

ENGROSSED HOUSE
BILL NO. 3348

By: Toure of the House
and
Smith of the Senate

An Act relating to duplicate sections; 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, 1109, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 4, Chapter 386, O.S.L. 1997, 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, 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 72, Chapter 352, O.S.L. 1995, as last amended by Section 2, Chapter 293, O.S.L. 1997, Section 132, Chapter 352, O.S.L. 1995, as amended by Section 6, Chapter 350, O.S.L. 1997, 60.6, as renumbered by Section 58, Chapter 366, O.S.L. 1997, and as last amended by Section 17, Chapter 386, O.S.L. 1997, and 60.18, as renumbered by Section 58, Chapter 366, O.S.L. 1997, and as last amended by Section 1, Chapter 400, O.S.L. 1997

(10 O.S. Supp. 1997, Sections 404.1, 7001-1.3, 7003-3.7, 7003-5.3, 7003-5.4, 7006-1.1, 7301-1.3, 7303-5.3, 7505-4.2 and 7505-6.6), which relate to children; amending 21 O.S. 1991, Section 701.7, as last amended by Section 23, Chapter 386, O.S.L. 1997 (21 O.S. Supp. 1997, Section 701.7), which relates to crimes and punishments; amending 82 O.S. 1991, Section 1501-103, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 4, Chapter 217, O.S.L. 1997 (27A O.S. Supp. 1997, Section 3-1-103), which relates to environment and natural resources; amending 43 O.S. 1991, Section 112, as last amended by Section 10, Chapter 403, O.S.L. 1997 (43 O.S. Supp. 1997, Section 112), which relates to marriage and family; amending Section 34, Chapter 247, O.S.L. 1996, as last amended by Section 3, Chapter 392, O.S.L. 1997, and 47 O.S. 1991, Section 1133, as last amended by Section 5, Chapter 294, O.S.L. 1997 (47 O.S. Supp. 1997, Sections 6-107.3 and 1133), which relate to motor vehicles; amending Section 27, Chapter 346, O.S.L. 1995, as amended by Section 16, Chapter 414, O.S.L. 1997, and as renumbered by Section 32, Chapter 414, O.S.L. 1997, and 56 O.S. 1991, Section 240.1, as last amended by Section 22, Chapter 402, O.S.L. 1997 (56 O.S. Supp. 1997, Sections 230.65 and 240.1), which relate to poor persons; amending 59 O.S. 1991, Section 1315, as last amended by Section 122, Chapter 418, O.S.L. 1997 (59 O.S. Supp. 1997, Section 1315), which relates to professions and occupations; amending Section 4, Chapter 139, O.S.L. 1992, as last

amended by Section 20, Chapter 407, O.S.L. 1997 (63 O.S. Supp. 1997, Section 1-1962), which relates to public health and safety; amending Sections 6 and 7, Chapter 345, O.S.L. 1996, as amended by Sections 1 and 2, Chapter 284, O.S.L. 1997, and 68 O.S. 1991, Section 1357, as last amended by Section 16, Chapter 294, O.S.L. 1997 (68 O.S. Supp. 1997, Sections 500.6, 500.7 and 1357), which relate to revenue and taxation; amending Section 15, Chapter 322, O.S.L. 1995, as last amended by Section 5, Chapter 349, O.S.L. 1997, Section 21, Chapter 322, O.S.L. 1995, as amended by Section 1, Chapter 356, O.S.L. 1997, and 70 O.S. 1991, Section 1210.508, as last amended by Section 6, Chapter 343, O.S.L. 1997 (70 O.S. Supp. 1997, Sections 6-194, 6-200 and 1210.508), which relate to schools; amending 74 O.S. 1991, Section 85.12, as last amended by Section 1, Chapter 257, O.S.L. 1997, 500.2, as last amended by Section 1, Chapter 354, O.S.L. 1997 (74 O.S. Supp. 1997, Sections 85.12 and 500.2), which relate to state government; amending 85 O.S. 1991, Section 177, as last amended by Section 124, Chapter 418, O.S.L. 1997 (85 O.S. Supp. 1997, Section 177), which relates to workers' compensation; merging and consolidating duplicate sections; repealing 10 O.S. 1991, Sections 404.1, as last amended by Section 1, Chapter 260, O.S.L. 1997, 1101, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 1, Chapter 153, O.S.L. 1997, 1109, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 55, Chapter 366, O.S.L. 1997,

1115.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 5, Chapter 386, O.S.L. 1997, 1115.2, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 6, Chapter 386, O.S.L. 1997, 1130, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 56, Chapter 366, O.S.L. 1997, Section 8, Chapter 353, O.S.L. 1996, as amended by Section 13, Chapter 386, O.S.L. 1997, Section 72, Chapter 352, O.S.L. 1995, as last amended by Section 10, Chapter 199, O.S.L. 1997, Section 132, Chapter 352, O.S.L. 1995, as amended by Section 18, Chapter 293, O.S.L. 1997, 60.6, as last amended by Section 27, Chapter 366, O.S.L. 1997, and as renumbered by Section 58, Chapter 366, O.S.L. 1997, and 60.18, as amended by Section 38, Chapter 366, O.S.L. 1997, and as renumbered by Section 58, Chapter 366, O.S.L. 1997 (10 O.S. Supp. 1997, Sections 404.1, 7001-1.3, 7003-3.7, 7003-5.3, 7003-5.4, 7006-1.1, 7301-1.3, 7303-5.3, 7505-4.2 and 7505-6.6), 12 O.S. 1991, Sections 1171.2, as amended by Section 2, Chapter 272, O.S.L. 1997, and 1171.3, as last amended by Section 3, Chapter 272, O.S.L. 1997 (12 O.S. Supp. 1997, Sections 1171.2 and 1171.3), 21 O.S. 1991, Section 701.7, as last amended by Section 1, Chapter 324, O.S.L. 1997 (21 O.S. Supp. 1997, Section 701.7), 82 O.S. 1991, Section 1501-103, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 1, Chapter 24, O.S.L. 1997 (27A O.S. Supp. 1997, Section 3-1-103), 43 O.S. 1991, Sections 112, as last amended by

Section 10, Chapter 402, O.S.L. 1997, and 118, as last amended by Section 13, Chapter 402, O.S.L. 1997 (43 O.S. Supp. 1997, Sections 112 and 118), Section 34, Chapter 247, O.S.L. 1996, as last amended by Section 1, Chapter 322, O.S.L. 1997, and 47 O.S. 1991, Sections 1104, as amended by Section 2, Chapter 284, O.S.L. 1986, and 1133, as last amended by Section 2, Chapter 13, O.S.L. 1997 (47 O.S. Supp. 1997, Sections 6-107.3, 1104 and 1133), Section 27, Chapter 346, O.S.L. 1995, as amended by Section 5, Chapter 392, O.S.L. 1997, and as renumbered by Section 32, Chapter 414, O.S.L. 1997, and 56 O.S. 1991, Section 240.1, as last amended by Section 8, Chapter 272, O.S.L. 1997 (56 O.S. Supp. 1997, Sections 230.65 and 240.1), 59 O.S. 1991, Section 1315, as last amended by Section 4, Chapter 251, O.S.L. 1997 (59 O.S. Supp. 1997, Section 1315), Section 4, Chapter 139, O.S.L. 1992, as last amended by Section 1, Chapter 219, O.S.L. 1997, and 63 O.S. 1991, Section 2504, as last amended by Section 1, Chapter 113, O.S.L. 1997 (63 O.S. Supp. 1997, Sections 1-1962 and 2504), Sections 6 and 7, Chapter 345, O.S.L. 1996, as amended by Sections 2 and 3, Chapter 259, O.S.L. 1997, 68 O.S. 1991, Sections 607.2, as last amended by Section 9, Chapter 284, O.S.L. 1997, 1357, as last amended by Section 2, Chapter 252, O.S.L. 1997, and 2915, as last amended by Section 12, Chapter 304, O.S.L. 1997 (68 O.S. Supp. 1997, Sections 500.6, 500.7, 607.2, 1357 and 2915), Section 15, Chapter 322, O.S.L. 1995, as last amended by Section 1, Chapter 342, O.S.L. 1997, Section 21, Chapter 322, O.S.L.

1995, as amended by Section 8, Chapter 344, O.S.L. 1997 and Section 4, Chapter 349, O.S.L. 1997, Section 6, Chapter 215, O.S.L. 1996, as amended by Section 5, Chapter 300, O.S.L. 1997, and 70 O.S. 1991, Section 1210.508, as last amended by Section 1, Chapter 341, O.S.L. 1997 (70 O.S. Supp. 1997, Sections 6-194, 6-200, 18-201.1 and 1210.508), 74 O.S. 1991, Sections 85.12, as last amended by Section 1, Chapter 169, O.S.L. 1997, and 500.2, as last amended by Section 1, Chapter 286, O.S.L. 1997 and as last amended by Section 1, Chapter 335, O.S.L. 1995 (74 O.S. Supp. 1997, Sections 85.12 and 500.2), 82 O.S. 1991, Section 1461, as last amended by Section 1, Chapter 31, O.S.L. 1997 (82 O.S. Supp. 1997, Section 1461), and 85 O.S. 1991, Section 177, as last amended by Section 3, Chapter 262, O.S.L. 1997 (85 O.S. Supp. 1997, Section 177), which relate to duplicate sections; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 404.1, as last amended by Section 20, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Section 404.1), 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, 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 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 for any adult residing in the child care facility. A criminal history investigation conducted by the Oklahoma State Bureau of Investigation 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 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 for any adult residing in the foster family home. A criminal history investigation conducted by the Oklahoma State Bureau of Investigation 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 the contractor of the child care facility has resided in Oklahoma for less than one (1) year, the criminal history investigation 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 criminal history investigation, conducted by the Oklahoma State Bureau of Investigation, for such foster family applicant and for any adult residing in such foster family home. A criminal history investigation conducted by the Oklahoma State Bureau of Investigation shall 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 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 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 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 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 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 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.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 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 (10 O.S. Supp. 1997, Section 7001-1.3), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

- (1) who is for any reason destitute, homeless, or abandoned,
- (2) who does not have the proper parental care or guardianship or whose home is an unfit place for the child by reason of neglect, abuse, cruelty, or depravity on the part of the child's parents, legal guardian, or other person responsible for the child's health or welfare,
- (3) who is a child in need of special care and treatment because of his physical or mental condition including, but not limited to, a child born in a condition of dependence on a controlled dangerous substance, and his parents, legal guardian, or other custodian is unable or willfully fails to provide said special care and treatment,
- (4) who is a child with a disability deprived of the nutrition necessary to sustain life or of the medical treatment necessary to remedy or relieve a life-threatening medical condition in order to cause or allow the death of said child if such nutrition or medical treatment is generally provided to similarly situated children without a disability or children with disabilities; provided that no medical treatment is necessary if, in the reasonable medical judgment of the attending physician, such treatment would be futile in saving the life of the child,
- (5) who is, due to improper parental care and guardianship, absent from school as specified in Section 10-106 of Title 70 of the Oklahoma

Statutes, if said child is subject to compulsory school attendance, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31. "Protective custody" means custody of a child taken pursuant to Section 7003-2.1 et seq. of this title;

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

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

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

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

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

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

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

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

40. "Treatment and service plan" means a written document which includes 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 3. AMENDATORY 10 O.S. 1991, Section 1109, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 4, Chapter 386, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7003-3.7), is amended to read as follows:

Section 7003-3.7 A. If the parents, guardian, or other legal custodian of the child requests an attorney and is found to be without sufficient financial means, counsel shall be appointed by

the court if a petition has been filed alleging that the child is a deprived child or if termination of parental rights is a possible remedy, provided that the court may appoint counsel without such request, if it deems representation by counsel necessary to protect the interest of the parents, guardian or other legal custodian. If the child is not otherwise represented by counsel, whenever a petition is filed pursuant to the provisions of this part, the court shall appoint a separate attorney, who shall not be a district attorney, regardless of any attempted waiver by the parent or other legal custodian of the child of the right of the child to be represented by counsel. The attorney appointed for the child shall make arrangements to meet with the child as soon as possible after receiving notification of the appointment. Except for good cause shown, the attorney shall meet with the child not less than twenty-four (24) hours prior to any hearing in such proceeding. The attorney may speak with the child over the telephone if a personal visit is not possible due to exigent circumstances. If a meaningful attorney-client relationship between the child and the attorney is prohibited due to age or disability of the child, the attorney shall contact the custodian or caretaker of the child prior to the hearing.

B. Whenever a petition is filed alleging that a child is a deprived child, the court may appoint a guardian ad litem for the child at any time subsequent to the filing of the petition and shall appoint a guardian ad litem upon the request of the child or the attorney of the child and whenever a court-appointed special advocate is available to the court to serve as a guardian ad litem regardless of whether or not a guardian ad litem has been requested by the child or the attorney of the child. A Court-Appointed Special Advocate Program shall be made available to each judicial district.

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

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

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

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

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

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 4. AMENDATORY 10 O.S. 1991, Section 1115.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 2, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7003-5.3), is amended to read as follows:

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

B. The plan shall be filed by the Department 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 proper care of the child or to prevent further harm to the child;

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

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

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

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

- a. the services to be provided during and after any such placement,
- b. the reasons for such placement and a statement as to the unavailability or inappropriateness of local placement, or other good cause, for any placement more than forty (40) miles from the home of the child,
- c. the services to be provided to the child while in such placement and the projected date of discharge,
- d. the services necessary to assist the child to reintegrate with the child's family or other community-based placement and a description of acts by and conduct that is expected of the parent or parents,

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

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

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

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

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

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

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

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

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

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

adjudicated deprived, complete a treatment program approved by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority prior to the return of the child to the home; and

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

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

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

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

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

SECTION 5. AMENDATORY 10 O.S. 1991, Section 1115.2, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last

amended by Section 3, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7003-5.4), is amended to read as follows:

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

1. Demographic information;

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

3. Circumstances which necessitated placement;

4. Type of custody and previous placement;

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

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

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

8. Education history to include present grade placement, last school attended, and special strengths and weaknesses. The Department of Human Services shall also assist the foster parents in getting the foster child's school records and 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 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 6. AMENDATORY 10 O.S. 1991, Section 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 (10 O.S. Supp. 1997, Section 7006-1.1), 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 ~~60-5~~ 7503-2.1 of this title, 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) the child has been adjudicated to be deprived, and
- (2) such condition is caused by or contributed to by acts or omissions of the parent, and
- (3) termination of parental rights is in the best interests of the child, and
- (4) 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; 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

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 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 child from physical or sexual abuse that is heinous or shocking to the court or that the child or sibling of such child has suffered severe harm or injury as a result of such physical or sexual abuse, or
- b. 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

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

~~C. A parent or guardian of a child may petition the court to terminate the parental rights of a parent or the parents of a child for any of the grounds listed in paragraphs 1, 2 or 5 of subsection A of this section. A prior finding by a court that a child is delinquent, deprived or in need of supervision shall not be required for the filing of such petition by the parent or guardian~~ 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 7. AMENDATORY Section 72, Chapter 352, O.S.L. 1995, as last amended by Section 2, Chapter 293, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7301-1.3), is amended to read as follows:

Section 7301-1.3 When used in the Oklahoma Juvenile Code, unless the context otherwise requires:

1. "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition filed pursuant to the provisions of Article III of the Oklahoma Juvenile Code are supported by the evidence and whether a juvenile should be adjudged to be a ward of the court;

2. "Alternatives to secure detention" means those services and facilities which are included in the State Plan for the Establishment of Juvenile Detention Services adopted by the Board of Juvenile Affairs and which are used for the temporary detention of juveniles in lieu of secure detention in a juvenile detention facility;

3. "Board" means the Board of Juvenile Affairs;

