an area whether or not enclosing a building or set of buildings used for the lawful custody and treatment of children;

~~14.~~ 15. "Foster care" or "foster care services" means continuous twenty-four-hour care and supportive services provided for a child, in foster placement, while the child needs foster care;

~~15.~~ 16. "Foster child" means a child placed in foster placement;

~~16.~~ 17. "Foster family" means all persons living in a foster family home, other than a foster child;

~~17.~~ 18. "Foster family home" means the private residence of a family which provides foster care services to a child. Such term shall include a foster family home, a therapeutic foster family home, the home of a relative, or a kinship care home;

~~18.~~ 19. "Foster parent" means any individual maintaining a foster family home, who is responsible for the care of a foster child;

~~19.~~ 20. "Foster placement" means a child-placing agency or foster family home providing foster care services;

~~20.~~ 21. "Group home" means a residential facility housing no more than twelve children with a program which emphasizes family-style living in a homelike environment. ~~Said~~ Such group home may also offer a program within the community to meet the specialized treatment needs of its residents;

~~21.~~ 22. "Independent living program" means a program specifically designed to assist a child to enhance those skills and abilities necessary for successful adult living. An independent living program may include, but shall not be limited to, minimal direct staff supervision, and supportive services to assist with activities necessary for finding an appropriate place of residence, completing an education or vocational training, obtaining employment, or obtaining other similar services;

~~22.~~ 23. "Institution" means a residential facility offering care and treatment for more than twenty residents;

~~23.~~ 24. "Investigation" means a mandatory preadjudicatory process by the Department to determine the safety of a child and to make a recommendation to the district attorney as to whether a petition should be filed alleging a child to be a deprived child or whether other nonadjudicatory alternatives are available;

~~24.~~ 25. "Kinship care" means full-time care of a child by relatives, members of the relative's clan, stepparents, or other adults who have an existing bond with the child and to whom have been ascribed a family relationship role with the child's parents and the child;

~~25.~~ 26. "Legal guardianship" means a judicially created relationship between a child and a caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:

- a. protection,
- b. education,
- c. care and control,
- d. custody, and
- e. decision making.

The term "legal guardian" means the caretaker in such a relationship;

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

~~26.~~ 28. "Multidisciplinary personnel" means any team of three or more persons who are trained in the prevention, identification, investigation, prosecution and treatment of child physical and sexual abuse cases and who are qualified to facilitate a broad range of interventions and services related to child abuse;

~~27.~~ 29. "Near death" means a child is in serious or critical condition, as certified by a physician;

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

~~28.~~ 31. "Permanent custody" means court-ordered custody of an adjudicated deprived child whose parental rights have been terminated;

32. "Person responsible for a child's health or welfare" includes a parent; a legal guardian; custodian; a foster parent; a person eighteen (18) years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child; an agent or employee of a public or private residential home, institution, facility or day treatment program as defined in Section 175.20 of this title; or an owner, operator, or employee of a child care facility as defined by Section 402 of this title;

~~29.~~ 33. "Preliminary inquiry" means an assessment and determination as to whether there is sufficient information to proceed with an investigation of abuse or neglect of a child or an investigation of failure to protect by the person responsible for the child when there are allegations of abuse or neglect;

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

~~31.~~ 34. "Protective custody" means custody of a child taken by a peace officer or employee of the court pursuant to Section 7003-2.1 ~~et seq.~~ of this title;

~~32.~~ 35. "Relative" means a grandparent, great grandparent, brother or sister of whole or half blood, aunt, uncle or any other person related to the child within the fourth degree of consanguinity;

~~33.~~ 36. "Residential child care center" means a twenty-four-hours-a-day residential group care facility at which a specified number of children, normally unrelated, reside with adults other than their parents;

~~34.~~ 37. "Responsible adult" for purposes of the release of a child from protective custody, means a stepparent, foster parent, person related to the juvenile in any manner who is eighteen (18) years of age or older, or any person having an obligation and authority to care for or safeguard the juvenile in another person's absence who is eighteen (18) years of age or older;

~~35.~~ 38. "Secure facility" means a facility which is designed and operated to ensure that all entrances and exits from the facility are subject to the exclusive control of the staff of the facility, whether or not the juvenile being detained has freedom of movement within the perimeter of the facility, or a facility which relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents;

~~36.~~ 39. "Serious bodily injury" means an injury which involves risk of death, substantial physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty;

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

41. "Therapeutic foster home" means a foster family home which provides specific treatment services, pursuant to a therapeutic

foster care contract, which are designed to remedy social and behavioral problems of a foster child residing in the home;

~~37.~~ 42. "Torture" means to inflict extreme emotional or physical pain for the purpose of terrorizing a child and causing ongoing psychological consequences;

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

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

~~39.~~ 44. "Transitional living program" means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting children to develop the skills and abilities necessary for successful adult living. Said program may include, but shall not be limited to, reduced staff supervision, vocational training, educational services, employment and employment training, and other appropriate independent living skills training as a part of the transitional living program; and

~~40.~~ 45. "Treatment and service plan" means a written document which includes at least the following:

- a. a description of the type of home or facility in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the judicial determination made with respect to the child, and
- b. a plan for assuring that the child receives proper care and that services are provided to the parents, child, and placement providers in order to improve the conditions in the parents' home, facilitate return of the child to the child's own home or to an alternate permanent placement, and address the needs of the

child while in out-of-home care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

SECTION 5. AMENDATORY Section 13, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7003-2.4), is amended to read as follows:

Section 7003-2.4 A. ~~1.~~ The parent or legal guardian of ~~the~~ a child shall be given immediate notice of the protective custody of the child whenever possible by the peace officer or the court.

~~2. The parent or legal guardian of the child shall be given prior adequate notice of the date, time, place, and purpose of any hearing by the court.~~

B. 1. Within the next two (2) judicial days following the child being taken into protective custody, ~~and thereafter at such intervals as may be determined by the court,~~ the court shall conduct a show cause hearing to determine whether the child should remain in protective custody or be released to the parent, guardian, legal custodian, or another responsible person pending further proceedings pursuant to this chapter.

2. The parent or legal guardian of the child shall be given prior adequate notice of the date, time, place, and purpose of the hearing by the court.