4. "Child" or "juvenile" means any person under eighteen (18) years of age, except for any person sixteen (16) or seventeen (17) years of age who is charged with any crime specified in subsection A of Section 7306-1.1 of this title, or any person thirteen (13), fourteen (14) or fifteen (15) years of age who is charged with murder in the first degree pursuant to subsection B of Section 7306-1.1 of this title or Section 7306-2.5 of this title, or any individual who has been certified as an adult pursuant to Section 7303-4.3 of this title, or any individual against whom the imposition of judgment and sentence has been deferred for any crime specified in subsection A or B of Section 7306-1.1 of this title, any individual against whom the imposition of judgment and sentence has been deferred after certification as an adult pursuant to Section 7303-4.3 of this title, or any person fifteen (15) years of age or older and charged or certified as a youthful offender pursuant to the Youthful Offender Act; provided that any person under eighteen (18) years of age who is not convicted after being charged with a crime pursuant to Section 7306-1.1 of this title, or any individual who is not convicted after certification as an adult pursuant to Section 7303-4.3 of this title, or any individual who is not convicted as a youthful offender pursuant to the Youthful Offender Act, shall continue to be subject to the jurisdiction of the juvenile court;

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

6. "Child or juvenile in need of supervision" means a juvenile who:

- a. has repeatedly disobeyed reasonable and lawful commands or directives of the parent, legal guardian, or other custodian,
- b. is willfully and voluntarily absent from his home without the consent of the parent, legal guardian, or other custodian for a substantial length of time or without intent to return,
- c. is willfully and voluntarily absent from school, as specified in Section 10-106 of Title 70 of the Oklahoma Statutes, if the juvenile is subject to compulsory school attendance, or
- d. has been served with an ex parte or final protective order pursuant to the Protection from Domestic Abuse Act;

7. "Community-based" means a facility, program or service, or open group home or other suitable place located near the home or family of the juvenile, and programs of community supervision and service which maintain community participation in their planning, operation, and evaluation. These programs may include but are not limited to medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, diversion programs for first-time offenders, transitional living, independent living and other rehabilitative services;

8. "Community intervention center" means a facility which serves as a receiving center for children who are taken into custody

and which performs at least one of the functions provided for in subsection D of Section 7302-3.3 of this title;

9. "Community residential center" means a residential facility for no more than twenty juveniles which offers a range of services including personal and social services, and emphasizes normal group living, school attendance, securing employment, and general participation in the community;

10. "Day treatment" means a program which provides intensive services to juveniles who reside in their own home, the home of a relative, or a foster home. Day treatment programs include educational services and may be operated as a part of a residential facility;

11. "Delinquent child or juvenile" means a juvenile who:

- a. has violated any federal or state law or municipal ordinance except a traffic statute or traffic ordinance or any provision of the Oklahoma Wildlife Conservation Code, the Oklahoma Vessel and Motor Regulation Act or the Oklahoma Boating Safety Regulation Act, or has violated any lawful order of the court made pursuant to the provisions of the Oklahoma Juvenile Code, or
- b. has habitually violated traffic laws ~~or~~, traffic ordinances or boating safety laws or rules;

12. "Department" means the Department of Juvenile Justice;

13. "Deputy Director" means the Deputy Director of the Department of Juvenile Justice;

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

15. "Executive Director" means the Executive Director of the Office of Juvenile Affairs;

16. "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 which is used for the lawful custody and treatment of juveniles. A facility shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes;

17. "Group home" means a residential facility housing no more than twelve juveniles with a program which emphasizes family-style living in a homelike environment. Said group home may also offer a program within the community to meet the specialized treatment needs of its residents. A group home shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes;

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

19. "Institution" means a residential facility offering care and treatment for more than twenty residents. An institution shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes. Said institution may:

- a. have a program which includes community participation and community-based services, or
- b. be a secure facility with a program exclusively designed for a particular category of resident;

20. "Juvenile detention facility" means a secure facility which meets the certification standards of the Department and which is entirely separate from any prison, jail, adult lockup, or other adult facility, for the temporary care of children. A juvenile

detention facility shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes;

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

22. "Office" means the Office of Juvenile Affairs;

23. "Person responsible for a juvenile'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 juvenile's parent cohabitates or any other adult residing in the home of the child, an agent or employee of a public or private residential home, institution or facility, or an owner, operator, or employee of a child care facility as defined by Section 402 of this title;

24. "Preliminary inquiry" or "intake" means a mandatory, preadjudicatory interview of the juvenile and, if available, the parents, legal guardian, or other custodian of the juvenile, which is performed by a duly authorized individual to determine whether a juvenile comes within the purview of the Oklahoma Juvenile Code, whether nonadjudicatory alternatives are available and appropriate, and if the filing of a petition is necessary;

25. "Probation" means a legal status created by court order whereby a delinquent juvenile is permitted to remain outside a Department of Juvenile Justice facility directly or by contract under prescribed conditions and under supervision by the Department, subject to return to the court for violation of any of the conditions prescribed;

26. "Rehabilitative facility" means a facility maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of juveniles in need of supervision;

27. "Secure detention" means the temporary care of juveniles who require secure custody in physically restricting facilities:

- a. while under the continuing jurisdiction of the court pending court disposition, or

b. pending placement by the Department of Juvenile Justice after adjudication;

28. "Training school" or "secure facility" means a facility, maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of delinquent juveniles or youthful offenders which relies on locked rooms and buildings, and fences for physical restraint in order to control behavior of its residents. A training school or secure facility shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes; and

29. "Transitional living program" means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting juveniles 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.

SECTION 8. AMENDATORY Section 132, Chapter 352, O.S.L. 1995, as amended by Section 6, Chapter 350, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7303-5.3), is amended to read as follows:

Section 7303-5.3 A. The following kinds of orders of disposition may be made in respect to children adjudicated in need of supervision or delinquent:

1. The court may place the child on probation or under supervision in the home of the child, or in the custody of a suitable person, upon such conditions as the court shall determine. The court may require the parent or other person to give security by bond, with surety or sureties approved by the court, for compliance with such order. If the child is placed on probation, the court may impose a probation supervision fee of not more than Twenty-five Dollars (\$25.00) per month, if the court finds that the child or

parent or legal guardian of the child has the ability to pay the fee. In counties having a juvenile bureau, the fee shall be paid to the juvenile bureau; in all other counties, the fee shall be paid to the Office of Juvenile Affairs.

2. If it is consistent with the welfare of the child, the child shall be placed with the parent or legal guardian of the child, but if it appears to the court that the conduct of such parent, guardian, legal guardian, stepparent or other adult person living in the home has contributed to the child becoming delinquent or in need of supervision, 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 continuing to be delinquent or in need of supervision. 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.

a. If it is consistent with the welfare of the child, in cases where the child has been adjudicated to be in need of supervision 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, hearing and visual impairments and other impediments which could constitute an educational handicap or has been evaluated to determine whether the child has a disability if it is suspected that the child may require special education

services in accordance with the Individuals with Disabilities Education Act (IDEA). The results of such tests shall be made available to the court for use by the court in determining the disposition of the case.

- b. In issuing orders to a parent, guardian, legal guardian, stepparent or other adult person living in the home of a child adjudicated to be a delinquent child or in making other disposition of said delinquent child, the court may consider the testimony of said parent, guardian, legal guardian, stepparent or other adult person concerning the behavior of the juvenile and the ability of such person to exercise parental control over the behavior of the juvenile.
- c. In any dispositional order involving a child age sixteen (16) or older, the court shall make a determination, where appropriate, of the services needed to assist the child to make the transition to independent living.

No child who has been adjudicated in need of supervision only upon the basis of truancy or noncompliance with the mandatory school attendance law shall 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.

3. The court may commit the child to 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 committing a child to a private institution or agency, the court shall select one that is licensed by any 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 commit a child to 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 order the child to participate in a military mentor program administered by the Oklahoma Military Department, if such program:

- a. is staffed by National Guard personnel who are trained by the Oklahoma Military Department pursuant to training standards established by the Department of Juvenile Justice and meets screening requirements established by the Department of Juvenile Justice,
- b. provides for adequate supervision of the child, and
- c. is designed to develop useful skills and abilities of the child and/or integrate the child into community service activities or public works projects.

The Office of Juvenile Affairs through its Department of Juvenile Justice and the Oklahoma Military Department are hereby authorized to enter into an agreement to provide for the effective development and implementation of this paragraph.

6. The court may commit the child to the custody of the Office of Juvenile Affairs under the supervision of the Department of Juvenile Justice. Any order adjudicating the child to be delinquent and committing the child to the Department of Juvenile Justice shall be for an indeterminate period of time; ~~however, on or after the adoption of placement guidelines by the Juvenile Placement Guidelines Committee and approval of the guidelines by the Legislature, if the child is a serious juvenile offender or a habitual juvenile offender, as defined in the Serious and Habitual~~

~~Juvenile Offender Act, the order shall be for a determinate period of time established by the court within the range authorized by the placement guidelines, not to extend beyond such child's nineteenth birthday. If the adjudication is for distribution of a controlled dangerous substance or possession with intent to distribute a controlled dangerous substance, the court may require that the offender be placed in a residential facility operated or contracted for by the Office of Juvenile Affairs. Said placement must occur within sixty (60) days of disposition unless extended by the court for an additional sixty (60) days.~~

7. 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 child becoming delinquent or in need of supervision, 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.

8. With respect to a child adjudicated a delinquent child, the court may:

- a. for acts involving criminally injurious conduct as defined in Section 142.3 of Title 21 of the Oklahoma Statutes, order the child to pay a victim compensation assessment in an amount not to exceed that amount specified in Section 142.18 of Title 21 of the Oklahoma Statutes. The court shall forward a copy of the adjudication order to the Crime Victims Compensation Board for purposes of Section 142.11 of Title 21 of the Oklahoma Statutes. Except as otherwise provided by law, such adjudication order shall be kept confidential by the Board,

- b. order the child to engage in a term of community service without compensation. The state or any political subdivision shall not be liable if a loss or claim results from any acts or omission of a child ordered to engage in a term of community service pursuant to the provisions of this paragraph,
- c. if it is consistent with the welfare of the child, require community service or restitution or both community service and restitution for acts of delinquency. The immunities provided by Sections 227 and 228 of Title 57 of the Oklahoma Statutes shall apply to community services directed pursuant to this section. The court may order the parents or custodial parent of any child living with the parents or custodial parent to supervise the performance of community service by the child. The court may order the parents or custodial parent of any child living with the parents or custodial parent at the time of the criminal or delinquent act of the child to remit the amount of restitution ordered by the court. The court may consider any hardship of such order on the parents or custodial parent of the child. The parents or custodial parent may be represented by an attorney in the matter of the order for remittance of the restitution by the parents or custodial parent. Provided however, if the court orders the parents or custodial parent to remit the amount of restitution as provided for in this paragraph, in addition to any other dispositional orders of the court, the court shall order the child to perform community service for the number of hours commensurate with the number of hours it would require under federal or state minimum

wage to earn the amount paid by such child's parents or custodial parent under the order to remit restitution,

- d. order the child to pay the fine which would have been imposed had such child been convicted of such crime as an adult. Any such fine collected pursuant to this paragraph shall be deposited in a special Work Restitution Fund to be established by the court to allow children otherwise unable to pay restitution to work in community service projects in the private or public sector to earn money to compensate their victims,
- e. order the cancellation or denial of driving privileges as provided by Sections 6-107.1 and 6-107.2 of Title 47 of the Oklahoma Statutes,
- f. in accordance with the guidelines approved and adopted by the Oklahoma Supreme Court for the implementation of the Serious and Habitual Juvenile Offender Program, make the following orders: sanction detention in the residence of the child or facility designated by the Department of Juvenile Justice or the juvenile bureau for such purpose for up to five (5) days; weekend detention in a place other than a juvenile detention facility or shelter; tracking; or house arrest with electronic monitoring. On and after the adoption of guidelines by the Oklahoma Supreme Court for the implementation of the Serious and Habitual Juvenile Offender Program, the provisions of subparagraphs a through e of this paragraph shall be subject to said guidelines,
- g. in accordance with the guidelines approved and adopted by the Oklahoma Supreme Court for the implementation

of the Serious and Habitual Juvenile Offender Program, impose sanctions for the violation of preadjudicatory or postadjudicatory violations of probation,

~~h. on and after the adoption of placement guidelines by the Juvenile Placement Guidelines Committee and approval of such guidelines by the Legislature, the provisions of subparagraphs a through g of this paragraph shall be subject to said guidelines.~~

9. The court may dismiss the petition or otherwise terminate its jurisdiction at any time for good cause shown.

10. In any dispositional order removing a child from the home of the child, the court shall make a determination that, in accordance with the best interests of the child and the protection of the public, reasonable efforts have been made to provide for the 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.

B. Prior to adjudication or as directed by a law enforcement subpoena or court order, a school district may disclose education records to the court or juvenile justice system for purposes of determining the ability of the juvenile justice system to effectively serve a child. Any disclosure of educational records shall be in accordance with the requirements of the Family Educational Rights and Privacy Act of 1974 (FERPA).

C. With respect to a child adjudicated a delinquent child for a violent offense, within thirty (30) days of the date of the adjudication either the juvenile bureau in counties which have a juvenile bureau or the Office of Juvenile Affairs in all other counties shall notify the superintendent of the school district in which the child is enrolled or intends to enroll of the delinquency adjudication and the offense for which the child was adjudicated.

D. No child who has been adjudicated in need of supervision may be placed in a state training school.

E. No child charged in a state or municipal court with a violation of state or municipal traffic laws or ordinances, or convicted therefor, may be incarcerated in jail for any said violation unless the charge for which the arrest was made would constitute a felony if the child were an adult. Nothing contained in this subsection shall prohibit the detention of a juvenile for traffic-related offenses prior to the filing of a petition in the district court alleging delinquency as a result of said acts and nothing contained in this section shall prohibit detaining a juvenile pursuant to Section 7303-1.2 of ~~Title 10 of the Oklahoma Statutes~~ this title.

F. The court may revoke or modify a disposition order and may order redispotion. The child whose disposition is being considered for revocation or modification at said hearing shall have the right to be represented by counsel, to present evidence in the child's behalf and to be confronted by witnesses against the child. Any revocation, modification or redispotion of the court in whole or in part shall be subject to review on appeal, as in other appeals of criminal cases. Bail may be allowed pending appeal. ~~On or after the adoption of placement guidelines by the Juvenile Placement Guidelines Committee and approval of such guidelines by the Legislature, the court may make specific orders concerning the type and length of placement of said juvenile if the juvenile is committed to the Department.~~

SECTION 9. AMENDATORY 10 O.S. 1991, Section 60.6, as renumbered by Section 58, Chapter 366, O.S.L. 1997, and as last amended by Section 17, Chapter 386, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7505-4.2), is amended to read as follows:

Section 7505-4.2 ~~A child under eighteen (18) years of age cannot be adopted without the consent of its parents, if living, except that consent is not required from:~~

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

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

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

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

~~not be invalid on the ground that such termination of parental rights was not obtained.~~

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

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

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

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

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

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

~~satisfaction of the court that he made a sufficient attempt to discover if he had fathered the child or to exercise parental rights and duties toward the child prior to the receipt of notice, or~~

e. — he

A. Consent to adoption is not required from a putative father of a minor born out of wedlock who, at the hearing provided for in Section 7505-2.1 or 7505-4.1 of this title, fails to prove he is the father of the child.

B. Consent to adoption is not required from a parent who, for a period of twelve (12) consecutive months out of the last fourteen (14) months immediately preceding the filing of a petition for adoption of a child, has willfully failed, refused, or neglected to contribute to the support of such minor:

1. In substantial compliance with an order entered by a court of competent jurisdiction adjudicating the duty, amount, and manner of support; or

2. According to such parent's financial ability to contribute to such minor's support if no provision for support is provided in an order.

The incarceration of a parent in and of itself shall not prevent the adoption of a minor without consent.

C. Consent to adoption is not required from a father or putative father of a minor born out of wedlock if:

1. The minor is placed for adoption within ninety (90) days of birth, and the father or putative father fails to show he has exercised parental rights or duties towards the minor, including, but not limited to, failure to contribute to the support of the mother of the child to the extent of his financial ability during her term of pregnancy; or

2. a. The minor is placed for adoption within fourteen (14) months of birth, and the father or putative father fails to show that he has exercised parental rights or duties towards the minor, including, but not limited to, failure to contribute to the support of the minor to the extent of his financial ability, which may include consideration of his failure to contribute to the support of the mother of the child to the extent of his financial ability during her term of pregnancy, and
- b. Pursuant to subparagraph a of this paragraph, failure to contribute to the support of the mother during her term of pregnancy shall not in and of itself be grounds for finding the minor eligible for adoption without such father's consent.

D. The incarceration of a parent in and of itself shall not prevent the adoption of a minor without consent.

E. 1. A determination that the consent to adoption is not required from the father or putative father of a minor born out of wedlock shall not, by itself, act to relieve such father or putative father of his obligation to provide for the support of the minor as otherwise required by law.

2. Provided, in any case where a father or putative father of a minor born out of wedlock claims that, prior to the receipt of notice of the hearing provided for in Sections 7505-2.1 and 7505-4.1 of this title, he had been specifically denied knowledge of the minor or denied the opportunity to exercise parental rights and duties toward the minor, such father or putative father must prove to the satisfaction of the court that he made sufficient attempt to discover if he had fathered a minor or made sufficient attempt to exercise parental rights and duties toward the minor prior to the receipt of notice.

~~F. Consent to adoption is not required from a parent or putative father who waives in writing his right to notice of the hearing provided for in Section ~~29.1~~ 7505-2.1 or 7505-4.1 of this title.~~ ~~or~~

~~d. — he~~

~~G. Consent to adoption is not required from a parent or putative father who fails to appear at the hearing provided for in Section ~~29.1~~ 7505-2.1 or 7505-4.1 of this title if all notice requirements ~~continued~~ contained in or pursuant to Section ~~7006-1.2~~ of this title such sections have been met.~~

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

~~4.—A H. Consent to adoption is not required from a parent who is entitled to custody of a ~~child~~ minor and has abandoned the ~~child;~~ or minor.~~

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

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

~~b. — the parent has failed to show that the condition which led to the making of said finding has been corrected although the parent has been given three (3) months to correct the condition; provided, that the parent shall be given notice of any hearing to determine if the condition has been corrected. The court may extend the time in which such parent may show the condition has been corrected, if, in the judgment of the court, such extension of time would be in the best interest of the child. During the period that the parent has~~

~~to correct the condition the court may return the child to the custody of its parent or guardian, subject to any conditions which it may wish to impose or the court may place the child with an individual or an agency; or~~

6.—A I. Consent to adoption is not required from a parent who willfully fails to maintain a significant relationship with a minor through visitation or communication for a period of twelve (12) consecutive months out of the last fourteen (14) months immediately preceding the filing of a petition for adoption of the child.

J. Consent to adoption is not required from a parent who has been convicted in a criminal action pursuant to the provisions of Sections 7102 and 7115 of this title and Sections 1021.3, 1111 and 1123 of Title 21 of the Oklahoma Statutes or who has either:

~~a. physically~~

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

~~b. physically~~

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

7.—A K. Consent to adoption is not required from a parent who has been convicted in a criminal action of having caused the death

of a sibling of the ~~child~~ minor as a result of the physical or sexual abuse or chronic neglect of such sibling, ~~or.~~

~~8. A parent of a child who is deprived, as defined by Section 7001-1.3 of this title,~~ L. Consent to adoption is not required from a parent if:

- ~~a.~~ the parent has been sentenced to a period of incarceration of not less than ten (10) years, and
- ~~b.~~ the continuation of parental rights would result in harm to the ~~child~~ minor 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~~ minor; the evidence of abuse or neglect of the ~~child~~ minor or siblings of the ~~child~~ minor by the parent; and the current relationship between the parent and the ~~child~~ minor and the manner in which the parent has exercised parental rights and duties in the past, ~~or.~~

~~9. A parent of a child who is deprived, as defined by Section 7001-1.3 of this title, if~~ M. Consent to adoption is not required from:

- ~~a.~~ the 1. A parent who has a mental illness or mental deficiency, as defined by paragraphs f and g of Article II of Section 6-201 of Title 43A of the Oklahoma Statutes, which renders the parent incapable of adequately and appropriately exercising parental rights, duties and responsibilities, ~~and~~
- ~~b.~~ the;

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

~~e.~~ —the 3. 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.

N. Consent to adoption is not required from a putative father who has been served with a Notice of Plan for Adoption pursuant to Section 7503-3.1 of this title and who returns the form to the Paternity Registry of the Department of Human Services or agency or attorney who served him explicitly waiving a right to notice and legal rights to the minor or who fails to return the form pursuant to Section 7503-3.1 of this title in time for the form to be received by the Paternity Registry of the Department of Human Services or the agency or attorney who served him within thirty (30) days from the date the Notice of Plan for Adoption was served upon the putative father.

O. Consent to adoption is not required from:

1. An individual who has permanently relinquished the minor pursuant to the Oklahoma Adoption Code;

2. An individual whose parental relationship to a child has been legally terminated or legally determined not to exist; or

3. The personal representative of a deceased parent's estate.

SECTION 10. AMENDATORY 10 O.S. 1991, Section 60.18, as renumbered by Section 58, Chapter 366, O.S.L. 1997, and as last amended by Section 1, Chapter 400, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7505-6.6), is amended to read as follows:

Section 7505-6.6 A. For each adoption or annulment of adoption, the clerk of the court shall certify, within thirty (30) days after the decree becomes final, a certificate of such decree on a form furnished by the State Registrar of Vital Statistics. If a biological parent has filed an affidavit of nondisclosure pursuant to Section 7503-2.5 of this title, the clerk shall attach the

affidavit of nondisclosure to the certificate of such decree and forward it with the certificate to the State Registrar.

B. The State Registrar, upon receipt of a ~~certified copy of an order or~~ certificate of a decree of adoption, shall prepare a supplementary birth certificate in the new name of the adopted person, ~~the city and county of residence of adoptive parents, hospital of choice of adoptive parents, and the family physician of the adoptive parents if they are residents of the State of Oklahoma;~~ provided, however, ~~any change of name of the physician or the hospital shall first require that the written consent of the hospital and the physician is obtained~~ person. If the adopted person was born in a foreign country, the State Registrar shall prepare a certificate of foreign birth.

C. The State Registrar shall ~~then~~ seal and file the original certificate of birth, if any, with the ~~certified copy~~ certificate of decree of adoption and the affidavit of nondisclosure, if any, attached. ~~The sealed documents may be opened by the State Registrar only upon the demand of the adopted person, if of legal age, or of the adoptive parents, by an order of the court. Upon receipt of a certified copy of a court order of annulment of adoption, the State Registrar shall restore the original certificate to its original place in the files; provided further, that this act shall be retroactive and apply to adoptions heretofore granted by any court in this state.~~ Upon receipt of a certificate of a court order of annulment of adoption, the State Registrar shall restore the original certificate to its original place in the files.

D. For adoptions finalized after November 1, 1997, the State Registrar shall provide an adopted person, at that person's request, with an uncertified copy of the person's original certificate of birth at any time after the adopted person's eighteenth birthday, if all of the following conditions are met:

1. The adopted person has submitted satisfactory proof of identity;

2. The adopted person has submitted an affidavit in which the adopted person states under oath that such person does not have a biological sibling under the age of eighteen (18) who is currently in an adoptive family and whose location is known to the adopted person; and

3. The State Registrar has ascertained that at the time of the request there is no unrevoked affidavit of nondisclosure by a biological parent on file. However, if an unrevoked affidavit of nondisclosure from only one biological parent is on file and the other conditions have been met, the State Registrar may release to the adopted person an uncertified copy of the person's original certificate of birth after deleting from that copy of the birth certificate any identifying information regarding the biological parent who filed the unrevoked affidavit of nondisclosure, including, if necessary, the original surname of the adopted person.

E. The State Registrar shall not disclose an original certificate of birth or other sealed adoption records, except as permitted by subsection D of this section, or upon order of the court for good cause shown pursuant to Section 7505-1.1 of this title.

SECTION 11. AMENDATORY 21 O.S. 1991, Section 701.7, as last amended by Section 23, Chapter 386, O.S.L. 1997 (21 O.S. Supp. 1997, Section 701.7), is amended to read as follows:

Section 701.7 A. A person commits murder in the first degree when that person unlawfully and with malice aforethought causes the death of another human being. Malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.

B. A person also commits the crime of murder in the first degree, regardless of malice, when that person or any other person

takes the life of a human being during, or if the death of a human being results from, the commission or attempted commission of murder of another person, shooting or discharge of a firearm or crossbow with intent to kill, intentional discharge of a firearm or other deadly weapon into any dwelling or building as provided in Section 1289.17A of this title, forcible rape, robbery with a dangerous weapon, kidnapping, escape from lawful custody, first degree burglary, first degree arson, unlawful distributing or dispensing of controlled dangerous substances, or trafficking in illegal drugs.

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

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

SECTION 12. AMENDATORY 82 O.S. 1991, Section 1501-103, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 4, Chapter 217, O.S.L. 1997 (27A O.S. Supp. 1997, Section 3-1-103), is amended to read as follows:

Section 3-1-103. As used in the Conservation District Act:

1. "District" or "conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of the Conservation District Act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth;

2. "Director" means a member of the governing body of a conservation district, elected or appointed in accordance with the provisions of the Conservation District Act;

3. "Commission" means the Oklahoma Conservation Commission;

4. "State" means the State of Oklahoma;

5. "Agency of this state" includes the government of this state and any subdivision, agency or instrumentality, corporate or otherwise, of the government of this state;

6. "United States" or "agencies of the United States" includes the United States of America, and any department, agency or instrumentality of the federal government;

7. "Government" or "governmental" includes the government of this state, the government of the United States, and any subdivision, agency or instrumentality, corporate or otherwise, of either of them;

8. "Due notice" which shall be in conformance with the Administrative Procedures Act means notice published at least twice, with an interval of at least seven (7) days between the two publication dates, in a newspaper or other publication of general circulation within the district, or, if no such publication of general circulation ~~be~~ is available, by posting at five conspicuous places within the district, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates;

9. "District cooperator" means any person that has entered into a cooperative agreement with a conservation district for the purpose of protecting, conserving and practicing wise use of the renewable natural resources under his or her control;

10. "Renewable natural resources", "natural resources" or "resources" include land, soil, excess surface water, vegetation, trees, natural beauty, scenery and open space;

11. "Conservation" includes conservation, development, improvement, maintenance, preservation, protection and wise use of land, water and related natural resources; the control and prevention of floodwater and sediment damages; and the disposal of excess surface waters;

12. "Cost/Share program" means the assumption by the state of a proportional share of the cost of installing conservation structures or management practices on lands for public and environmental benefits;

13. "Management practices" means a control method or combination of control methods that is determined to be the most effective and practicable means of preventing soil loss from erosion or reducing the amount of nonpoint source pollution from a given land use;

14. "Nonpoint source" shall have the same meaning as such word is defined by the Oklahoma Environmental Quality Act;

15. "Pollution" shall have the same meaning as such word is defined by the Oklahoma Environmental Quality Act;

16. "Nonpoint source working group" means an advisory group established by the Conservation Commission to provide input into the state's nonpoint source management and assessment program and is open to federal, state and local environmental agencies and natural resource agencies and other interested groups;

17. "Watershed" means an area of land that drains to a given point; ~~and~~

18. "Blue Thumb Program" means a nonpoint source educational program emphasizing water quality education, including volunteer monitoring;

19. "Soil science" means the science which:

- a. is the study of physical, chemical, and biological processes taking place in both naturally occurring and reconstructed unconsolidated material formed by the alteration of parent rock due to exposure at the earth's surface, and
- b. includes sampling, measuring, identification, characterization, classification, and mapping of soil materials and migration of water solute, air and other gaseous components in the unsaturated portion of the earth; and

20. "Soil scientist" means a person who:

- a. has earned a baccalaureate or higher degree in a field of soil science from an institution of higher education which is accredited by a regional or national accrediting agency, with a minimum of thirty (30) semester hours or forty-five (45) quarter hours of undergraduate work in a field of biological, physical, or earth science with a minimum of fifteen (15) semester hours of core soil science courses, and
- b. has a specific and continuous record of related and verifiable soil science work experience for two (2) years. Publications in a soil science publication or prior qualifications as an expert witness in administrative or judicial proceeding, hearing or trial shall be prima facie verification of experience related to soil science.

SECTION 13. AMENDATORY 43 O.S. 1991, Section 112, as last amended by Section 10, Chapter 403, O.S.L. 1997 (43 O.S. Supp. 1997, Section 112), is amended to read as follows:

Section 112. A. A petition or cross-petition for a divorce, legal separation, or annulment must state whether or not the parties have minor children of the marriage. If there are minor children of the marriage, the court:

1. Shall make provision for guardianship, custody, medical care, support and education of the children;

2. Unless not in the best interests of the children, may provide for the visitation of the noncustodial parent with any of the children of such noncustodial parent; and

3. May modify or change any order whenever circumstances render such change proper either before or after final judgment in the action; provided, that the amount of the periodic child support payment shall not be modified retroactively or payment of all or a portion of the past due amount waived, except by mutual agreement of the obligor and obligee, or if the obligee has assigned child support rights to the Department of Human Services or other entity, by agreement of the Department or such entity. Unless the parties agree to the contrary, a completed child support computation form provided for in Section 120 of this title shall be required to be filed with the child support order.

The social security numbers of both parents shall be included in all child support orders.

B. In any action if there are minor unmarried children concerned in awarding the custody of the child or in appointing a general guardian for the child, the court shall be guided by the provisions of Section 21.1 of Title 10 of the Oklahoma Statutes and shall consider what appears to be in the best interests of the child.

C. 1. When it is in the best interests of a minor unmarried child, the court shall:

- a. assure children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and
- b. encourage parents to share the rights and responsibilities of child rearing in order to effect this policy.

2. There shall be neither a legal preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody.

3. When in the best interests of the child, custody shall be awarded in such a way so as to assure the frequent and continuing contact of the child with both parents. To this effect, in making an order for custody to either parent, the court:

- a. shall consider, among other facts, which parent is more likely to allow the child or children frequent and continuing contact with the noncustodial parent, and
- b. shall not prefer a parent as a custodian of the child because of the gender of that parent.

4. In any action, there shall be neither a legal preference or a presumption for or against private or public school or home-schooling in awarding the custody of a child, or in appointing a general guardian for the child.

5. In making an order for custody, the court may specify that:

- a. unless there is a prior written agreement to change the permanent residence of the child either parent shall notify the other parent if such parent plans to change the permanent residence of the child, and

b. the noncustodial parent is to notify the custodial parent if such noncustodial parent plans to change permanent residence.

D. Any child shall be entitled to support by the parents until the child reaches eighteen (18) years of age. If a dependent child is regularly and continuously attending high school, said child shall be entitled to support by the parents through the age of eighteen (18) years. No hearing shall be required to extend such support through the age of eighteen (18) if the child is regularly and continuously attending high school.

E. In any case in which provision is made for the custody or support of a minor child or enforcement of such order, the court shall inquire whether public assistance money has been provided by the Department of Human Services for the benefit of each child. If public assistance money has been provided for the benefit of the child, the Department of Human Services shall be a necessary party for the just adjudication and establishment of the debt due and owing the State of Oklahoma, as defined in Section 238 of Title 56 of the Oklahoma Statutes and for the just adjudication and establishment of current child support.

F. In any case in which a child support order or custody order or both is entered, enforced or modified, the court may make a determination of the arrearages of child support, if any.

SECTION 14. AMENDATORY Section 34, Chapter 247, O.S.L. 1996, as last amended by Section 3, Chapter 392, O.S.L. 1997 (47 O.S. Supp. 1997, Section 6-107.3), is amended to read as follows:

Section 6-107.3 A. The Department of Public Safety shall deny a license, restricted license, or instruction permit for the operation of a motor vehicle to any person under eighteen (18) years of age who does not, at the time of application, present documentation that such person:

1. a. is a student enrolled in a public or private secondary school, including any area vocational-technical school, of this state or any other state,
- b. has received a diploma or certificate of completion issued to the person from a secondary school of this state or any other state,
- c. is enrolled and making satisfactory progress in a program leading to a Certificate of High School Equivalency issued by the State Department of Education, or has obtained such certificate,
- d. is excused from such requirement pursuant to a lawful excuse as defined in subsection G of this section or due to circumstances beyond the control of the person, or
- e. is excused from such requirement pursuant to subsection C of this section; and

2. Has successfully passed the criterion-referenced reading test required for all eighth grade students or an alternative reading proficiency test approved by the State Department of Education demonstrating reading proficiency at the eighth grade reading equivalence, unless such student is excused from such requirement pursuant to the alternative documentation procedures of a school district provided for in paragraph 2 of subsection F of this section.