3. At the show cause hearing ~~provided for in this subsection,~~ the court shall advise the parent ~~or legal,~~ guardian or legal custodian of the child in writing of:

~~a.~~ the procedure which will be followed with regard to determining custody of the child, including but not limited to:

~~b.~~ a.—the right of the parent or guardian to testify and present evidence at court hearings,

~~c.~~ b. the right to be represented by an attorney at court hearings,

- ~~d.~~ c. the consequences of failure to attend any hearings which may be held, and
- ~~e.~~ d. the right and procedure for appealing the finding of a court on custody issues.

~~3.~~ 4. After a the show cause hearing pursuant to this subsection, the court may release an alleged deprived child from protective custody upon such conditions as the court finds reasonably necessary for the protection of the child shall:

- a. release the child to the child's parent, guardian or legal custodian,
- b. release the child to the child's parent, guardian or legal custodian or other responsible adult under such conditions as the court finds reasonably necessary to ensure the health and safety of the child, or
- c. order the child into emergency custody of the Department for out-of-home placement;

5. The court may hold additional hearings at such intervals as may be determined by the court to determine whether the child should remain in emergency custody or be released to the parent, guardian, legal custodian or other responsible party.

C. 1. A petition for a deprived child proceeding shall be filed in and a summons issued within five (5) judicial days from the date of assumption of custody pursuant to the provisions of Section 7003-3.2 of this title.

2. ~~The~~ Upon request, the court shall determine whether ~~the~~ allegations regarding the child are such that an additional time for the filing of ~~a~~ the petition for a deprived child proceeding is warranted for compelling reasons pursuant to Section 7003-3.2 of this title.

~~C. Except~~ 3. If the petition for a deprived child proceeding is not filed as required by this subsection, then the emergency custody order shall expire. The district attorney shall submit for

filing in the court record a document specifying the reasons why the petition was not filed and note the person to whom the child was released.

D. If the petition was filed within the time period specified in subsection C of this section, except as otherwise provided by this section, no preadjudicatory the emergency custody order shall remain in force and effect for more not longer than thirty (30) days. The court for good and sufficient cause shown may extend the effective period of such an order for an additional period pursuant to this part not to exceed sixty (60) thirty (30) days. No preadjudicatory emergency custody order shall be extended beyond the additional period provided by this subsection thirty (30) days absent a showing that such further extension is necessary to ensure the health and safety of the child and is in the best interests of the child.

~~D.~~ E. In scheduling hearings, the court shall give priority to proceedings in which a child is in emergency custody.

~~E.~~ F. No order of the court providing for the removal of a child alleged ~~or adjudicated~~ to be deprived from the home of such child shall be entered unless the court makes a determination that the continuation of the child in ~~his~~ the child's home is contrary to the welfare, health and safety of the child. ~~Said order shall further include either, and:~~

1. A determination as to whether ~~or not~~ reasonable efforts have been made to ~~prevent~~ correct or eliminate the conditions that lead to the need for the removal of the child from his the child's home;
~~or~~

2. A determination as to whether ~~or not~~ an absence of efforts to ~~prevent~~ correct or eliminate the removal of the child from ~~his~~ the child's home is reasonable under the circumstances, if such removal of the child from ~~his~~ the child's home is due to an alleged

emergency and is for the purpose of providing for the health and safety of the child; or

3. a. Reasonable efforts to provide for the return of the child to the child's home or that reasonable efforts to reunite the family are not required pursuant to Section 7 of this act,

b. When the court orders that reasonable efforts to provide for the return of a child to the child's home or preserve or reunify the family are not required pursuant to Section 7 of this act, the court shall inform the parent that the parent's parental rights may be terminated.

SECTION 6. AMENDATORY 10 O.S. 1991, Section 1104.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 16, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1997, Section 7003-3.2), is amended to read as follows:

Section 7003-3.2 A. If a child has been taken into protective custody or emergency custody pursuant to the provisions of this article, before a petition for a deprived child proceeding has been filed, the petition shall be filed and a summons issued within five (5) judicial days from the date of such assumption of custody.

Except as otherwise provided by this section, if such petition is not filed and a summons issued thereon as required by this subsection, the emergency custody order shall expire and custody of the child shall be released to the child's parent, legal guardian, legal custodian or another responsible adult.

B. 1. If a child has been taken into custody and based upon allegations of cruelty on the part of the child's compelling reasons that the release of the child to the parents, legal guardian, legal custodian or other person having custodial care of the child is not in the best interests of the child or is contrary to the welfare, health and safety of the child, the five-day limitation provided for

in subsection A of this section shall not cause the child to be released to such person.

2. In all such cases provided for in this subsection, a petition shall be filed within ~~thirty (30)~~ fifteen (15) days of the child being taken into custody.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7003-4.6 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Reasonable efforts to provide for the return of the child to the child's home or preserve or reunify the family of the child shall not be required if the court determines or has previously determined that:

1. The child or a sibling of the child:

- a. has been previously adjudicated a deprived child pursuant to the Oklahoma Children's Code or laws from other states or territories as a result of physical or sexual abuse,
- b. following the adjudication, has been removed from the custody of the parent,
- c. has been returned to the custody of the parent from whom the child had been taken originally, and
- d. is being removed pursuant to the Oklahoma Children's Code, due to additional physical or sexual abuse;

2. The parent of the child has committed murder or voluntary manslaughter of another child of the parent or aided, abetted, attempted, conspired or solicited such a murder or manslaughter;

3. The child has been adjudicated a deprived child, pursuant to the Oklahoma Children's Code, as a result of severe sexual abuse, neglect or the infliction of serious bodily injury or torture to the child, a sibling, or a half-sibling by a parent;

4. Reasonable effort to provide for the return of a child to the child's home or preserve or reunify the family of the child is

not required for a parent of a sibling or a half-sibling of the child pursuant to paragraph 1, 2 or 3 of this subsection;

5. The child was conceived by means of the commission of rape or by an act committed outside of this state which, if committed in this state, would constitute such an offense. This paragraph only applies to the parent who committed the offense or act;

6. The parent of the child willfully abandoned the child, and the court finds that the abandonment itself constituted a serious danger to the health and safety of the child. For purposes of this paragraph, a "serious danger to the health and safety" means that without the intervention of another person or agency, the child would have sustained severe or permanent disability, injury, illness, or death. For purposes of this paragraph, "willful abandonment" shall not be construed as reasonable actions taken by the parent without the intent of placing the child in serious danger;

7. a. The court ordered a permanent plan of adoption, guardianship, or long-term foster care for any siblings or half-siblings of the child because the parent failed to correct the conditions which led to initial court intervention with the sibling or half-sibling after the sibling or half-sibling had been removed from that parent, or
- b. The parental rights of a parent over any sibling or half-sibling of the child had been permanently severed and, according to the findings of the court, the parent had not subsequently made a reasonable effort to correct the problems that led to removal of the sibling or half-sibling of that child from that parent;

8. The parent has been convicted of a Schedule S-1, S-2, S-3 or S-4 felony;

9. The parent of the child has a history of extensive, abusive and chronic use of drugs or alcohol and had resisted treatment for this problem during a three-year period immediately prior to the filing of the petition which brought that child to the court's attention, or failed or refused to comply with a program of drug or alcohol treatment described in the individual service plan required by the Oklahoma Children's Code on at least two prior occasions, even though the programs identified were available and accessible;

10. The parent is willing to consent to termination of parental rights; or

11. Reunification is not in the best interests of the child and the failure of the parent to respond to previous services, the fact that the child was abused or neglected while the parent was under the influence of drugs or alcohol, a past history of violent behavior, mental illness or testimony by a competent professional that the parent's behavior is unlikely to be changed by services are among the factors indicating whether reasonable efforts to provide for the return of a child to the child's home or preserve or reunify the family are unlikely to be successful.

B. If a court does not order reasonable efforts to provide for the return of a child to the child's home or preserve or reunify the family, it shall conduct a permanency hearing within thirty (30) days of the determination by the court that reasonable efforts are not necessary to provide for the return of the child to the child's home or preserve or reunify the family.

SECTION 8. AMENDATORY 10 O.S. 1991, Section 1115.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7003-5.3), and as last amended by Section 4 of Enrolled House Bill No. 3348 of the 2nd Session of the 46th Oklahoma Legislature, is amended to read as follows:

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

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

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

The plan shall be:

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

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

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

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

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

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

2. Identification of the specific services to be provided to the child, including, but not limited to, educational, vocational

educational, medical, drug or alcohol abuse treatment, or counseling or other treatment services, and identification of the services to be provided to the parent, legal guardian, legal custodian, stepparent, other adult person living in the home or other family members, to remediate or alleviate the conditions that led to the adjudication, including services needed to assist the family to provide safe and proper care of the child or to prevent further harm to the child;

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

4. The name of the social worker assigned to the case;

5. If the child is placed outside the home:

- a. the services to be provided during and after any such placement,
- b. the reasons for such placement and a statement as to the unavailability or inappropriateness of local placement, or other good cause, for any placement more than forty (40) miles from the home of the child,
- c. the services to be provided to the child to ensure safe and proper care while in such placement and the projected date of discharge,
- d. the services necessary to assist the child to reintegrate with the child's family or other community-based placement and a description of acts by and conduct that is expected of the parent or parents, legal guardian, legal custodian, or stepparent or other adult person living in the home that would alleviate the conditions that resulted in the removal

of the child before the child can be returned to a safe home,

- e. if the child is sixteen (16) years of age or older, the services necessary to make the transition from foster care or other community placement to independent living,
- f. a description of the permanency goal for the child, including the type of placement,
- g. a description of the type of safe and proper placement in which the child is to be placed,
- h. a description of the initial support obligation to the child, as determined by the court,
- i. a description of the visitation rights and obligations of the parent or parents during the period the child is in care, and
- j. a discussion of the safety and appropriateness of the child's placement, which placement is intended to be in the least restrictive and most family-like setting available, consistent with the best ~~interest~~ interests and special needs of the child and in as close proximity as possible to the child's home;

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

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

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

9. In the case of a child with respect to whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the Department is taking to:

- a. find an adoptive family or other permanent living arrangement for the child,
- b. place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and
- c. finalize the adoption or legal guardianship.

Such documentation shall include at a minimum child specific recruitment efforts such as the use of state, regional and national adoption exchanges including electronic exchange systems.

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

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

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

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

1. May require, as part of the treatment and service plan, that the mother of such child complete a treatment program approved by

the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority prior to the return of the child to ~~the~~ a safe home;

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

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

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

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

criteria that measure success in the reunification or permanent placement process.

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

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

SECTION 9. AMENDATORY 10 O.S. 1991, Section 1115.2, as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7003-5.4), and as last amended by Section 5 of Enrolled House Bill No. 3348 of the 2nd Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 7003-5.4 A. The court shall ensure that the following information accompanies any deprived child placed outside the child's home as soon as the information becomes available:

1. Demographic information;
2. Strengths, needs and general behavior of the child;
3. Circumstances which necessitated placement;
4. Type of custody and previous placement;
5. Pertinent family information including, but not limited to, the names of family members who are and who are not, by court order, allowed to visit the child and the child's relationship to the family which may affect placement;

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

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

8. Education history to include present grade placement, last school attended, and special strengths and weaknesses. The Department of Human Services shall also assist the foster parents in

getting the foster child's school records and gaining school admission; and

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

- a. allergies,
- b. immunizations,
- c. childhood diseases,
- d. physical handicaps,
- e. psycho-social information, and
- f. the name of the child's last doctor, if known.

B. When the Department of Human Services places a child in out-of-home care, the Department shall provide the placement providers with sufficient medical information to enable the placement providers to care for the child safely and appropriately. Such medical information shall include, but not be limited to:

1. Any medical or psychological conditions;
2. Diseases, illnesses, accidents, allergies, and congenital defects;
3. The child's Medicaid card, if any; and
4. Immunization history.

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

2. The Department shall provide for the examinations or tests on the child in accordance with rules promulgated by the Commission for Human Services and based on the Centers for Disease Control guidelines for time and frequency of testing, and shall, for a child, regardless of age, in the Department's emergency or temporary custody, obtain the parental consent or, if parental consent cannot be obtained due to refusal or inability to locate, the Department shall have the authority to give consent for such examinations or

tests and the release of such results to the placement providers. Any parental consent received by the Department, pursuant to the provisions of this section, shall also apply to any future examinations or tests and release of such results as deemed necessary by the Department upon the request of the placement providers. The Department has the authority to consent to the examinations or tests and the release of such test results for a child, regardless of age, in the Department's permanent custody.