Provided, during the summer months when school is not in regular session, as established by the school district pursuant to Section 1-109 of Title 70 of the Oklahoma Statutes, persons under eighteen (18) years of age may satisfy the documentation requirement of this subsection by providing a notarized written statement from the parent, custodial parent or legal guardian of the child to the Department of Public Safety that the child completed the immediately previous school year and is enrolled or intends to enroll for the

immediately subsequent school year. The documentation shall be signed by the parent, custodial parent or legal guardian.

B. 1. A student under eighteen (18) years of age who is receiving education by other means, including education at home pursuant to Section 4 of Article XIII of the Oklahoma Constitution, shall satisfy the documentation requirement of subsection A of this section by providing a written statement from the parent, custodial parent, or legal guardian of the student to the Department of Public Safety attesting that the child is receiving instruction by other means pursuant to Section 4 of Article XIII of the Oklahoma Constitution. The documentation shall be signed by the parent, custodial parent, or legal guardian.

2. Any person who falsifies the information required in such documentation, upon conviction, shall be guilty of a misdemeanor.

C. 1. A student under eighteen (18) years of age, who does not meet the requirements of subparagraphs a through c of paragraph 1 of subsection A of this section or the requirements of subsection B of this section, may retain or be issued a driver license if:

- a. the student is employed at least twenty-four (24) hours per week, and
- b. the student's employer verifies such employment on a form prescribed by the Department of Public Safety.

2. Any student who has retained or been issued a driver license pursuant to this subsection who leaves such employment shall have fifteen (15) days from the date of termination of employment to provide verification of employment from a new employer.

3. Any employer who falsifies a verification of employment shall be subject to an administrative fine of not more than Fifty Dollars (\$50.00), to be assessed by the Department of Public Safety.

D. 1. School district attendance officers, upon request, shall provide a documentation of enrollment status form, established and approved by the Department of Public Safety, to any student under

eighteen (18) years of age who is properly enrolled in a school under the jurisdiction of the attendance officer, for presentation to the Department of Public Safety upon application for or reinstatement of an instruction permit, restricted license, or license to operate a motor vehicle.

2. Except as provided in subsection E of this section, whenever a student over fourteen (14) years of age and under eighteen (18) years of age withdraws from school, the attendance officer shall notify the Department of Public Safety of such withdrawal through a documentation of enrollment status form.

3. Within fifteen (15) working days of the receipt of such notice, the Department of Public Safety shall provide written notice to the student, by first class, postage prepaid mail, that the student's license will be canceled, or the driver license application of the student will be denied thirty (30) days following the date the notice to the student was sent, unless documentation of compliance with the provisions of this section is received by the Department of Public Safety before such time. After the thirty-day period, the Department of Public Safety shall cancel the driving privileges of the student.

E. When the withdrawal from school of a student is:

1. Due to circumstances beyond the control of the student;
2. Pursuant to any lawful excuse; or

3. For the purpose of transfer to another school, including education at home pursuant to Section 4 of Article XIII of the Oklahoma Constitution, as confirmed in writing by a parent, custodial parent, or legal guardian of the student, no notice as required by subsection D of this section shall be sent to the Department of Public Safety, or, if sent, such notice shall be disregarded by the Department of Public Safety. If the student is applying for a license, restricted license, or instruction permit, the attendance officer shall provide the student with

documentation to present to the Department of Public Safety to excuse the student from the requirements of this section. The board of education of a public school district or the appropriate school official of any private secondary school shall be the sole judge of whether the withdrawal of a student is due to circumstances beyond the control of the student or is made pursuant to lawful excuse.

F. 1. Every school district shall, upon request, provide documentation of reading proficiency for any student enrolled in such school district by certifying passage of the eighth grade criterion-referenced reading examination. Each school district shall offer to reexamine any student who fails to pass such examination. Subsequent examinations shall be administered by the school district at least six (6) times per year at such fee as may be established by the school district, not to exceed Twenty-five Dollars (\$25.00) per examination sitting; provided, however, the first reexamination shall be administered to the student at no cost.

2. A school district shall provide for alternative documentation of reading proficiency by certifying that a student is:

- a. a student with learning disabilities as defined by Section 109.5 of Title 70 of the Oklahoma Statutes, or
- b. a special education student, an alternative education student, or a student with a specific learning disability, where any such student has an individualized education plan and such student is reading at the student's expected reading level pursuant to the individualized education plan.

Such alternative documentation shall satisfy the requirements of paragraph 1 of this subsection for purposes of eligibility to apply for or retain a license or permit to drive.

3. The State Board of Education shall administer, or may contract with any school district to administer, a reading

proficiency test approved by the State Department of Education to any student who is not enrolled in a public school and shall provide for documentation, opportunity for reexamination and payment of fees in the same manner as provided herein for a student enrolled in a public school.

G. As used in this section:

1. "Withdrawal" means more than ten (10) consecutive days, or parts of days, of unexcused absences or fifteen (15) days, or parts of days, total unexcused absences during a single semester;

2. "Lawful excuse" means absence from school pursuant to any valid physical or mental illness or pursuant to any legal excuse as provided in Section 10-105 of Title 70 of the Oklahoma Statutes; provided, however, the meaning of such term shall not include marriage;

3. "Circumstances beyond the control of the person" shall not include marriage, suspension or expulsion from school, or imprisonment in a jail, penitentiary or other correctional institution;

4. "Documentation of enrollment status form" means the document established and approved by the Department of Public Safety to substantiate information concerning a student's eligibility to apply for or to retain a license or permit to drive. Such documentation shall not include any information which is considered an education record pursuant to the Family Education Rights and Privacy Act, 20 U.S.C., Sections 1232g through 1232i, unless compliance is made with the restrictions regarding disclosure of the information; and

5. "Documentation of reading proficiency" means information provided by a school district certifying a student's eligibility to apply for a license or permit based on passage of the eighth grade criterion-referenced reading examination, a reading proficiency test approved by the State Department of Education, or pursuant to alternative documentation criteria as provided in paragraph 2 of

subsection F of this section. Such documentation shall not include any information which is considered an education record pursuant to the Family Education Rights and Privacy Act, 20 U.S.C., Sections 1232g through 1232i, unless compliance is made with the restrictions regarding disclosure of the information.

H. The provisions of this section shall be inapplicable with respect to any minor upon whom rights of majority have been conferred pursuant to Sections 91 through 94 of Title 10 of the Oklahoma Statutes.

I. The Department of Public Safety shall establish and approve documentation forms and certificates required by this section for use by school districts to comply with the provisions of this section. Upon establishment and approval of such forms and certificates, the Department of Public Safety shall notify each school district and the State Board of Education of the content thereof.

SECTION 15. AMENDATORY 47 O.S. 1991, Section 1133, as last amended by Section 5, Chapter 294, O.S.L. 1997 (47 O.S. Supp. 1997, Section 1133), is amended to read as follows:

Section 1133. A. The following license fees shall be paid annually to the Oklahoma Tax Commission upon the registration of the following vehicles:

For each commercial vehicle over eight thousand (8,000) pounds as defined in Section 1102 of this title, the license fee shall be based on the combined laden weight of the vehicle or combination of vehicles. The license fees shall be computed and assessed at the following rates:

- | | |
|--|----------|
| 1. From 8,001 pounds to 15,000 pounds | \$ 95.00 |
| 2. From 15,001 pounds to 18,000 pounds | 120.00 |
| 3. From 18,001 pounds to 21,000 pounds | 155.00 |
| 4. From 21,001 pounds to 24,000 pounds | 190.00 |
| 5. From 24,001 pounds to 27,000 pounds | 225.00 |

6.	From 27,001 pounds to 30,000 pounds	260.00
7.	From 30,001 pounds to 33,000 pounds	295.00
8.	From 33,001 pounds to 36,000 pounds	325.00
9.	From 36,001 pounds to 39,000 pounds	350.00
10.	From 39,001 pounds to 42,000 pounds	375.00
11.	From 42,001 pounds to 45,000 pounds	400.00
12.	From 45,001 pounds to 48,000 pounds	425.00
13.	From 48,001 pounds to 51,000 pounds	450.00
14.	From 51,001 pounds to 54,000 pounds	475.00
15.	From 54,001 pounds to 57,000 pounds	648.00
16.	From 57,001 pounds to 60,000 pounds	681.00
17.	From 60,001 pounds to 63,000 pounds	713.00
18.	From 63,001 pounds to 66,000 pounds	746.00
19.	From 66,001 pounds to 69,000 pounds	778.00
20.	From 69,001 pounds to 72,000 pounds	817.00
21.	From 72,001 pounds to 73,280 pounds	857.00
22.	From 73,281 pounds to 74,000 pounds	870.00
23.	From 74,001 pounds to 75,000 pounds	883.00
24.	From 75,001 pounds to 76,000 pounds	896.00
25.	From 76,001 pounds to 77,000 pounds	909.00
26.	From 77,001 pounds to 78,000 pounds	922.00
27.	From 78,001 pounds to 79,000 pounds	935.00
28.	From 79,001 pounds to 80,000 pounds	948.00
29.	From 80,001 pounds to 81,000 pounds	961.00
30.	From 81,001 pounds to 82,000 pounds	974.00
31.	From 82,001 pounds to 83,000 pounds	987.00
32.	From 83,001 pounds to 84,000 pounds	1000.00
33.	From 84,001 pounds to 85,000 pounds	1013.00
34.	From 85,001 pounds to 86,000 pounds	1026.00
35.	From 86,001 pounds to 87,000 pounds	1039.00
36.	From 87,001 pounds to 88,000 pounds	1052.00
37.	From 88,001 pounds to 89,000 pounds	1065.00

38. From 89,001 pounds to 90,000 pounds 1078.00

B. After the fifth year's registration in this or any other state, the license fee upon any truck registered on a basis of the combined laden weight not in excess of fifteen thousand (15,000) pounds shall be assessed at fifty percent (50%) of the fee computed and assessed for each of the first five (5) years. On the seventh and all subsequent years of registration in this or any other state, on such truck, such license fees shall be assessed and computed at fifty percent (50%) of the amount due on the sixth year's registration. In no event shall such annual license fee on any truck be less than Ten Dollars (\$10.00) nor shall the annual license fee of any truck-tractor be less than Ninety-five Dollars (\$95.00).

C. In addition to the fees required by subsection A of this section, there shall be paid a registration fee of Forty Dollars (\$40.00) upon the first registration in this state after July 1, 1985, and upon the transfer of ownership of any rental trailer, commercial trailer or semitrailer designed to be pulled and usually pulled by a truck or truck-tractor.

Thereafter, a fee of Four Dollars (\$4.00) shall be paid annually for each rental trailer, commercial trailer or semitrailer. The fee of Four Dollars (\$4.00) shall be due and payable on January 1 of each year and shall be the only fee due on any rental trailer, commercial trailer or semitrailer registered under this section.

Upon the payment of the registration fee of Forty Dollars (\$40.00), a nonexpiring registration certificate and identification plate shall be issued for each rental trailer, commercial trailer or semitrailer. The nonexpiring identification plate shall remain displayed on the rental trailer, commercial trailer or semitrailer for which the identification plate is issued until such trailer or semitrailer is sold or removed from service.

A receipt shall be issued upon the payment of the annual fee. The receipt shall show the total fee paid for one or more rental

trailers, commercial trailers or semitrailers. The receipt shall be retained by the owner of any rental trailer, commercial trailer or semitrailer for a period of three (3) years and shall be subject to audit by the Oklahoma Tax Commission.

Any commercial trailer or semitrailer licensed pursuant to this section shall not be permitted to be operated on the highways of this state when such commercial trailer or semitrailer is being operated by a resident of this state, or is being operated by a person operating a vehicle or vehicles domiciled in this state and required by law to be licensed in Oklahoma, unless the pulling truck or truck-tractor has been licensed pursuant to this section. In no event shall any truck, truck-tractor, trailer, or semitrailer used in the furtherance of any commercial enterprise be permitted to operate on the highways of this state or register at a smaller license fee than that prescribed in this section except as provided in this section.

D. For the fiscal year beginning July 1, 1994, and for each fiscal year thereafter, notwithstanding the provisions of Section 1104 of this title, the first Four Hundred Thousand Dollars (\$400,000.00) of all monies collected pursuant to subsections A, B and C of this section shall be paid by the Oklahoma Tax Commission to the State Treasurer of the State of Oklahoma who shall deposit same each fiscal year, or such lesser amount as may accrue each fiscal year, under the provisions of this section to the credit of the General Revenue Fund of the State Treasury. All monies collected in excess of Four Hundred Thousand Dollars (\$400,000.00) each fiscal year shall be apportioned as provided in Section 1104 of this title.

E. If any vehicle is used for a purpose other than that for which it has been registered, the owner of the vehicle shall be required to immediately reregister the vehicle at the appropriate rate. If any vehicle is placed or operated upon any street, road or

highway of this state with a laden weight in excess of that for which it is licensed, the license fee for such increased laden weight shall become due, and the owner of the vehicle shall be required to immediately reregister the vehicle at the increased rate. Provided that, in either event there shall be credited upon the increased license fee for such reregistration for any portion of the year or period remaining after the change in use or increase in laden weight shall have occurred a proportionate part of the license fees previously paid. If this reregistration is made voluntarily by the owner, the ratable proportion of the credit allowed shall be determined as of the date the reregistration is voluntarily made. If the reregistration is not voluntarily made but occurs as a result of the discovery by any enforcement officer of an improper operation of the vehicle, that shall be considered prima facie evidence that it has been improperly registered for the entire portion of the year covered by the improper registration. Provided further that the ratable credit shall be allowed only on the first reregistration of any vehicle during any calendar year. If, during the calendar year, subsequent changes of license plate are desired, the ratable credit shall not be allowed but the owner of the vehicle shall be required to pay the license fee due for that portion of the calendar year remaining without benefit of any additional credits. No owner of a motor vehicle shall possess at any time more than one license plate for any vehicle owned by such person. No reregistration shall be made until the current license plate previously issued has been surrendered.

Any person who has paid a fee under the terms and provisions of this subsection may at any time within one (1) year after the payment of such fee file with the Commission a claim under oath for refund stating the grounds therefor. However, the Commission shall allow refunds only where the amount of tax paid has been erroneously computed or determined through clerical errors or miscalculations.

No refund shall be allowed by the Commission of a tax paid by the person where such payment is made through a mistake as to the legal misinterpretation or construction of the provisions of this section. Any refunds made by the Commission pursuant to this subsection shall be made out of any monies collected pursuant to this subsection and which have not been apportioned.

F. The annual license fee required by this section is intended to cover only the motor vehicle for which it is issued. The Commission upon application, when a licensed truck-tractor has been destroyed by fire or accident, shall credit the unused portion of the annual license fee of said vehicle toward the license fee of a replacement vehicle of equal registered weight. The amount of credit shall not exceed the license fee due on the replacement vehicle. The Commission shall not be required to make a refund. If the replacement vehicle is to be registered at a greater weight, the applicant shall pay an additional sum equivalent to the difference between the unused portion of the annual license fee for the original motor vehicle and the license fee due for the replacement motor vehicle.

G. The license fees provided for in this section shall be paid each year whether or not the vehicle is operated on the public highway.

H. Notwithstanding the provision of any other statute in respect to the time for payment of license fees on motor vehicles, if the total amount of the annual license fees due from any resident owner, either individual, partnership, or Oklahoma corporation, upon the registration, on or before January 15 of any year, of commercial trucks, truck-tractors, trailers or semitrailers exceeds the sum of One Thousand Dollars (\$1,000.00), the license fees may be paid in equal semiannual installments. The first installment shall be paid at the time of the application for registration of the vehicles and

not later than January 15 of each year, and the second installment shall be paid on or before the first day of July of such year.

This subsection shall not operate to reduce the amount of the license fees due. If any installment is not paid on or before the date due, all unpaid installments of license fees for such year on each vehicle shall be deemed delinquent and immediately due and payable, and there shall be added a penalty of twenty-five cents (\$0.25) per day to the balance of the license fee due on each vehicle for each day the balance remains unpaid up to thirty (30) days, after which the penalty due on each vehicle shall be Twenty-five Dollars (\$25.00). The penalty for vehicles registered by weight in excess of eight thousand (8,000) pounds shall be an amount equal to the license fee. On and after the 30th day each such vehicle involved shall be considered as improperly licensed and as not currently registered, and all of the provisions of the Oklahoma Vehicle License and Registration Act relating to enforcement, including the provisions for the seizure and sale of vehicles not registered and not displaying current license plates, shall apply to the vehicles.

All fees and taxes levied by this act shall become and remain a first lien upon the vehicle upon which the fees or taxes are due until paid. The lien shall have priority to all other liens. No title to any vehicle may be transferred until the unpaid balance on the vehicle has been paid in full. Provided that any unpaid balance of the license fees shall remain and become a lien against any and all property of the owner, both real and personal, for so long as any license tag fee balance shall remain unpaid. Any unpaid balance under these provisions shall be immediately due and payable by the owner if any vehicle is sold, wrecked, or otherwise retired from service.

Any person electing to pay license fees on a semiannual installment basis, as herein authorized, shall be required to

purchase a new license tag for the last half and shall pay the sum of Four Dollars (\$4.00) for each tag to cover the costs of the license tags. The license tags for each half shall be plainly marked in designating the half for which they were issued. A validation sticker may be used in lieu of a metal tag where appropriate. Such license tag fee shall be, in addition to the license fees or any other fees, collected on each application as provided by statute and shall be apportioned according to the provisions of Section 1104 of this title.

I. Any person pulling or towing any vehicle intended to be resold, into or through this state, shall pay a fee of Three Dollars (\$3.00) for the vehicle towing and Three Dollars (\$3.00) for the one being towed. It shall be unlawful to operate any series of such units on the public highways of this state at a distance closer than five hundred (500) feet from each other. All fees and taxes levied by the terms and provisions of this section shall become and remain a first lien upon the vehicle upon which the fees or taxes are due until paid. The lien shall be prior, superior, and paramount to all other liens of whatsoever kind or character.

J. In addition to any other penalties prescribed by law, the following penalty shall be imposed by revenue enforcement officers upon any owner or operator of a commercial vehicle registered under the provisions of this section when the laden weight or combined laden weight of such vehicle is found to be in excess of that for which registered. The penalty shall be imposed each and every time a vehicle is found to be in violation of the registered laden weight or combined laden weight.

The penalty shall be Twenty Dollars (\$20.00) when such vehicle exceeds the laden weight or combined laden weight by 2,001 pounds; thereafter, an additional Twenty Dollars (\$20.00) shall be imposed for each additional one thousand pounds or fraction thereof of

weight in excess of the registered laden weight or combined laden weight.

SECTION 16. AMENDATORY Section 27, Chapter 346, O.S.L. 1995, as amended by Section 16, Chapter 414, O.S.L. 1997, and as renumbered by Section 32, Chapter 414, O.S.L. 1997 (56 O.S. Supp. 1997, Section 230.65), is amended to read as follows:

Section 230.65 A. 1. The Department of Human Services shall conduct an employability assessment of the education, training, skills, prior work experience and supportive service needs of individuals applying for and receiving assistance pursuant to the Temporary Assistance for Needy Families (TANF) program.

2. The Department shall arrange for administration of a recognized literacy screening for individuals who have not obtained a high school diploma or General Equivalency Degree (GED) and have exhibited a lack of literacy skills. If, in the opinion of the Department, the applicant or recipient who has obtained a high school diploma or GED lacks reading skills to the extent that such insufficiency limits the applicant's or recipient's ability to become self-supporting, the Department shall refer the individual for a literacy assessment.

3. The Department shall utilize existing community resources, including, but not limited to, volunteer literacy groups and adult basic education programs, when arranging for literacy assessments and remediation of clients who lack sufficient reading skills.

B. The Department of Human Services shall require services to be provided to each applicant or recipient of benefits in any program according to a written personal responsibility agreement. The agreement shall reflect the education, training, skills, prior work experience and supportive service needs of the applicant or recipient and shall be:

1. Written in English, or translated into Spanish or other language, according to the applicant's or recipient's needs;

2. Signed by the applicant or recipient;
3. Signed by the parent of the applicant or recipient if the applicant or recipient is under eighteen (18) years of age;
4. Signed by the case manager; and
5. Reviewed by both the applicant or recipient and the case manager at least once a year. The agreement may be revised from time to time according to the needs of the recipient, the recipient's family and the program.

C. The personal responsibility agreement shall set forth the specific responsibilities of the recipient, at a minimum, to:

1. Develop a detailed plan for achieving self-sufficiency;
2. Participate in any educational or training program required by the Department pursuant to the results of the employability and literacy assessments;
3. Participate in life-skills training including, but not limited to, financial management classes, conflict resolution training, and social skills development;
4. Be available for and actively seek and maintain employment, and accept any reasonable employment as soon as it becomes available as required by the TANF program;
5. Participate in a community service, public works or private sector job pursuant to the requirements of the Statewide Temporary Assistance Responsibility System and the results of the employability and literacy assessments;
6. Acknowledge that additional benefits pursuant to the Temporary Assistance for Needy Families (TANF) program will be paid for a child born more than ten (10) months after the recipient qualifies for assistance only pursuant to a voucher system;
7. If the recipient is a minor parent, live in a supervised adult setting;

8. Accept responsibility for ensuring that the recipient's child complies with the attendance requirements of the local school district and attends school until the child of the recipient either:

- a. graduates from high school or attains a high school equivalency certificate, or
- b. becomes nineteen (19) years of age,

whichever occurs first;

9. Accept responsibility for attending any classes required by a program at least ninety percent (90%) of the time; ~~and~~

10. Immunize the recipients' minor children pursuant to the State Department of Health's immunization schedule; and

11. a. Undergo a literacy skills assessment utilizing a testing instrument which measures whether such recipient is reading at a minimum of an eighth grade reading level, where the recipient has the capacity to read at such level or, regardless of reading level, which indicates that the recipient would benefit from compulsory participation in a literacy skills improvement program.
- b. Based on the results of the assessment, the recipient shall agree to enroll and actively participate in a literacy skills improvement program and provide documentation of substantial quantifiable literacy improvement. Any recipient who is reading at less than an eighth grade level shall be required to continue to substantially and quantifiably improve his or her reading skills until such recipient demonstrates a level of reading proficiency that is at least equal to an eighth grade reading level.
- c. On or before December 31 of each year, the Department of Human Services shall annually provide to the Governor, the President Pro Tempore of the Senate and

the Speaker of the House of Representatives a written report outlining by age the number of recipients:

- (1) assessed for literacy skills,
- (2) who failed to demonstrate eighth grade reading level proficiency,
- (3) who agreed to enroll and participate in a literacy skills improvement program, and
- (4) who either provided documentation of substantial quantifiable literacy skills improvement or whose case was closed prior to completion.

D. The Department may sanction or impose financial penalties on a recipient for failure to comply with the provisions of the personal responsibility agreement.

SECTION 17. AMENDATORY 56 O.S. 1991, Section 240.1, as last amended by Section 22, Chapter 402, O.S.L. 1997 (56 O.S. Supp. 1997, Section 240.1), is amended to read as follows:

Section 240.1 A. 1. In cases where child support services are being provided by the Child Support Enforcement Division of the Department of Human Services, the Division ~~may~~ shall:

- a. initiate enforcement proceedings to:
 - (1) obtain a judgment for arrearages; ~~to,~~
 - (2) effectuate an income assignment; ~~to,~~
 - (3) receive current support and judgment payments; ~~to,~~ and
 - (4) review and modify support orders pursuant to child support guidelines in Section 118 of Title 43 of the Oklahoma Statutes; ~~and to~~
- b. initiate any other legal proceeding in the district or administrative court to implement the collection of support and other court-ordered requirements of support from an obligor including but not limited to medical, insurance premiums and child care costs.

2. A reasonable fee and costs may be assessed for ~~the~~ providing child support enforcement services pursuant to ~~the~~ rules and ~~regulations~~ promulgated by the Department. ~~Such~~ The fee, not to exceed Twenty-five Dollars (\$25.00), shall be paid by the applicant and such other costs shall be in addition to the amount withheld pursuant to the income assignment. In any hearing on a notice of delinquency or other enforcement proceeding, the district or administrative court may include the amount of the fee paid by the ~~person entitled to support payments~~ applicant in any judgment against the obligor.

B. The Division is authorized to initiate enforcement proceedings and receive payments pursuant to Section 240.2 of this title to effectuate an income assignment for ~~spousal~~:

1. Spousal support or the support of a ~~minor~~ child or both for an applicant or any person who is the recipient of Temporary Assistance for Needy Families (TANF) program; and

~~C. The Division is authorized to initiate enforcement proceedings and receive payments pursuant to Section 240.2 of this title to effectuate an income assignment for any~~

2. Any debt due and owing to the person entitled to receive enforcement support services by the Department or to this state by ~~the~~ a natural or adoptive parents or parent or other person who are ~~is or was~~ responsible for the support of a ~~minor~~ child pursuant to Section 238 of this title, or found to be responsible for the support of a ~~minor~~ child pursuant to Sections 238.1 through 238.6 of this title.

~~D. C.~~ 1. Upon application by an obligor who requests support enforcement services from the Department, the Division is authorized to initiate any proceedings necessary to provide support enforcement services to the obligor and to receive payments of the support obligation or any judgment.

2. A reasonable fee and costs may be assessed for the services provided for in this subsection pursuant to ~~the~~ rules promulgated by the Department. Such fee, not to exceed Twenty-five Dollars (\$25.00), shall be paid by the applicant.

~~E.~~ D. The Director has the authority to enter orders in situations as defined in Section ~~33~~ 240.23 of this ~~act~~ title, without the necessity of obtaining an additional signature of a district or administrative judge.

~~F.~~ E. The Division is authorized to refer any judgment for child support of more than Five Thousand Dollars (\$5,000.00) to the Secretary of Health and Human Services for denial of passport.

SECTION 18. AMENDATORY 59 O.S. 1991, Section 1315, as last amended by Section 122, Chapter 418, O.S.L. 1997 (59 O.S. Supp. 1997, Section 1315), is amended to read as follows:

Section 1315. A. The following persons or classes shall not be bail bondsmen and shall not directly or indirectly receive any benefits from the execution of any bail bond:

1. Persons convicted of, or who have pled guilty or nolo contendere to, a felony or a misdemeanor involving dishonesty or moral turpitude;

2. Jailers;

3. Police officers;

4. Committing judges;

5. Municipal or district court judges;

6. Prisoners;

7. Sheriffs, deputy sheriffs and any person having the power to arrest or having anything to do with the control of federal, state, county or municipal prisoners;

8. Any person who possesses a permit pursuant to the provisions of Section 163.11 of Title 37 of the Oklahoma Statutes or is an officer, director or stockholder of any corporation holding such a permit;

9. Any person who is an agent, employee, or owner of any establishment at which low-point beer as defined by Section 163.2 of Title 37 of the Oklahoma Statutes is sold for on-premises consumption;

10. Any person who holds any license provided for in Section 518 of Title 37 of the Oklahoma Statutes or is an agent, officer, or employee of any such licensee;

11. Any person who holds any license or permit from any city, town, county, or other governmental subdivision for the operation of any private club at which alcoholic beverages are consumed or provided; and

12. Any person, agent, or employee of a retail liquor package ~~stores~~ store.

B. This section shall not apply to a sheriff, deputy sheriff, police officer, or officer of the law who is not on duty and who assists in the apprehension of ~~any~~ a defendant.

C. The provisions of this section shall not apply to persons possessing permits or licenses pertaining to low-point beer or alcoholic beverages, as defined in Sections 163.2 and 506 of Title 37 of the Oklahoma Statutes, which were issued prior to May 23, 1984. ~~However, no~~ No one shall be permitted to maintain an office for conducting bail bonds business where low-point beer or alcoholic beverages are sold for on-premises consumption.

SECTION 19. AMENDATORY Section 4, Chapter 139, O.S.L. 1992, as last amended by Section 20, Chapter 407, O.S.L. 1997 (63 O.S. Supp. 1997, Section 1-1962), is amended to read as follows:

Section 1-1962. A. No home care agency as such term is defined by this act shall operate without first obtaining a license as required by the Home Care Act.

B. 1. No employer or contractor, except as otherwise provided by this subsection, shall employ or contract with any individual as a home health aide for more than four (4) months, on a full-time,

temporary, per diem or other basis, unless such individual is a licensed health professional or unless such individual has satisfied the requirements for certification and placement on the home health aide registry maintained by the State Department of Health; and

2. a. Any person in the employment of a home care agency as a home health aide on June 30, 1992, with continuous employment through June 30, 1993, shall be granted home health aide certification by the Department on July 1, 1993. The home care agency shall maintain responsibility for assurance of specific competencies of the home health aide and shall only assign the home health aide to tasks for which the aide has been determined to be competent.

b. Any home health aide employed between the dates of July 1, 1992, and June 30, 1993, shall be eligible for certification by passing a competency evaluation and testing as required by the Department.

c. Any home health aide employed on and after July 1, 1996, shall complete any specified training, competency evaluation and testing required by the Department. ~~The Department in conjunction with the Department of Human Services shall, until July 1, 1997, provide for competency certification for individuals under contract with the state Medicaid agency for the provision of personal care services prior to July 1, 1997, and who have not already been certified pursuant to this subsection.~~

C. The provisions of the Home Care Act shall not apply to:

1. A person acting alone who provides services in the home of a relative, neighbor or friend;

2. A person who provides maid services only;

3. A nurse service or home aide service conducted by and for the adherents to any religious denomination, the tenets of which include reliance on spiritual means through prayer alone for healing;

4. A person providing hospice services pursuant to the Oklahoma Hospice Licensing Act;

5. A nurse-midwife; ~~or~~

6. An individual, agency, or organization that contracts with the Oklahoma Health Care Authority to provide services under the Home and Community-Based Waiver for persons with mental retardation or that contracts with the Department of Human Services to provide community services to persons with mental retardation; provided, that staff members and individuals providing such services shall receive a level of training, approved by the Department of Human Services, which meets or exceeds the level required pursuant to the Home Care Act. An individual, agency or organization otherwise covered under the Home Care Act shall be exempt from the act only for those paraprofessional direct care services provided under contracts referenced in this paragraph;

7. An individual who only provides Medicaid home- and community-based personal care services pursuant to a contract with the Oklahoma Health Care Authority; or

8. An individual who:

- a. is employed by a licensed home care agency exclusively to provide personal care services on a live-in basis,
- b. has no convictions pursuant to a criminal history investigation as provided in Section 1-1950.1 of this title,
- c. is being continuously trained by a registered nurse to provide care that is specific to the needs of the particular client receiving the care, and

d. is supervised by a registered nurse via an on-site visit at least once each month.