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

D. The Department or child-placing agency throughout the child's placement shall inform the foster parent of any costs and expenses related to providing foster care services for the child for which the foster parent may be eligible for reimbursement.

SECTION 10. AMENDATORY 10 O.S. 1991, Section 1116, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 5, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7003-5.5), is amended to read as follows:

Section 7003-5.5 A. The following kinds of orders of disposition may be made in respect to wards of the court pursuant to a deprived child proceeding:

1. The court may place the child under supervision by the Department of Human Services in the child's own home, or in the custody of a suitable person elsewhere. The court may require the parent or other person to comply with such conditions as the court may require and to give security by bond, with surety or sureties approved by the court, for compliance with such order.

2. If it is consistent with the welfare of the child, the child shall be placed with the child's parent or legal guardian, but if it appears to the court that the conduct of such parent, guardian,

legal ~~guardian~~ custodian, stepparent or other adult person living in the home has contributed to such deprivation, the court may issue a written order specifying conduct to be followed by such parent, guardian, legal custodian, stepparent or other adult person living in the home with respect to such child. The conduct specified shall be such as would reasonably prevent the child from becoming or continuing to be deprived. Such order shall remain in effect for a period of not more than one (1) year to be specified by the court, and the order may be extended or renewed by the court.

3. The court may place the child in the custody of a private institution or agency, including any institution established and operated by the county, authorized to care for children or to place them in family homes. In placing a child in a private institution or agency, the court shall select one that is licensed by the Department or any other state department supervising or licensing private institutions and agencies; or, if such institution or agency is in another state, by the analogous department of that state. Whenever the court shall place a child in any institution or agency, it shall transmit with the order of commitment a summary of its information concerning the child, and such institution or agency shall give to the court such information concerning the child as the court may at any time require.

4. The court may order the child to receive counseling or other community-based services as necessary.

5. The court may place the child in the custody of the Department.

6. If the child has been placed outside the home, and it appears to the court that the parent, guardian, legal custodian, ~~or~~ stepparent, or other adult person living in the home has contributed to the deprivation of the child, the court may order that the parent, guardian, legal custodian, stepparent, or other adult living in the home be made subject to any treatment or placement plan

prescribed by the Department or other person or agency receiving custody of the child.

7. Except as otherwise provided by the Oklahoma Child Abuse Reporting and Prevention Act, the court may dismiss the petition and terminate its jurisdiction at any time for good cause shown when in the best interests of the child.

8. The court may order a child's permanent care and custody transferred to another person upon the written consent of the parents of the child.

a. Prior to the entry of an order transferring the permanent care and custody of a child, the court shall receive an investigation and report regarding the background and home of the prospective custodian. Such investigation and report of the prospective custodian shall be made pursuant to the requirements of the Oklahoma Adoption Act. The Department of Human Services shall not be required by the court to make the home study and report as specified by this paragraph.

b. Upon the entry of an order providing for the transfer of the permanent care and custody of a child, the order shall remain in full force and effect until:

(1) the child reaches the age of eighteen (18) years,

or

(2) the parent who consented to the transfer of the permanent care and custody of the child petitions the court for the recovery of the child and the court finds after evidentiary hearing:

(a) the child has been abused or neglected while in the care and custody of the custodian,
and

(b) it is in the best interests of the child that custody of the child be returned to the parents, or

(3) the district attorney, attorney for the child, or custodian petitions the court for modification of the order transferring permanent care and custody and the court finds after evidentiary hearing that it is in the best interests of the child for the order to be modified.

c. An order providing for the transfer of the permanent care and custody of a child:

(1) shall require that the placement be reviewed within one (1) year after transfer, and

(2) shall not require periodic reviews by the court thereafter if the parties agree that such reviews are not necessary to serve the best interests of the child.

9. The court, upon petition of an appropriate party, may set a hearing to terminate the parental rights of any person if the court determines reasonable efforts to provide for the return of a child to the child's home or preserve or reunify the family are not required pursuant to Section 7 of this act.

B. ~~In~~ Except as otherwise provided by subsection C of this section, in any dispositional order removing a child from the home of the child, the court shall make a determination as to whether, in accordance with the best interests of the child, reasonable efforts have been made to provide for the safe return of the child to the child's own home, ~~or that efforts to reunite the family are not feasible, and reasonable efforts are being made to secure an alternate permanent placement for the child.~~ In determining reasonable efforts to be made with respect to a child and in making

such reasonable efforts, the child's health and safety shall be the paramount concern.

C. 1. If continuation of reasonable efforts is inconsistent with the permanency plan for the child, the court shall determine whether reasonable efforts have been made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child.

2. Reasonable efforts shall not be required however, pursuant to the provisions of Section 7 of this act.

3. When the court orders that reasonable efforts to provide for the return of a child to the child's home or preserve or reunify the family are not required pursuant to Section 7 of this act, the court shall inform the parent that the parent's parental rights may be terminated.

D. 1. If it is consistent with the welfare of the child, in cases where the child has been adjudicated to be deprived due to repeated absence from school, the court may order counseling and treatment for the child and the parents of the child to be provided by the local school district, the county, the Department or a private individual or entity. Prior to final disposition, the court shall require that it be shown by the appropriate school district that a child found to be truant has been evaluated for learning disabilities, mental retardation, and hearing and visual impairments and other impediments which could constitute an educational handicap. The results of such tests shall be made available to the court for use by the court in determining the disposition of the case.

2. In any dispositional order involving a child age sixteen (16) years or older, the court shall make a determination, where appropriate, of the services needed to assist the child to make the transition from out-of-home care to independent living.

~~D.~~ E. 1. No child who has been adjudicated deprived upon the basis of noncompliance with the mandatory school attendance law alone may be placed in a public or private institutional facility or be removed from the custody of the lawful parent, guardian or custodian of the child.

2. A deprived adjudication based solely upon repeated absence from school shall not constitute a ground for termination of parental rights.