SECTION 20. AMENDATORY Section 6, Chapter 345, O.S.L. 1996, as amended by Section 1, Chapter 284, O.S.L. 1997 (68 O.S. Supp. 1997, Section 500.6), is amended to read as follows:

Section 500.6 A. The tax of sixteen cents (\$0.16) per gallon of gasoline that is levied by Section 500.4 of this title, and penalties and interest thereon, collected by the Commission under the levy shall be apportioned and distributed monthly as follows:

1. The first Two Hundred Fifty Thousand Dollars (\$250,000.00) of the levy collected each month shall be deposited in the State Treasury to the credit of the State Transportation Fund;

2. One and six hundred twenty-five one-thousandths percent (1.625%) of the levy shall be remitted to the State Treasurer to the credit of the General Revenue Fund of the State Treasury;

3. Sixty-three and seventy-five one-hundredths percent (63.75%) of the levy shall be deposited in the State Treasury to the credit of the State Transportation Fund to be apportioned as follows:

a. the first Eight Hundred Fifty Thousand Dollars (\$850,000.00) collected each fiscal year shall be deposited into the Public Transit Revolving Fund, created in Section 4031 of Title 69 of the Oklahoma Statutes,

b. the second Eight Hundred Fifty Thousand Dollars (\$850,000.00) collected each fiscal year shall be deposited into the Railroad Maintenance Revolving Fund and shall be used by the Department of Transportation to contract railroad passenger services, including but not limited to a route linking stations in Oklahoma and Tulsa Counties with other primary points in the national railroad passenger system and passenger rail service within the state and to provide necessary

facility, signaling, and track improvements for those contracted services,

- c. forty-one and two-tenths percent (41.2%) of the monies apportioned to the State Transportation Fund shall be used for any purpose provided for in Section 1502 of Title 69 of the Oklahoma Statutes,
- d. nine and eight-tenths percent (9.8%) of the monies apportioned to the State Transportation Fund shall be used to provide funds for the construction and maintenance of farm-to-market roads on the state highway system, and other rural farm-to-market roads and bridges, and
- e. any remaining amount of the apportionment shall be deposited into the State Transportation Fund;

4. Twenty-seven percent (27%) of the levy shall be transmitted by the Commission to the various counties of the state, to be apportioned and used as follows:

- a. sixty-five and three-tenths percent (65.3%) of the monies apportioned under this paragraph shall be used on the following basis:
 - (1) forty percent (40%) of such sum shall be distributed to the various counties in the proportion which the county road mileage of each county bears to the entire state road mileage as certified by the State Transportation Commission, and
 - (2) the remaining sixty percent (60%) of such sum shall be distributed to the various counties on the basis which the population and area of each county bears to the total population and area of the state. The population shall be as shown by the last Federal Decennial Census or the most

recent annual estimate provided by the U.S.
Bureau of the Census,

- b. twenty-three and one-tenth percent (23.1%) of the monies apportioned under this paragraph shall be distributed to the counties in the following manner: One-third (1/3) on area; one-third (1/3) on rural population, defined as including the population of all municipalities with a population of less than five thousand (5,000) according to the latest Federal Decennial Census; and one-third (1/3) on county road mileage, as last certified by the Department of Transportation, as each county bears to the entire area, rural population and road mileage of the state, and
- c. eleven and six-tenths percent (11.6%) of the monies apportioned under this paragraph shall be distributed to the various counties of the state based on a formula developed by the Oklahoma Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs. Any county may, by resolution of the board of county commissioners, direct the Oklahoma Tax Commission to deposit the funds apportioned pursuant to this subparagraph directly into the County Bridge and Road Improvement Fund to be used for the

purposes set forth in the County Bridge and Road Improvement Act;

5. Three and one hundred twenty-five one-thousandths percent (3.125%) of the levy shall be distributed to the various counties of the state based on a formula developed by the Oklahoma Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs. Any county may, by resolution approved by a majority of the board of county commissioners and filed with the Oklahoma Tax Commission, direct the Oklahoma Tax Commission to deposit the funds apportioned pursuant to this paragraph directly into the County Bridge and Road Improvement Fund to be used for the purposes set forth in the County Bridge and Road Improvement Act;

6. Two and six hundred twenty-five one-thousandths percent (2.625%) of the levy shall be deposited in the County Bridge and Road Improvement Fund of the State Treasury to be used for the purposes set forth in the County Bridge and Road Improvement Act; and

7. One and eight hundred seventy-five one-thousandths percent (1.875%) of the levy shall be transmitted by the Commission to the treasurers of the various incorporated cities and towns of the state in the percentage which the population, as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census, bears to the total population of all the incorporated cities and towns in this state. The funds shall be expended for the construction, repair and maintenance of the streets and alleys of the incorporated cities and towns of this state.

B. 1. The funds apportioned or transmitted pursuant to subparagraphs a, b, and c of paragraph 4 of subsection A of this section, subsection B of Section 500.7 of this title, subsection B of Section 704 of this title, Section 706 of this title, and paragraph 2 of subsection D of Section 707.3 of this title shall be sent to the respective county treasurers and deposited in the county highway fund to be used by the county commissioners for the purpose of constructing and maintaining county highways and bridges.

2. The funds received by any county shall not be diverted to any other county of the state, and shall only be expended under the direction and control of the board of county commissioners in the county to which the funds are appropriated. If any part of the funds is diverted for any other purpose, the county commissioners shall be liable on their bond for double the amount of the money so diverted. This paragraph shall not prohibit counties from entering into cooperative agreements pertaining to the maintenance and construction of roads and bridges.

3. Where any county highway has been laid out over a road already constructed in any county by the use of money raised from county bond issues for that purpose, either alone or by the use of federal or state aid, or both, the county commissioners may set aside out of the funds apportioned to that county, as provided in this section, an amount of money equal to the value of any part thereof, of the interest of such county in such highway or bridge, which amount of money shall be considered by the excise board in reducing the levy for the purpose of retiring the bonded indebtedness and interest thereon of the county, and shall be used for investment or deposit in the same manner as provided by law for the disposition of other sinking fund money.

4. In all counties where the county excise board may find it necessary, because of insufficient revenue, to maintain county government out of the general fund, after a levy of ten (10) mills

has been made for any fiscal year, the county excise board may appropriate out of any such funds apportioned to the county an amount sufficient to pay the salaries of the county commissioners of the county for the fiscal year.

5. Counties may use funds deposited in the county highway fund for the purpose of matching federal or state funds, provided such funds are available, as necessary to secure assistance in the construction or improvement of the county road system.

C. With regards to the apportionment of the levy as set forth in paragraph 5 of subsection A of this section, paragraph 5 of subsection A of Section 500.7 of this title, and subsection C of Section 707.2 of this title:

1. If any county has an accrued balance of funds which were appropriated to or otherwise accrued in a restricted road maintenance fund, such funds shall be deposited directly to the county highway fund of the county;

2. If any county has an accrued balance of funds which were appropriated to or otherwise accrued in the County Road Improvement Fund, as that fund existed prior to the effective date of this act, such funds shall, by resolution approved by a majority of the board of county commissioners and filed with the Department of Transportation, be deposited in the county highway fund of the county or shall be deposited to the County Bridge and Road Improvement Fund to be used for the purposes set forth in the County Bridge and Road Improvement Act; and

3. If any county has an advanced funding agreement with the Department of Transportation, the Department of Transportation shall notify the Tax Commission as to the amount the county is obligated to pay according to the terms of the advanced funding agreement. The obligated amount shall be transferred each month by the Tax Commission to the Department of Transportation to the credit of the County Bridge and Road Improvement Fund from the funds apportioned

to the county pursuant to paragraph 5 of subsection A of this section. A county may elect to increase the monthly amount to be repaid pursuant to the advanced funding agreement from the funds apportioned to the county, but a county shall not be permitted to reduce the amount agreed to pursuant to the advanced funding agreement.

D. The tax levied on gasoline pursuant to Section 500.4A of this title, and the penalties and interest thereon, collected by the Commission under the levy shall be apportioned and distributed on a monthly basis to the State Highway Construction and Maintenance Fund for the purposes authorized by Section 1502 of Title 69 of the Oklahoma Statutes.

SECTION 21. AMENDATORY Section 7, Chapter 345, O.S.L. 1996, as amended by Section 2, Chapter 284, O.S.L. 1997 (68 O.S. Supp. 1997, Section 500.7), is amended to read as follows:

Section 500.7 A. The tax of thirteen cents (\$0.13) per gallon of diesel fuel that is levied by Section 500.4 of this title, and all penalties and interest thereon, collected by the Commission under the levy shall be apportioned and distributed monthly as follows:

1. The first Eighty-three Thousand Three Hundred Thirty-three Dollars and thirty-three cents (\$83,333.33) of the levy collected each month shall be deposited in the State Treasury to the credit of the State Transportation Fund;

2. One and thirty-nine one-hundredths percent (1.39%) of the levy shall be paid by the Commission to the State Treasurer to the credit of the General Revenue Fund of the State Treasury;

3. Sixty-four and thirty-four one-hundredths percent (64.34%) of the levy shall be deposited in the State Treasury to the credit of the State Transportation Fund;

4. Twenty-six and fifty-eight one-hundredths percent (26.58%) of the levy shall be transmitted by the Commission to various counties of the state, to be apportioned as follows:

a. forty-two and one-tenth percent (42.1%) of the monies apportioned under this paragraph shall be transmitted to the various counties in the percentage which the population and area of each county bears to the population and area of the entire state. The population shall be as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census,

b. fourteen and five-tenths percent (14.5%) of the monies apportioned under this paragraph shall be distributed as follows:

Forty percent (40%) of such sum shall be distributed to the various counties in that proportion which the county road mileage of each county bears to the entire state road mileage as certified by the Transportation Commission, and the remaining sixty percent (60%) of such sum shall be distributed to the various counties on the basis which the population and area of each county bears to the total population and area of the state. The population shall be as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census,

c. twenty-eight and nine-tenths percent (28.9%) of the monies apportioned under this paragraph shall be distributed to the several counties in the following manner: one-third (1/3) on area, one-third (1/3) on rural population (defined as including the population of all municipalities with a population of less than five thousand (5,000) according to the latest Federal

Decennial Census), and one-third (1/3) on county road mileage, as last certified by the Oklahoma Department of Transportation, as each county bears to the entire area, rural population and road mileage of the state, and

- d. fourteen and five-tenths percent (14.5%) of the monies apportioned under this paragraph shall be distributed to the various counties of the state based on a formula developed by the Oklahoma Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes. The formula shall be similar to the formula currently used for the distribution of the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to the county road improvement and maintenance costs. Any county may, by resolution approved by a majority of the board of county commissioners and filed with the Oklahoma Tax Commission, direct the Oklahoma Tax Commission to deposit the funds so apportioned by this subparagraph directly into the County Bridge and Road Improvement Fund to be used for the purposes set forth in the County Bridge and Road Improvement Act;

5. Three and eighty-five one-hundredths percent (3.85%) of the levy shall be distributed based on a formula developed by the Oklahoma Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes. The formula shall be similar to the formula currently used for the distribution of the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to the

county road improvement and maintenance costs. Any county may, by resolution approved by a majority of the board of county commissioners and filed with the Oklahoma Tax Commission, direct the Oklahoma Tax Commission to deposit the funds so apportioned by this paragraph directly into the County Bridge and Road Improvement Fund to be used for the purposes set forth in the County Bridge and Road Improvement Act. The apportionment of the levy as set forth in this paragraph shall be subject to the provisions of subsection C of Section 500.6 of this title; and

6. Three and eighty-four one-hundredths percent (3.84%) of the levy shall be deposited in the County Bridge and Road Improvement Fund of the State Treasury to be used for the purposes set forth in the County Bridge and Road Improvement Act.

B. The funds apportioned or transmitted pursuant to the provisions of subparagraphs a, b, and c of paragraph 4 of subsection A of this section shall be used in accordance with and subject to the provisions of subsection B of Section 500.6 of this title.

C. The tax levied on diesel fuel pursuant to Section 500.4A of this title, and all penalties and interest thereon, collected by the Commission under the levy shall be apportioned and distributed on a monthly basis to the State Highway Construction and Maintenance Fund for the purposes authorized by Section 1502 of Title 69 of the Oklahoma Statutes.

SECTION 22. AMENDATORY 68 O.S. 1991, Section 1357, as last amended by Section 16, Chapter 294, O.S.L. 1997 (68 O.S. Supp. 1997, Section 1357), is amended to read as follows:

Section 1357. Exemptions - General.

There are hereby specifically exempted from the tax levied by Section 1350 et seq. of this title:

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;

2. Transportation of persons where the fare of each person does not exceed One Dollar (\$1.00), or local transportation of persons within the corporate limits of a municipality except by taxicabs;

3. Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in this article. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salesmen who do not have an established place of business and a sales tax permit. The exemption provided by this paragraph shall apply to sales of motor fuel or diesel fuel to a Group Five vendor, but the use of such motor fuel or diesel fuel by the Group Five vendor shall not be exempt from the tax levied by Section 1350 et seq. of this title. The purchase of motor fuel or diesel fuel is exempt from sales tax when the motor fuel is for shipment outside this state and consumed by a common carrier by rail in the conduct of its business. The sales tax shall apply to the purchase of motor fuel or diesel fuel in Oklahoma by a common carrier by rail when such motor fuel is purchased for fueling, within this state, of any locomotive or other motorized flanged wheel equipment;

4. Sales of advertising space in newspapers and periodicals and billboard advertising service, and any advertising through the electronic media, including radio, television and cable television, and the servicing of any advertising devices;

5. Eggs, feed, supplies, machinery and equipment purchased by persons regularly engaged in the business of raising worms, fish, any insect or any other form of terrestrial or aquatic animal life and used for the purpose of raising same for marketing. This

exemption shall only be granted and extended to the purchaser when the items are to be used and in fact are used in the raising of animal life as set out above. Each purchaser shall certify, in writing, on the invoice or sales ticket retained by the vendor that the purchaser is regularly engaged in the business of raising such animal life and that the items purchased will be used only in such business. The vendor shall certify to the Oklahoma Tax Commission that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor;

6. Sale of natural or artificial gas and electricity when sold exclusively for residential use after December 31, 1980. Provided, nothing herein shall be construed as limiting or prohibiting cities and towns, and counties levying a tax pursuant to the provisions of Section 1370.2 of this title, from levying and collecting taxes on the sale of natural or artificial gas and electricity. Provided further, any sales tax levied by a city or town, or a county levying a tax pursuant to the provisions of Section 1370.2 of this title, on natural or artificial gas and electricity shall be in effect regardless of ordinance or contractual provisions referring to previously imposed state sales tax on such items;

7. In addition to the exemptions authorized by Section 1357.6 of this title, sales of medicines or drugs prescribed for the treatment of human beings by a person licensed to prescribe the medicines or drugs. Provided, this exemption shall not apply to proprietary or patent medicines as defined by Section 353.1 of Title 59 of the Oklahoma Statutes;

8. Transfers of title or possession of empty, partially filled, or filled returnable oil and chemical drums to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty, partially filled, or filled returnable oil drums;

9. Sales of one-way utensils, paper napkins, paper cups, disposable hot containers and other one-way carry out materials to a vendor of meals or beverages;

10. Sales of food or food products for home consumption which are purchased in whole or in part with coupons issued pursuant to the federal food stamp program as authorized by Sections 2011 through 2029 of Title 7 of the United States Code, as to that portion purchased with such coupons. The exemption provided for such sales shall be inapplicable to such sales upon the effective date of any federal law that removes the requirement of the exemption as a condition for participation by the state in the federal food stamp program;

11. Sales of food or food products to or by an organization which:

- a. is exempt from taxation pursuant to the provisions of Section 501(c) (3) of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3), and which provides and delivers prepared meals for home consumption to elderly or homebound persons as part of a program commonly known as "Meals on Wheels" or "Mobile Meals",
or
- b. is exempt from taxation pursuant to the provisions of Section 501(c) (3) of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3), and which receives federal funding pursuant to the Older Americans Act of 1965, as amended, for the purpose of providing nutrition programs for the care and benefit of elderly persons;

12. Sales of tangible personal property or services to or by organizations which are exempt from taxation pursuant to the provisions of Section 501(c) (3) of the Internal Revenue Code, 26 U.S.C., Section 501(c) (3), and which are primarily involved in the collection and distribution of food and other household products to

other organizations which are exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), which facilitate the distribution of such products to the needy, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or similar business;

13. Sales of food, food products, or clothing to children's homes which are located on church-owned property and are operated by organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

14. Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment for use in a qualified aircraft maintenance or manufacturing facility. For purposes of this paragraph, "qualified aircraft maintenance or manufacturing facility" means a new or expanding facility primarily engaged in aircraft repair, building or rebuilding whether or not on a factory basis, whose total cost of construction exceeds the sum of Five Million Dollars (\$5,000,000.00) and which employs at least two hundred fifty (250) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, upon completion of the facility. In order to qualify for the exemption provided for by this paragraph, the cost of the items purchased by the qualified aircraft maintenance or manufacturing facility shall equal or exceed the sum of Two Million Dollars (\$2,000,000.00);

15. Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility as defined in paragraph 14 of this section. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified aircraft maintenance or manufacturing facility for construction or expansion

of such a facility shall be considered sales made to a qualified aircraft maintenance or manufacturing facility;

16. Sales of any interstate telecommunications services which:

- a. entitle the subscriber to inward or outward calling respectively between a station associated with an access line in the local telephone system area or a station directly connected to any interexchange carrier's facilities and telephone or radiotelephone stations in diverse geographical locations specified by the subscriber, or
- b. entitle the subscriber to private communications services which allow exclusive or priority use of a communications channel or group of channels between exchanges;

17. Sales of railroad track spikes manufactured and sold for use in this state in the construction or repair of railroad tracks, switches, sidings and turnouts;

18. Sales of aircraft and aircraft parts provided such sales occur at a qualified aircraft maintenance facility. As used in this paragraph, "qualified aircraft maintenance facility" means a facility operated by an air common carrier at which there were employed at least two thousand (2,000) full-time-equivalent employees in the preceding year as certified by the Oklahoma Employment Security Commission and which is primarily related to the fabrication, repair, alteration, modification, refurbishing, maintenance, building or rebuilding of commercial aircraft or aircraft parts used in air common carriage. For purposes of this paragraph, "air common carrier" shall also include members of an affiliated group as defined by Section 1504 of the Internal Revenue Code, 26 U.S.C., Section 1504;

19. Sales of machinery and equipment purchased and used by persons and establishments primarily engaged in computer services and data processing:

- a. as defined under Industrial Group Numbers 7372 and 7373 of the Standard Industrial Classification (SIC) Manual, latest version, which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and
- b. as defined under Industrial Group Number 7374 of the SIC Manual, latest version, which derive at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer.