~~E.~~ F. The court shall not terminate the rights of a parent who has not been notified that the parental rights might be terminated. If the court terminates the rights of a parent and places the child with an individual or agency, the court may invest in such individual or agency authority to consent to the adoption of the child. Provided, that where the court places the child with the Department, it shall vest the Department with authority to place the child and, upon notice to the court that an adoption petition has been filed concerning ~~said~~ such child, invest the Department with authority to consent to the adoption of the child, and the jurisdiction of the committing court shall terminate upon final decree of adoption.

SECTION 11. AMENDATORY 10 O.S. 1991, Section 1116.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 6, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7003-5.6), is amended to read as follows:

Section 7003-5.6 A. 1. ~~Every~~ Pursuant to the provisions of Section 7003-3.7 of this title, every disposition order regarding a child adjudicated to be deprived shall be reviewed by the court at least once every six (6) months until such time as the conditions which caused the child to be adjudicated have been corrected or the parental rights of the parent or parents are terminated and a final adoption decreed.

2. A dispositional order removing a child from the custody of the parents of the child shall be reviewed at a hearing by the court at least once every six (6) months until the court terminates jurisdiction.

~~3. No later than twelve (12) months after placing a child in out-of-home placement, the court shall conduct a permanency hearing to consider, in the best interests of the child, whether:~~

- ~~a. the child should be returned to the child's parents or other family member,~~
- ~~b. the child should be continued in out-of-home placement for a specified period. If returning home remains the plan for the child, the court must find that the parent has made marked progress towards reunification with the child, the parent has maintained a close and positive relationship with the child and the child is likely to return home within the near future,~~
- ~~c. the rights of the parents of the child should be terminated and the child placed for adoption or legal guardianship, or~~
- ~~d. the child, because of exceptional circumstances, should remain in foster care on a long-term basis as a permanent plan or with a goal of independent living.~~

~~4. B.~~ The provisions of this section shall also apply to a child who has been removed from the home of the lawful parent or parents of the child after the child has been returned to that home until such time as the court orders the case closed.

~~B. C.~~ The court may set a case for a review hearing upon the motion of a party at any time, if the hearing is deemed by the court to be in the best interests of the child.

~~C. Notice~~ D. In addition to the parties, notice of dispositional and permanency and review hearings and an opportunity to be heard at such hearings shall be served provided by the court

~~upon the parties and upon to~~ the present ~~foster parent or foster~~ parents ~~entitled to participate pursuant to Section 7208 of this~~ title, ~~each of whom shall be entitled to participate pursuant to the~~ Oklahoma Foster Care and Out-of-Home Placement Act of a child and to any preadoptive parent or relative providing care for the child. Such notice and opportunity to be heard shall not be construed as requiring any foster parent, preadoptive parent or relative to be made a party to such action.

~~D. In addition~~ E. At each review hearing, the court shall:

1. ~~Consider~~ Determine the safety of the child and consider fully all relevant prior and current information including, but not limited to, the report or reports submitted pursuant to Sections 7208 and 7003-5.6a of this title and submitted by the child's guardian ad litem;

2. Determine whether the parties have complied with, performed, and completed each and every term and condition of the treatment and service plan which was previously court ordered, have corrected the conditions which caused the child to be adjudicated, and project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship;

3. Inquire as to the nature and extent of services being provided the child and parent or parents of the child and shall direct additional services be provided if necessary to ensure the safety of the child and to protect the child from further physical, mental, or emotional harm or to correct the conditions that led to the adjudication;

4. Make a determination:

a. as to whether reasonable efforts have been made to provide for the return of the child to the child's own home. In determining reasonable efforts, the child's health and safety shall be the paramount concern. If the court ~~finds~~ determines or has previously

determined that reasonable efforts have been made but have failed or are no longer feasible, the court shall make a determination that reasonable efforts are being made to secure an alternate are not required pursuant to the provisions of Section 7 of this act or that continuation of reasonable efforts is inconsistent with the permanency plan for the child, the court shall determine if reasonable efforts are being made to place the child in a timely manner in accordance with the permanency plan and to complete steps necessary to finalize permanent placement for the child, and

- b. where appropriate, when the child is sixteen (16) years of age or older, whether services are being provided that will assist the child in making the transition from foster care to independent living; and

5. Order such modification to the existing service plan as the court determines to be in the best interests of the child and necessary for the correction of the conditions that lead to the adjudication of the child.

~~E.~~ F. 1. If it is determined that the child should be placed for adoption, foster parents may be considered eligible to adopt the child, provided the foster parents meet established eligibility requirements.

2. If the child has resided with a foster parent for at least one (1) year, the court shall give great weight to the foster parent in the adoption consideration for the child unless there is an existing loving emotional bond with a relative of the child by blood or marriage who is willing, able and eligible to adopt the child.

SECTION 12. AMENDATORY Section 24, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1997, Section 7003-5.6a), is amended to read as follows:

Section 7003-5.6a A. The Department of Human Services or the agency having supervision of the case or, if the child has been removed from the custody of its parents, the Department or the agency or child-placing agency having custody of such child shall cause to be prepared for each review hearing required herein a written report concerning each child who is the subject of such review.

B. Said report shall include but not be limited to:

1. A summary of the physical, mental, and emotional condition of the child, the conditions existing in the out-of-home placement where the child has been placed, and the child's adjustment thereto;

2. A report on the child's progress in school and, if the child has been placed outside the child's home, the visitation exercised by the parents of such child or other persons authorized by the court;

3. Services being provided to a child sixteen (16) years of age or older to assist in the transition from out-of-home care or other community placement to independent living; and

4. If the Department is responsible for supervision of the child or is the legal custodian of the child, any efforts on the part of the parent or parents to correct the conditions which caused the child to be adjudicated deprived. Specific recommendations, giving reasons therefor, whether:

a. the parental rights of the parent or parents of the child should be terminated and the child placed for adoption,

b. the child should remain in the home or be placed outside the home of the child's lawful parents, or

c. the child should remain outside the home or be returned to the home from which the child was removed.

C. The attorney representing a child and the guardian ad litem of a child whose case is being reviewed ~~may~~ shall submit a report to

the court for presentation at the review hearing to assist the court in reviewing the placement or status of the child. The legal custodian shall not deny to a child the right of access to counsel and shall facilitate such access.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7003-5.6d of Title 10, unless there is created a duplication in numbering, reads as follows:

A. 1. No later than:

- a. six (6) months for a child who on the date on which the child is considered to have been placed in out-of-home placement was under the age of three (3) years,
- b. twelve (12) months for a child who on the date on which the child is considered to have been placed in out-of-home placement was three (3) years of age or older, or
- c. thirty (30) days after a determination by the court that reasonable efforts are not required pursuant to Section 7 of this act,

the court shall conduct a permanency hearing pursuant to this section to consider the issue of the establishment of permanency for the child.

B. Such a permanency hearing may be held concurrently with a hearing to review, modify, or terminate a dispositional order. A permanency hearing shall be conducted in substantial conformance with the provisions of Part 4 of Article III of the Oklahoma Children's Code. During the hearing, the court shall consider the child's need for a secure and permanent placement in light of any permanency plan or evidence submitted to the court. Upon completion of the hearing, the court shall enter written findings and make a determination based upon the permanency plan which will best serve the child's individual interests at that time.

C. At the permanency hearing, the court shall consider, in the best interests of the child, whether:

- a. the child should be returned to the child's parents,
- b. the child should be continued in out-of-home placement for a specified period. If returning home remains the plan for the child, the court must find that the parent has made marked progress towards reunification with the child, the parent has maintained a close and positive relationship with the child and the child is likely to return home within the near future,
- c. the child should be placed in a planned permanent living arrangement if the Department has documented a compelling reason for the court to determine that it would not be in the best interests of the child to return home, or be placed for adoption or with a legal guardian,
- d. the rights of the parents of the child should be terminated and the child placed for adoption or referred for legal guardianship, or
- e. if the child has been placed in an out-of-state placement, the placement continues to be safe and appropriate and in the best interests of the child.

D. A child is considered to have been placed in out-of-home placement, for purposes of this section and setting of the date of the permanency hearing, the earlier of the date of the adjudication or the date that is sixty (60) days after the child is removed from the home.

E. After a permanency hearing, the court shall do one of the following:

1. Enter an order to return the child to the child's home;
2. Enter an order to continue placement of the child for an additional three (3) months, at which time the court shall hold a

hearing to consider modification of its permanency order. An order entered under this paragraph shall enumerate the specific factors, conditions, or expected behavioral changes which comprise the basis for the determination that the need for removal of the child from the child's home will no longer exist at the end of the additional three-month period;

3. Terminate the parent/child relationship upon a petition brought by the district attorney or other appropriate party;

4. Enter an order, pursuant to findings required by subsection B of this section, to do one of the following:

- a. transfer guardianship and custody of the child to a suitable person, or
- b. order the placement of the child in a planned permanent living arrangement if the Department has documented a compelling reason for the court to determine that it would not be in the best interests of the child to be returned home or to be placed for adoption or with a legal guardian; or

5. Prior to entering a permanency order pursuant to subsection A of this section, convincing evidence must exist showing that all of the following apply:

- a. a termination of the parent/child relationship would not be in the best interests of the child,
- b. services were offered to the child's family to correct the situation which led to the child's removal from the home or reasonable efforts were determined not to be necessary pursuant to Section 7 of this act, and
- c. the child cannot be returned to the child's home.

F. Any permanency order may provide restrictions upon the contact between the child and the child's parent or parents, consistent with the best interests of the child.

G. Subsequent to the entry of a permanency order pursuant to this section, the child shall not be returned to the care, custody, or control of the child's parent or parents, over a formal objection filed by the child's attorney or guardian ad litem, unless the court finds by a preponderance of the evidence that returning the child to such custody would be in the best interests of the child.

H. Following the entry of a permanency order which places a child in the custody or guardianship of another person or agency, the court shall retain jurisdiction and annually review the order to ascertain whether the best interests of the child are being served. Any modification shall be accomplished through a hearing procedure following reasonable notice. During the hearing, all relevant and material evidence shall be admitted and procedural due process shall be provided to all parties.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7003-5.6e of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Except for permanency hearings scheduled for persons determined not to require reasonable efforts pursuant to Section 7 of this act, at least three (3) weeks prior to a permanency hearing, the Department of Human Services, the foster parents of the child, the guardian ad litem, and the child's attorney shall meet in order to prepare a report regarding the child to the court for review.

The report must contain the:

1. Efforts and progress demonstrated by the child's parent to complete a treatment plan;

2. Extent to which the parent or guardian cooperated and used the services provided;

3. Status of the child, including the child's mental, physical, and emotional health; and

4. Plan for permanency for the child.

B. The child's attorney, the foster parent, or the guardian ad litem of the child may submit an additional informational report to the court for review.

SECTION 15. 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;
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 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 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 notice to the agency holding the records and the person who is the subject of the record if said 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 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 professional, medical or mental health

services to a child who is or is alleged to be a victim of child abuse.

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 16. 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 Section 7003-5.1 ~~et seq.~~ of this title, Child Death Review Board, and multidisciplinary personnel. In addition to juvenile court records,

members of such review boards may inspect, without a court order, information including but not be limited to:

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

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

4. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of this title or representing a child pursuant to subsection A of Section 7112 of this title. Said attorney may also access other records listed in subsection A of Section 7005-1.2 of this title for use in the legal representation of the child;

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

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

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

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

9. The Department of Human Services or other public or private agency or individual having court-ordered custody or custody

pursuant to Department of Human Services placement of the child who is the subject of the record;

10. The Office of Juvenile Affairs;

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

12. A federally recognized Indian tribe in which the child who is the subject of the record is a member or is eligible to become a member of the tribe and is the biological child of a member of an Indian tribe pursuant to the Federal Indian Child Welfare Act, P.L. 95-608, and the Oklahoma Indian Child Welfare Act, ~~Section 40 et seq. of this title~~; provided such Indian tribe, in the course of its official duties, is:

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

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

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

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

15. Persons authorized by and in the manner provided by 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 17. 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 necessary for 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 or representing a child pursuant to the laws relating to child abuse ~~and neglect~~. Said attorney may also access other records listed in subsection A of Section 7005-1.2 of this title for use in the legal representation of the child;

~~4.~~ 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~~ sees a child whom the physician reasonably suspects may be abused or neglected or any health care or mental health professionals involved in the evaluation or treatment of the child, the child's parents, guardian, foster parent, legal 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 by 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, legal custodian or

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, the content 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.