Eligibility for the exemption set out in this paragraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers or consumers, all sales to the federal government shall be considered to be to an out-of-state buyer or consumer;

20. Sales of prosthetic devices to an individual for use by such individual. For purposes of this paragraph, "prosthetic device" means a device which replaces a missing part of the human body and shall include any supplies physically connected to the device;

21. Sales of tangible personal property or services to a motion picture or television production company to be used or consumed in connection with an eligible production. For purposes of this paragraph, "eligible production" means a documentary, special, music video, or a television program that will serve as a pilot for or be

a segment of an ongoing dramatic or situation comedy series ~~televised on a~~ filmed or taped for network or ~~through~~ national or regional syndication or a feature-length motion picture intended for theatrical release or for ~~exhibition on national television by a~~ network or ~~through~~ national or regional syndication or broadcast. The provisions of this paragraph shall apply to sales occurring on or after July 1, 1996;

22. Sales of diesel fuel sold for consumption by commercial vessels, barges and other commercial watercraft; and

23. Beginning July 1, 1998, sales of tangible personal property or services to tax-exempt independent nonprofit biomedical research foundations that provide educational programs for Oklahoma science students and teachers and to tax-exempt independent nonprofit community blood banks headquartered in this state.

SECTION 23. AMENDATORY Section 15, Chapter 322, O.S.L. 1995, as last amended by Section 5, Chapter 349, O.S.L. 1997 (70 O.S. Supp. 1997, Section 6-194), is amended to read as follows:

Section 6-194. A. The local boards of education of this state shall establish professional development programs for the certified and licensed teachers and administrators of the district. Programs shall be adopted by each local board of education based upon recommendations of a professional development committee appointed by the board of education for the district. The State Board of Education shall disseminate to each local professional development committee a copy of the in-service professional development competencies included in the Report on Educator Preparation and Professional Development issued in December 1994 by the Oklahoma Commission for Teacher Preparation for review and consideration and, if approved by the local professional development committee, to be included in part or in whole in the local professional development plan of the school district. The professional development centers funded through the State Board of Education shall provide technical

assistance to any local school district which desires to incorporate any such competencies into its local professional development plan.

B. Each local professional development committee shall include classroom teachers, administrators and parents, guardians or custodians of children in the local school district and shall consult with a higher education faculty. A majority of the members of the professional development committee shall be composed of classroom teachers. The teacher members shall be selected from a list of names submitted by the bargaining agent, where one exists. In the absence of a bargaining agent, the teachers will elect a list of names to be submitted to the local board of education. At a minimum, once every four (4) years the committee shall include at least one school counselor in its membership.

C. The professional development programs adopted may include, but not be limited to:

1. In-service training programs;
2. Higher education courses; and
3. Professional development programs approved by the Oklahoma

Commission for Teacher Preparation.

Programs shall emphasize development of competencies in the core curriculum areas. Each program shall include a component on outreach to parents, guardians or custodians of students and multicultural education, which all personnel defined as teachers in Section 1-116 of Title 70 of the Oklahoma Statutes shall be required to complete on a periodic basis. Each adopted program shall allow school counselors to receive at least one-third (1/3) of the hours or credit required each year through programs or courses specifically designed for school counselors. Programs shall be submitted for approval to the Board. No school district shall receive state funds for professional development until the program adopted by the local board of education has been approved by the Board.

D. Teachers and administrators who have completed professional development courses in their field of instruction or in courses related to obtaining additional professional qualifications and who complete such courses and receive a grade which is equivalent to at least a 3.0 on a 4.0 grading scale may be reimbursed by the school district for one-half (1/2) of the general enrollment fees incurred at any institution within The Oklahoma State System for Higher Education. If the teacher or administrator incurs costs pursuant to this section at a private institution of higher education, the person may be reimbursed by the school district for an amount equal to one-half (1/2) of the general enrollment fees incurred at an institution of The Oklahoma State System of Higher Education of comparable type.

E. If funds are made available specifically for such purpose, teachers who have completed professional development programs approved by the Oklahoma Commission for Teacher Preparation shall receive a stipend based on the amount of funds allocated. No stipends shall be made to teachers who attend professional development institutes in elementary reading approved by the Oklahoma Commission for Teacher Preparation. No school district shall receive state funds for teacher stipends until such time as proof of the teacher's attendance and completion of the program has been determined by the State Department of Education.

F. Each licensed or certified teacher in this state shall be required by the local board of education to meet the professional development requirements established by the board, or established through the negotiation process. Failure of any teacher to meet local board of education professional development requirements may be grounds for nonrenewal of such teacher's contract by the local board of education. Such failure may also be grounds for nonconsideration of salary increments affecting the teacher.

G. The professional development plan shall be submitted to the State Board of Education as provided in Section 3-104.2 et seq. of Title 70 of the Oklahoma Statutes.

SECTION 24. AMENDATORY Section 21, Chapter 322, O.S.L. 1995, as amended by Section 1, Chapter 356, O.S.L. 1997 (70 O.S. Supp. 1997, Section 6-200), is amended to read as follows:

Section 6-200. A. Subject to the availability of funds, the Oklahoma Commission for Teacher Preparation shall have authority to develop and administer training for residency committees and training for professional development through professional development institutes. Included in the professional development institutes training shall be technology training. Professional development institutes shall be ~~subject to the approval of~~ accepted by the State Board of Education for professional development purposes and shall be defined as continuing education experiences which consist of a minimum of thirty (30) clock hours. The institutes shall be competency-based, emphasize effective learning practices, require collaboration among participants, and require each participant to prepare a work product which can be utilized in the classroom by the participant. Any state professional development institutes administered by the Commission shall be chosen through a competitive bid process and if funds are available subject to peer review. The Commission, prior to offering any professional development institute, shall promulgate rules related to administering state professional development institutes.

B. With the funds appropriated in House Bill No. 1872 of the 1st Session of the 46th Oklahoma Legislature specifically for the purpose of funding professional development institutes in intensive elementary reading, the Oklahoma Commission for Teacher Preparation shall develop, offer and administer professional development institutes to train elementary school teachers in reading education. The funds shall be used for the cost of developing, administering

and contracting for the professional development institutes. When possible, certified reading specialists shall be included as consultants. All costs of the institutes shall be included in the contract price and no tuition or registration fee shall be collected from teachers attending the institutes. The institutes shall be offered by or through the Commission. Working in conjunction with the State Department of Education, the Commission shall develop a state plan for administration of such institutes and shall report to the Governor and the Legislature on the format of and participation in the institutes. The State Department of Education shall cooperate with and provide any information requested to the Oklahoma Commission for Teacher Preparation as is necessary to carry out the provisions of this subsection. As additional funds become available for such purpose, the Commission shall develop and offer professional development institutes in mathematics for teachers in grades five through nine, the use of technology in the classroom, training of residency committee members in teacher mentoring and in hands-on inquiry-based science for elementary teachers.

SECTION 25. AMENDATORY 70 O.S. 1991, Section 1210.508, as last amended by Section 6, Chapter 343, O.S.L. 1997 (70 O.S. Supp. 1997, Section 1210.508), is amended to read as follows:

Section 1210.508 A. Beginning with the 1994-95 school year and every school year thereafter, the State Board of Education shall cause a norm-referenced test to be administered to every student enrolled in grades three and seven of the public schools of this state who is a resident of the district in which the student is currently enrolled pursuant to the provisions of subsection A of Section 1-113 of this title. The test used shall be selected by the Board and shall measure specific skills represented by learner objectives. The student skills to be tested at the specified grade levels shall include reading, mathematics, language arts, communications, science and the principles of citizenship in the

United States and other countries through the study of the ideals, history and government of the United States and other countries of the world, and through the study of the principles of democracy as they apply in the lives of citizens. Because the purpose of such norm-referenced testing is to focus on the progress of students and to diagnose a student's strengths and weaknesses, the Board shall seek to ensure that data yielded from the test is utilized at the school district level to prescribe skill reinforcement and/or remediation by requiring school districts to develop and implement a specific program of improvement based on the test results.

B. Periodically the State Department of Education shall review existing norm-referenced tests commercially available and shall make recommendations to the State Board of Education which shall designate for statewide use those tests which evaluate the broadest range of identified, age-appropriate competencies.

C. The Board shall develop a series of criterion-referenced tests designed to indicate whether competencies Oklahoma public school students are expected to have attained in grades five, eight and twelve in mathematics, science, reading and writing of English, history, constitution and government of the United States, geography, and culture and the arts, and in grade twelve, Oklahoma history, as defined by the Board, have been mastered. The tests shall measure academic competencies and shall be designed and implemented in correlation with the implementation of the curricula standards adopted by the Board pursuant to Section 11-103.6 of this title. The series of tests shall be field-tested and implemented by the following schedule:

Subject	Field-tested	Implemented
Mathematics	1993-94	1994-95
Science	1993-94	1994-95
Reading and Writing of English	1994-95	1995-96

History, Constitution

and Government

of the United States 1995-96 1996-97

Geography, and for

grade 11, includes

Oklahoma history 1996-97 1997-98

Culture and the Arts 1997-98 1998-99

D. The Board shall cause the tests in each subject to be field-tested during the year the field tests for each subject are scheduled. The Board shall cause the tests in each subject to be implemented by administering the fifth-grade competency test to fifth-grade students, by administering the eighth-grade competency test to eighth-grade students, and by administering the twelfth-grade competency test to eleventh-grade students in the public schools of this state during the spring semester of the year scheduled for implementation of tests in each subject. The Board shall administer the appropriate tests in each implemented subject to fifth-, eighth-, and eleventh-grade students who are residents of the district in which they are currently enrolled pursuant to the provisions of subsection A of Section 1-113 of this title every year after implementation. Students who do not perform satisfactorily on the implemented tests shall be provided opportunities for remediation and shall retake the tests at times established by the Board during subsequent years as follows: Fifth-grade tests shall be re-administered during the sixth and seventh grades; eighth-grade tests shall be re-administered during the ninth and tenth grades; and the twelfth-grade tests shall be re-administered during the twelfth grade.

E. Results of the criterion-referenced test series required in subsection C of this section shall be ~~included~~:

1. Returned, beginning with the 1998-99 school year, to each school district prior to May 1 of each year; and

2. Included in the summary report of the Oklahoma Educational Indicators Program published pursuant to Section 1210.531 of this title. The report shall include the number of students who perform satisfactorily on the tests, the number of students who do not perform satisfactorily, and the number of students who perform satisfactorily on subsequent administrations of the tests.

F. The State Board of Education shall be responsible for the development, field-testing, and validation of the criterion-referenced test series required in subsection C of this section. In the interest of economy the Board shall adapt criterion-referenced tests that have been developed by other states or are otherwise commercially available, or portions of such tests, to the extent that such tests are appropriate for use in the criterion-referenced test series to be administered to Oklahoma students.

G. The Board shall develop, administer, and incorporate as a part of the Oklahoma School Testing Program, other testing programs or procedures, including appropriate accommodations for the testing of handicapped students and students with learning disabilities, necessary to measure additional competencies of students which are not adequately measured by the tests required by this section.

SECTION 26. AMENDATORY 74 O.S. 1991, Section 85.12, as last amended by Section 1, Chapter 257, O.S.L. 1997 (74 O.S. Supp. 1997, Section 85.12), is amended to read as follows:

Section 85.12 A. The provisions of this section shall not be construed to affect any law relating to fiscal or accounting procedure except such as may be directly in conflict herewith; and all claims, warrants and bonds shall be examined, inspected and approved as now provided by law.

B. The following acquisitions shall not be included within the purview of the Oklahoma Central Purchasing Act, Section 85.1 et seq. of this title:

1. Food and other products produced by state institutions and agencies;

2. Contracts for construction of new buildings and for the repair, maintenance or modernization of old buildings by ~~state educational~~ institutions ~~included within~~ of The Oklahoma State System of Higher Education;

3. The printing or duplication of publications or forms of whatsoever kind or character by state agencies, which service is performed upon their own equipment, by their own employees. In order to be exempt from the Oklahoma Central Purchasing Act pursuant to this paragraph, the state agency may only use equipment owned or leased by the agency and may only utilize that equipment for printing services required by the agency in performing duties imposed upon the agency or functions authorized to be performed by the agency. Any use of the equipment by the agency pursuant to an agreement or contract with any other entity resulting in delivery of intermediate or finished products to the entity purchasing or using the products shall be subject to the provisions of the Oklahoma Central Purchasing Act;

4. Acquisitions by institutions of The Oklahoma State System of Higher Education, the Oklahoma State Regents for Higher Education, or the University Centers subject to the State Regents insofar as such acquisitions relate to textbooks, laboratory supplies, instructional materials, and specialized laboratory equipment, or to acquisitions for the telecommunications network known as OneNet, whether said network is governed or operated by the State Regents or any other state entity assigned responsibility for OneNet;

5. Department of Transportation and Transportation Commission contractual services or right-of-way purchases. Contracts awarded pursuant to bids let by the Transportation Commission for the maintenance or construction of streets, roads, highways, bridges, or underpasses, or any other transportation facilities under the

control of the Department of Transportation, the acquisitions of equipment or materials accruing to the Department of Transportation required in Federal-Aid contracts, and contracts for public service type announcements initiated by the Department of Transportation. Contractual services as used herein shall not include advertising or public relations or employment services;

6. Utility services where rates therefor are regulated by a state or federal regulatory commission, or by city ordinance or by an Indian Tribal Council for use by the Department of Corrections only;

7. Acquisition of products and services by the University Hospitals and the University Hospitals Authority. The Authority shall develop standards for the acquisition of products and services and may elect to utilize Central Purchasing when appropriate. Such standards shall foster economy, short response time, and shall include appropriate safeguards and written records to ~~assure~~ ensure appropriate competition and economical and efficient purchasing, and shall be approved by the Director of Central Purchasing;

8. Contracts for custom harvesting by the Department of Corrections for the Department or its institutions;

9. Contracts with private prison contractors which are subject to the contracting procedures of Section 561 of Title 57 of the Oklahoma Statutes;

10. Acquisitions of aircraft by agencies authorized by the Legislature to purchase aircraft;

11. Purchases by the Oklahoma Municipal Power Authority;

12. Acquisitions by the Grand River Dam Authority;

13. Purchases by rural water, sewer, gas or solid waste management districts created pursuant to Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes;

14. Purchases by the Oklahoma Ordnance Works Authority or Midwestern Oklahoma Development Authority;

15. Contracts entered into by the Oklahoma Industrial Finance Authority for the services of an appraiser or for acquisition of insurance when ~~it is determined by its~~ the Authority's Board of Directors determines that an emergency exists, and for the services of legal counsel when approved by the Attorney General;

16. Expenditure of monies appropriated to the State Board of Education for the purpose of Local, State-supported Programs and State-supported Programs except monies appropriated for the Administrative and Support Functions of the State Department of Education;

17. Expenditure of monies appropriated to the State Department of Rehabilitation Services for educational programs or educational materials for the Oklahoma School for the Blind and the Oklahoma School for the Deaf;

18. Contracts entered into by the ~~State~~ Oklahoma Department of Vocational and Technical Education for the development, revision, or updating of vocational curriculum materials, and contracts entered into by the ~~State~~ Oklahoma Department of Vocational and Technical Education for training and supportive services that meet the needs of new or expanding industries, ~~or both, contributing to economic growth and development of Oklahoma while maintaining Oklahoma's competitive advantage and flexibility in meeting their needs;~~

~~18.~~ 19. Contracts entered into by the Oklahoma Center for the Advancement of Science and Technology for professional services;

~~19.~~ 20. Contracts entered into by the Oklahoma Department of Commerce pursuant to the provisions of Section 5066.4 of this title;

~~20.~~ 21. Purchases made by the Oklahoma Historical Society from monies used to administer the White Hair Memorial;

~~21.~~ 22. Purchases of products available to an agency through a General Services Administration contract or other federal contract if the item is on current ~~state~~ statewide contract and the terms of such contract are more favorable to the agency than the terms of a

~~state~~ statewide contract for the same products as determined by the ~~State Purchasing~~ Director of Central Purchasing;

~~22.~~ 23. Contracts for managed health care services entered into by the state entity designated by law or the Department of Human Services, as specified in paragraph 1 of subsection A of Section 1010.3 of Title 56 of the Oklahoma Statutes;

~~23.~~ 24. Purchases of products by the Forestry Service of the State Department of Agriculture as authorized by the federal General Services Administration through a General Services Administration contract or other federal contract if the item is not on current ~~state~~ statewide contract or the terms of such federal contract are more favorable to the agency than the terms of a ~~state~~ statewide contract for the same products;

~~24.~~ 25. Purchases amounting to less than ~~that~~ the amount requiring competitive bid pursuant to Section 85.7 of this title. The Director of Central Services shall promulgate rules related to such purchases in excess of Seven Hundred Fifty Dollars (\$750.00) and not exceeding Two Thousand Five Hundred Dollars (\$2,500.00) to ensure competitiveness and fairness in such purchases;

~~25.~~ 26. Purchases or acquisitions of clothing for clients of the Department of Human Services and purchases and acquisitions of food for group homes operated by the Department of Human Services;

~~26.~~ 27. Purchases made or contracts entered into by the Oklahoma Energy Resources Board;

~~27.~~ 28. Purchases or acquisitions of clothing for juveniles in the custody of the Office of Juvenile Affairs and purchases and acquisitions of food for group homes operated by the Office of Juvenile Affairs; ~~and~~

~~28.~~ 29. State contracts for flexible benefits plans pursuant to the Oklahoma State Employees Benefits Act, Section 1361 et seq. of this title; and

30. Expenditures incurred by the Department of Securities to investigate, initiate, or pursue administrative, civil, or criminal proceedings involving potential violations of the acts under the Department's jurisdiction.

C. Notwithstanding the exclusions provided herein, any agency or common ~~schools~~ school of Oklahoma, any municipality of the state, any rural fire protection district, and county officers may, unless the contract with the state specifies otherwise, avail themselves of the provisions of the Oklahoma Central Purchasing contracts and the services of the ~~Purchasing~~ Director of Central Purchasing. Provided further, however, that any subdivision of government and any rural fire protection district of the state may designate the office of Oklahoma Central Purchasing as its agent for the purchase or procurement of any item or service contracted or available to the state.

D. ~~Further, notwithstanding~~ Notwithstanding the exclusions provided herein, the purchasing policies and procedures of the Oklahoma Ordnance Works Authority, the University Hospitals Authority, and the Midwestern Oklahoma Development Authority shall be subject to approval by the Director of the Department of Central Services, and said Director shall make periodic audits of the purchasing policies and procedures of the Oklahoma Ordnance Works Authority, the University Hospitals Authority, and the Midwestern Oklahoma Development Authority to ensure that said purchasing policies and procedures, as approved, are being followed.

SECTION 27. AMENDATORY 74 O.S. 1991, Section 500.2, as last amended by Section 1, Chapter 354, O.S.L. 1997 (74 O.S. Supp. 1997, Section 500.2), is amended to read as follows:

Section 500.2 A. Officials and employees of the state, traveling on authorized state business, may be reimbursed for expenses incurred in such travel in accordance with the provisions of this act and existing statutes relating to state travel. Persons

who are not state employees, but who are performing substantial and necessary services to the state which have been directed or approved by the appropriate department official shall enjoy the protection of the sovereign immunity of the state to the same extent as a paid employee. Such persons may be reimbursed for expenses incurred during authorized official travel under these same statutory provisions, provided it is indicated on the claim the person is not a state employee, a description of services performed is entered, and the agency head by his approval of the claim certifies such services were substantial and necessary, and germane to the duties and functions of the reimbursing agency. Travel expenses incurred by a person during the course of seeking employment with a state agency, unless such travel is performed at the request of the employing agency, shall not be considered expenses incurred in performing substantial and necessary services to the state and shall not be reimbursed under the provisions of this act.

B. The chief administrative officer of the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma Military Department, the Department of Corrections, the Department of Central Services, the Alcoholic Beverage Laws Enforcement Commission, the State Department of Agriculture, the Department of Civil Emergency Management, and the State Fire Marshal may arrange for and charge meals and lodging for a contingent of state personnel moved into an area for the purpose of preserving the public health, safety, or welfare or for the protection of life or property. The cost for meals or lodging so charged shall not exceed the amount authorized in this act. The chief administrative officer of each agency involved in such an operation shall require the vendor furnishing meals, lodging, or both meals and lodging to submit an itemized statement for payment. When a claim for lodging is made for a contingent of state personnel, individual members of the contingent

may not submit a claim for lodging. When a claim for meals is made for a contingent of state personnel, individual members of the contingent may not submit a claim for meals.

C. The Oklahoma Department of Commerce and the Oklahoma Center for the Advancement of Science and Technology are hereby authorized to enter into contracts and agreements for the payment of food, lodging, meeting facility and beverage expenses as may be necessary for sponsoring seminars and receptions relating to economic development and science and technology issues. Such expenses may be paid directly to the contracting agency or business establishment. The Director of the Oklahoma Department of Commerce and the President of the Oklahoma Center for the Advancement of Science and Technology shall each provide a quarterly report of such expenditures to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

D. For purposes of this section:

1. "State agency" means any constitutionally or statutorily created state board, commission, or department, including the Legislature and the Courts; and

2. State agencies are authorized to enter into contracts and agreements for the payment of food and lodging expenses as may be necessary for employees or other persons who are performing substantial and necessary services to the state attending official conferences, meetings, seminars, workshops, or training sessions or in the performance of their duties. Such expenses may be paid directly to the contracting agency or business establishment, provided the meeting qualifies for overnight travel for the employees and the cost for food and lodging for each employee shall not exceed the total daily rate as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of this title.

E. State agencies are authorized to make direct purchases of commercial airline tickets for use by employees in approved out-of-

state travel. Each claim or invoice submitted to the Director of State Finance for the payment of such purchase shall bear the airline identifying ticket number, the name of the airline, total cost of each ticket purchased, class of accommodation, social security number and name of the employee for whom the ticket was purchased, and shall be filed on claim forms as prescribed by the Director of State Finance. An affidavit shall state that said employee did use any direct purchase commercial airline ticket received for his or her approved out-of-state travel.

F. 1. The Administrator of the Office of Personnel Management is hereby authorized to enter into contracts and agreements for the payment of food, lodging, and other authorized expenses as may be necessary to host, conduct, sponsor, or participate in conferences, meetings, or training sessions. The Administrator may establish accounts as necessary for the collection and distribution of funds, including funds of sponsors and registration fees, related to such conferences, meetings, and training sessions. Any expenses incurred may be paid directly to the contracting agency or business establishment.

2. The cost of food for persons attending any conferences, meetings, and training sessions that do not require overnight travel shall not exceed the total daily rate as provided in the State Travel Reimbursement Act.

SECTION 28. AMENDATORY 85 O.S. 1991, Section 177, as last amended by Section 124, Chapter 418, O.S.L. 1997 (85 O.S. Supp. 1997, Section 177), is amended to read as follows:

Section 177. A. 1. There is hereby established with the State Treasurer a Workers' Compensation Administration Fund to be used for the costs of administering the Workers' Compensation Act and for other purposes pursuant to legislative appropriation.

2. No money on deposit with the State Treasurer to the credit of the Workers' Compensation Administration Fund shall be expended except pursuant to legislative appropriation.

B. For the purpose of providing funds for the Workers' Compensation Administration Fund until July 1, 1997, and for the General Revenue Fund beginning July 1, 1997, each mutual or interinsurance association, stock company, the State Insurance Fund or other insurance carrier writing workers' compensation insurance in this state or providing a workers' compensation equivalent insurance product as provided in Section 65 of this title shall pay to the Oklahoma Tax Commission a tax at a rate of one percent (1%) of all gross direct premiums written during each quarter of the calendar year for workers' compensation insurance on risks located in this state after deducting from such gross direct premiums, return premiums, unabsorbed portions of any deposit premiums, policy dividends, safety refunds, savings and other similar returns paid or credited to policyholders. Such payments to the Tax Commission shall be made not later than the fifteenth day of the month following the close of each quarter of the calendar year in which such gross direct premium is collected or collectible. Contributions made by insurance carriers and the State Insurance Fund, under the provisions of this section, ~~to the Workers' Compensation Administration Fund~~ shall be considered for the purpose of computing workers' compensation rates.

C. When an employer is authorized to become a self-insurer, the Administrator as directed by the Court shall so notify the Oklahoma Tax Commission, giving the effective date of such authorization. The Oklahoma Tax Commission shall then assess and collect from the employers carrying their own risk a tax at the rate of two percent (2%) of the total compensation for permanent total disability awards, permanent partial disability awards and death benefits paid out during each quarter of the calendar year by the employers. Such

tax shall be payable by the employers and collected by the Oklahoma Tax Commission according to the provisions of this section regarding payment and collection of the tax created in subsections B, D, E and F of this section.

D. It shall be the duty of the Oklahoma Tax Commission to collect the payments provided for herein. The Oklahoma Tax Commission is hereby authorized to bring an action for the recovery of any delinquent or unpaid payments required in this section. The Oklahoma Tax Commission may also enforce payments by proceeding in accordance with the provisions of Section 42 of this title.

E. ~~The~~ Until July 1, 1997, the Oklahoma Tax Commission shall pay monthly to the State Treasurer to the credit of the Workers' Compensation Administration Fund all monies collected under the provisions of this section. Beginning July 1, 1997, the Oklahoma Tax Commission shall pay monthly to the State Treasurer to the credit of the General Revenue Fund all monies collected under the provisions of this section.

F. The refund provisions of Sections 227 through 229 of Title 68 of the Oklahoma Statutes shall be applicable to any payments made pursuant to the Workers' Compensation Administration Fund this section.

G. After fiscal year 1997 appropriations have been satisfied, any monies remaining in the Workers' Compensation Administration Fund shall be transferred to the General Revenue Fund.

SECTION 29. REPEALER 10 O.S. 1991, Sections 404.1, as last amended by Section 1, Chapter 260, O.S.L. 1997, 1101, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 1, Chapter 153, O.S.L. 1997, 1109, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 55, Chapter 366, O.S.L. 1997, 1115.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 5, Chapter 386, O.S.L. 1997, 1115.2, as renumbered by

Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 6, Chapter 386, O.S.L. 1997, 1130, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 56, Chapter 366, O.S.L. 1997, Section 8, Chapter 353, O.S.L. 1996, as amended by Section 13, Chapter 386, O.S.L. 1997, Section 72, Chapter 352, O.S.L. 1995, as last amended by Section 10, Chapter 199, O.S.L. 1997, Section 132, Chapter 352, O.S.L. 1995, as amended by Section 18, Chapter 293, O.S.L. 1997, 60.6, as last amended by Section 27, Chapter 366, O.S.L. 1997, and as renumbered by Section 58, Chapter 366, O.S.L. 1997, and 60.18, as amended by Section 38, Chapter 366, O.S.L. 1997, and as renumbered by Section 58, Chapter 366, O.S.L. 1997 (10 O.S. Supp. 1997, Sections 404.1, 7001-1.3, 7003-3.7, 7003-5.3, 7003-5.4, 7006-1.1, 7208, 7301-1.3, 7303-5.3, 7505-4.2 and 7505-6.6), 12 O.S. 1991, Sections 1171.2, as amended by Section 2, Chapter 272, O.S.L. 1997, and 1171.3, as last amended by Section 3, Chapter 272, O.S.L. 1997 (12 O.S. Supp. 1997, Sections 1171.2 and 1171.3), 21 O.S. 1991, Section 701.7, as last amended by Section 1, Chapter 324, O.S.L. 1997 (21 O.S. Supp. 1997, Section 701.7), 82 O.S. 1991, Section 1501-103, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 1, Chapter 24, O.S.L. 1997 (27A O.S. Supp. 1997, Section 3-1-103), 43 O.S. 1991, Sections 112, as last amended by Section 10, Chapter 402, O.S.L. 1997, and 118, as last amended by Section 13, Chapter 402, O.S.L. 1997 (43 O.S. Supp. 1997, Sections 112 and 118), Section 34, Chapter 247, O.S.L. 1996, as last amended by Section 1, Chapter 322, O.S.L. 1997, and 47 O.S. 1991, Sections 1104, as amended by Section 2, Chapter 284, O.S.L. 1986, and 1133, as last amended by Section 2, Chapter 13, O.S.L. 1997 (47 O.S. Supp. 1997, Sections 6-107.3, 1104 and 1133), Section 27, Chapter 346, O.S.L. 1995, as amended by Section 5, Chapter 392, O.S.L. 1997, and as renumbered by Section 32, Chapter 414, O.S.L. 1997, and 56 O.S. 1991, Section 240.1, as last amended by Section 8, Chapter 272, O.S.L. 1997 (56 O.S. Supp.

1997, Sections 230.65 and 240.1), 59 O.S. 1991, Section 1315, as last amended by Section 4, Chapter 251, O.S.L. 1997 (59 O.S. Supp. 1997, Section 1315), Section 4, Chapter 139, O.S.L. 1992, as last amended by Section 1, Chapter 219, O.S.L. 1997, and 63 O.S. 1991, Section 2504, as last amended by Section 1, Chapter 113, O.S.L. 1997 (63 O.S. Supp. 1997, Sections 1-1962 and 2504), Sections 6 and 7, Chapter 345, O.S.L. 1996, as amended by Sections 2 and 3, Chapter 259, O.S.L. 1997, 68 O.S. 1991, Sections 607.2, as last amended by Section 9, Chapter 284, O.S.L. 1997, 1357, as last amended by Section 2, Chapter 252, O.S.L. 1997, and 2915, as last amended by Section 12, Chapter 304, O.S.L. 1997 (68 O.S. Supp. 1997, Sections 500.6, 500.7, 607.2, 1357 and 2915), Section 15, Chapter 322, O.S.L. 1995, as last amended by Section 1, Chapter 342, O.S.L. 1997, Section 21, Chapter 322, O.S.L. 1995, as amended by Section 8, Chapter 344, O.S.L. 1997 and Section 4, Chapter 349, O.S.L. 1997, Section 6, Chapter 215, O.S.L. 1996, as amended by Section 5, Chapter 300, O.S.L. 1997, and 70 O.S. 1991, Section 1210.508, as last amended by Section 1, Chapter 341, O.S.L. 1997 (70 O.S. Supp. 1997, Sections 6-194, 6-200, 18-201.1 and 1210.508), 74 O.S. 1991, Sections 85.12, as last amended by Section 1, Chapter 169, O.S.L. 1997, and 500.2, as last amended by Section 1, Chapter 286, O.S.L. 1997, and as last amended by Section 1, Chapter 335, O.S.L. 1995 (74 O.S. Supp. 1997, Sections 85.12 and 500.2), 82 O.S. 1991, Section 1461, as last amended by Section 1, Chapter 31, O.S.L. 1997 (82 O.S. Supp. 1997, Section 1461), and 85 O.S. 1991, Section 177, as last amended by Section 3, Chapter 262, O.S.L. 1997 (85 O.S. Supp. 1997, Section 177), are hereby repealed.

SECTION 30. 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.

Passed the House of Representatives the 24th day of February,
1998.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1998.

President of the Senate