SECTION 18. 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 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 subsection A of this section, is essential to the responsibility of the state to care and protect its children.

SECTION 19. AMENDATORY 10 O.S. 1991, Section 1130, as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7006-1.1), and as last amended by Section 6 of Enrolled House Bill No. 3348 of the 2nd Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 7006-1.1 A. The finding that a child is delinquent, in need of supervision or deprived shall not deprive the parents of the child of their parental rights, but a court may terminate the rights of a parent to a child in the following situations:

1. Upon a written consent of a parent, including a parent who is a minor, acknowledged as provided in ~~paragraph 4 of subsection B of Section 7503-2.1 of this title~~ the Oklahoma Adoption Code, who desires to terminate such parent's parental rights; provided that the court finds that such termination is in the best interests of the child; or

2. A finding that a parent who is entitled to custody of the child has abandoned it; or

3.—~~a.~~ A finding that:

~~(1)~~ a. the child has been adjudicated to be deprived, and

~~(2)~~ b. such condition is caused by or contributed to by acts or omissions of the parent, and

~~(3)~~ c. termination of parental rights is in the best interests of the child, and

~~(4)~~ d. (1) the parent has failed to show that the condition which led to the making of such finding has been corrected ~~although the parent has been given three (3) months to correct the condition; provided, that the parent shall be given notice of any hearing to determine if the condition has been corrected.~~

~~b.~~ ~~The court may extend for a reasonable time the period in which such parent may show the condition has been corrected if, in the judgment of the court, such extension of time would be in the best interests of the child. The extension for a reasonable time shall be based on the child's age, emotional and developmental or health requirements, or needs.~~

~~c.~~ ~~During the period that the parent has to correct the condition, the court may return the child to the custody of its parent or guardian, subject to any conditions which it may wish to impose or the court~~

~~may place the child with an individual or an agency~~
within the time period specified by the Oklahoma
Children's Code, or

(2) the court has determined that reasonable efforts
to provide for the return of a child to the
child's home or preserve or reunify the family
are not required pursuant to Section 7 of this
act; or

4. A finding that a subsequent child has been born to a parent whose parental rights to other children have been terminated by the court; provided, that the applicant shall show that the condition which led to the making of the finding which resulted in the termination of such parent's parental rights to the other children has not been corrected. ~~The court may set the time in which the applicant shall show that the condition has not been corrected, if, in the judgment of the court, it is in the best interests of the child. Until the applicant shows the condition has not been corrected, the child may remain in the custody of the parent, subject to any conditions which the court may impose, or the court may place the child with an individual or an agency.~~ As used in this paragraph, the term "applicant" shall include, but not be limited to, a district attorney or the child's attorney; or

5. A finding that a parent who does not have custody of the child has willfully failed to contribute to the support of the child as provided in a decree of divorce or in some other court order during the preceding year or, in the absence of such order, consistent with the parent's means and earning capacity; ~~provided, that the incarceration of a parent shall not prevent termination of parental rights under this section; or~~

6. A conviction in a criminal action pursuant to the provisions of ~~Sections 1021.3, 1111 and 1123 of~~ Title 21 of the Oklahoma Statutes, ~~the laws~~ relating to child abuse and neglect or the

Oklahoma Child Abuse Reporting and Prevention Act, or a finding in a deprived child action either that:

- a. the parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of ~~such~~ the child from ~~physical or sexual~~ such abuse that is heinous or shocking to the court or that the child or sibling of such child has suffered severe harm or injury as a result of such ~~physical or sexual~~ abuse, or
- b. the parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse subsequent to a previous finding that such parent has physically or sexually abused the child or a sibling of such child or failed to protect the child or a sibling of such child from physical or sexual abuse~~+~~, or
- c. the parent has caused the death of a sibling of the child as a result of the physical or sexual abuse or chronic neglect of such sibling; or

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

8. A finding that all of the following exist:

- a. the child has been adjudicated deprived, and
- b. custody of the child has been placed outside the home of a natural or adoptive parent, guardian or extended family member, and
- c. ~~the parent whose rights are sought to be terminated has been sentenced to a period of incarceration of not less than ten (10) years, and~~

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

~~e.~~ d. termination of parental rights is in the best interests of the child.

Provided, that the incarceration of a parent shall not in and of itself be sufficient to deprive a parent of parental rights; or

9. A finding that all of the following exist:

- a. the child has been adjudicated deprived, and
- b. custody of the child has been placed outside the home of a natural or adoptive parent, guardian or extended family member, and
- c. the parent whose rights are sought to be terminated has a mental illness or mental deficiency, as defined by Section 6-201 of Title 43A of the Oklahoma Statutes, which renders the parent incapable of adequately and appropriately exercising parental rights, duties and responsibilities, and
- d. the continuation of parental rights would result in harm or threatened harm to the child, and
- e. the mental illness or mental deficiency of the parent is such that it will not respond to treatment, therapy or medication and, based upon competent medical

opinion, the condition will not substantially improve,
and

- f. termination of parental rights is in the best interests of the child.

Provided, a finding that a parent has a mental illness or mental deficiency shall not in and of itself deprive the parent of his or her parental rights.

B. 1. Except as otherwise provided herein, the district attorney shall file a petition to terminate the parental rights of a child's parents when:

- a. a child has been in out-of-home care under the responsibility of the state for fifteen (15) of the most recent twenty-two (22) months,
- b. the court has determined a child to be an abandoned infant,
- c. the court has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted, attempted, conspired or solicited to commit such a murder or such a voluntary manslaughter, or
- d. the court has made a determination that the parent has committed a felony assault that has resulted in serious bodily injury to the child or another child of the parent.

2. The district attorney shall not be required to file such petition if:

- a. at the option of the state, the child is being cared for by a relative,
- b. the Department has documented in the individual service and treatment plan a compelling reason for

determining that filing such a petition would not be in the best interests of the child, or

c. services required by the individual service and treatment plan are not reasonably available to the parent.

C. An order directing the termination of parental rights is a final appealable order.

~~C.~~ D. The provisions of this section shall not apply to adoption proceedings and actions to terminate parental rights which do not involve a petition for deprived status of the child. Such proceedings and actions shall be governed by the Oklahoma Adoption Code.

SECTION 20. AMENDATORY 10 O.S. 1991, Section 1131, as amended by Section 66, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7006-1.2), is amended to read as follows:

Section 7006-1.2 A. ~~1.~~ A parent shall be given actual notice of any hearing to terminate such parent's parental rights. The notice shall indicate the relief requested, and the hearing shall not be held until at least ten (10) days after the receipt of such notice, except with the consent of the parent, if known.

~~2.~~ B. If the court finds that the whereabouts of the parent cannot be ascertained, it may order that notice be given by publication and a copy mailed to the last-known address of the parent. The notice shall be published once in a newspaper of general circulation in the county in which the action to terminate parental rights is brought, and the hearing shall not be held for at least ten (10) days after the date of publication of the notice. ~~Except as otherwise provided by subsection B of this section, if a parent has not received actual notice of the hearing at which he is deprived of his parental rights, the order depriving him of those~~

~~rights shall not become final for a period of six (6) months after the hearing.~~

C. Nothing in this section shall prevent a court from immediately taking custody of a child and ordering whatever action may be necessary to protect ~~his~~ the safety, health or welfare of the child.

~~B. For the purpose of terminating the parental rights, a father or putative father of a child born out of wedlock who has not, prior to commencement of a proceeding to terminate parental rights to such child, exercised parental rights and duties or whose consent is not required pursuant to Section 60.6 of this title shall not be deemed to have parental rights to such child. The father or putative father shall be entitled to notice and an opportunity to be heard pursuant to this section and Section 29.1 of this title, except that the court may:~~

~~1. Waive notice to a putative father whose identity is unknown to the mother of the child born out of wedlock and the mother of the child signs a sworn statement before the court that the identity of the father or putative father of the child is unknown and the court is satisfied, after inquiry into the matter, that his identity is unknown and with due diligence could not be determined; the willful and deliberate falsification of said sworn statement shall be perjury and shall, upon conviction, be punishable as otherwise provided by law. The waiver of notice by the court pursuant to this paragraph shall not constitute grounds to challenge an adoption of the child; and~~

~~2. When the identity of the father or putative father of a child born out of wedlock is known but his whereabouts is unknown and the court, after inquiry, is satisfied that after diligent search his whereabouts remains unknown, order that notice be given by publication as provided in subsection A of this section and a copy mailed to the last-known address, if known, of such father or~~

~~putative father. When notice is given by publication the order terminating parental rights shall not become final for a period of fifteen (15) days from the date of the order.~~

SECTION 21. AMENDATORY 10 O.S. 1991, Section 1134, as amended by Section 69, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7006-1.5), is amended to read as follows:

Section 7006-1.5 A. ~~Except as otherwise provided for in subsection B of this section, an~~ An action to adopt a child shall not be combined with an action to terminate parental rights and when the rights of a parent have been terminated, neither an interlocutory nor a final decree of adoption may be rendered until the decree terminating parental rights has become final.

~~B. This section shall not apply to:~~

~~1. A proceeding to adopt a child without the consent of a parent when the court has determined that consent is not legally required; or~~

~~2. A proceeding to adopt a child born out of wedlock when the mother of the child is granting consent to the adoption and is a party to the action; or~~

~~3. Proceedings pursuant to the provisions of Section 60.6 of this title.~~

SECTION 22. AMENDATORY 10 O.S. 1991, Section 60.29, as renumbered by Section 59, Chapter 366, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7510-1.5), is amended to read as follows:

Section 7510-1.5 A. When a parent or parents are found and approved for adoption of a child certified as eligible for subsidy, and before the final decree of adoption is issued, there must be a written agreement between the family entering into the subsidized adoption and the Department of Human Services. Adoption subsidies in individual cases may commence with the adoption placement or at the appropriate time after the adoption decree, and shall be based

on the needs of the child as well as the availability of other resources to meet the child's needs. The subsidy may be for special services only, or for money payments, and either for a limited period, or for a long term, or for any combination of the foregoing. The amount of the time-limited or long-term subsidy may in no case exceed that which would be allowable from time to time for such child under foster family care, or, in the case of a special service, the reasonable fee for the service rendered.

B. When a child is determined to have a causative, preexisting condition which was not identified or known prior to the legal adoption and which has resulted in a severe medical or psychiatric condition that requires extensive treatment, hospitalization, or institutionalization, an adoption subsidy may be approved. Upon the approval of the subsidy, the adoptive parents shall also be entitled to receive retroactive subsidy payments for the two (2) months prior to the date such subsidy was approved.

C. Any child who met the requirements of the provisions of Section 7510-1.2 of this title, and was determined eligible for Oklahoma adoption assistance payments with respect to a prior adoption, and is available for adoption because the prior adoption has been dissolved and the parental rights of the adoptive parents have been terminated or because the child's adoptive parents have died, shall be eligible for Oklahoma adoption assistance payments with respect to any subsequent adoption.

D. When subsidies are for more than one (1) year, the adoptive parent or parents shall present an annual sworn certification that the adopted child remains under their care and that the conditions that caused the child to be certified continue to exist. The adoptive parent or parents shall at all times keep the Department of Human Services informed of circumstances which would make them ineligible for such assistance payments or eligible for assistance payments in a different amount. The Department of Human Services is

authorized and directed to make a review of each subsidy annually to assure that the parents are fulfilling their contract obligations. No payment may be made to any parents with respect to any child who has attained the age of eighteen (18) years, except where the state determines that the child has a physical or mental handicap which warrants the continuation of assistance until the child reaches the age of twenty-one (21) years. Termination or modification of the subsidy agreement may be requested by the adoptive parent or parents at any time. No payment may be made to adoptive parents if the Department determines that the parents are no longer legally responsible for the support of the child or that the child is no longer receiving any support from such parents.

~~D.~~ E. A child who is a resident of this state when eligibility for subsidy is certified shall remain eligible and receive subsidy, if necessary for adoption, regardless of the domicile or residence of the adopting parent or parents at the time of application for adoption, placement, legal decree of adoption or thereafter.

~~E.~~ F. All records regarding subsidized adoption shall be confidential and may be disclosed only in accordance with the provisions of the State Adoption Act.

SECTION 23. This act shall become effective July 1, 1998.

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

46-2-11121

KSM