

ENROLLED HOUSE
BILL NO. 2826

By: Mass of the House

and

Stipe of the Senate

An Act relating to children; enacting the Oklahoma FOCUS (Families Offering Children Understanding and Support) in Foster Care Act; creating short title; amending Section 2, Chapter 353, O.S.L. 1996, as amended by Section 9, Chapter 389, O.S.L. 1997, Section 3, Chapter 353, O.S.L. 1996, Section 4, Chapter 353, O.S.L. 1996, as amended by Section 10, Chapter 389, O.S.L. 1997, Section 6, Chapter 353, O.S.L. 1996, as amended by Section 12, Chapter 389, O.S.L. 1997, Section 13, Chapter 389, O.S.L. 1997, Section 8, Chapter 353, O.S.L. 1996, as amended by Section 15, Chapter 389, O.S.L. 1997, Section 9, Chapter 353, O.S.L. 1996, as amended by Section 14, Chapter 386, O.S.L. 1997, Section 12, Chapter 353, O.S.L. 1996, as amended by Section 16, Chapter 389, O.S.L. 1997, and Section 18, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Sections 7202, 7203, 7204, 7206, 7206.1, 7208, 7209, 7212 and 7220), which relate to the Oklahoma Foster Care and Out-of-Home Placement Act; modifying and adding certain intent of Legislature; modifying and adding definitions; granting certain authority and ability to foster parents; providing for additional training; specifying type; requiring certain state entities and child-placing agencies to provide certain training, education, and continuing education to foster parents and grandparents, and to include the area of parental substitute authority in said training, education and continuing education; requiring certain state entities and child-placing agencies to provide foster parents with certain information; providing for liability of certain costs and expenses; requiring state entities to apprise foster parents of changes in policy and rules; clarifying contract provisions; adding to list of rights for foster parents; providing for preplacement visits; providing for certain discussions; requiring state entities and child-placing agencies to file and keep certain reports and records; requiring state entities and child-placing agencies to provide certain information in said reports and records; requiring certain notice and information to the court; requiring certain background checks and foster parent eligibility assessments; making the Department of Human Services lead agency for certain criminal histories; setting procedures; providing for fees; requiring certain searches; prohibiting certain actions by state entities and

child-placing agencies; providing for certain studies; providing purposes and reports; providing certain training for grandparents; creating certain statewide schedules; requiring notification of certain statewide schedules for foster parents; making certain actions not child abuse; clarifying certain visitations and locations; providing for certain hearings and determinations; amending 10 O.S. 1991, Sections 402, as amended by Section 2, Chapter 122, O.S.L. 1993, and 404.1, as last amended by Section 1 of Enrolled House Bill No. 3348 of the 2nd Session of the 46th Oklahoma Legislature (10 O.S. Supp. 1997, Section 402), which relate to the Oklahoma Child Care Facilities Licensing Act; adding and defining foster parent eligibility assessment; providing for certain type of criminal history background checks for foster homes; specifying type of background check or other type of investigation necessary for specific persons; requiring certain investigations and certain fingerprints record search; specifying certain exemptions; requiring certain study of feasibility of certain background checks for existing foster parents; providing for content; requiring permanency hearings to be held based on age of child; specifying effective date; making foster parents eligible for adoption; providing considerations for certain determinations; clarifying and adding certain requirements; amending 10 O.S. 1991, Sections 1119, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 11, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1997, Section 7003-8.1), and 1130, as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7006-1.1), and as last amended by Section 6 of Enrolled House Bill No. 3348 of the 2nd Session of the 46th Oklahoma Legislature, which relate to placement of children; providing for placement of children; requiring concurrent planning; prohibiting certain placement of children with certain persons convicted of certain felony offenses; providing certain exceptions; specifying certain considerations and terms; providing for paramount consideration in termination of parental rights proceedings; adding terms; adding, modifying and clarifying grounds for termination of parental rights; providing exceptions; removing certain procedures; specifying certain grounds and certain findings; removing certain time periods and procedures; modifying reunification efforts; providing conditions and restrictions; providing certain requirements; providing for permanency of child; providing proceedings; providing for certain felony offenses and conditions and criminal actions; providing for certain terms and certain findings; providing for incorporation of certain federal rules; providing for codification; directing codification; providing for noncodification; and declaring an emergency.

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

SECTION 1. This act shall be known and may be cited as the "Oklahoma FOCUS (Families Offering Children Understanding and Support) in Foster Care Act".

SECTION 2. AMENDATORY Section 2, Chapter 353, O.S.L. 1996, as amended by Section 9, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7202), is amended to read as follows:

Section 7202. For purposes of the Oklahoma Foster Care and Out-of-Home Placement Act, it is the intent of the Legislature that:

1. Parents have a natural, legal and moral right, as well as a duty, to care for and support their children, and such rights are protected by state and federal laws;
2. The state has an interest in and a responsibility to children whose parents do not adequately provide proper care, supervision and protection for them. When circumstances within a family threaten a child's safety or welfare, or when such circumstances deprive a child of proper parental supervision, the state's interest in the child's welfare and in the protection of the public takes precedence over the natural right and authority of the parent;
3. Parents have a duty and responsibility to take part in any treatment and service plan, or any other order of the court, which will enable the return of a child to the child's home or which will allow a child to remain in the child's own home when the parent is the perpetrator of abuse and neglect;
4.
 - a. When a child is placed into foster care, the child shall be placed, when the safety and well-being of the child can be assured, with relatives, or other persons having a kinship relationship with the child, who are determined to be suitable, capable and willing to serve as caretakers for the child.
 - b. For a deprived child, a placement with suitable relatives or other persons having a kinship relationship with the child shall only be made when such placement is in the best interests of the child. For a delinquent child or a child in need of supervision, a placement with suitable relatives or other persons having a kinship relationship with the child shall only be made when such placement is in the best interests of the child and when such placement is consistent with the state's interest in the protection of the public.
 - c. A kinship placement shall be made when the placement meets the treatment needs of the child and supports the case plan goals for that child and the child's family;
5. Each child shall be assured the care, guidance, and supervision in a permanent home or foster home which will serve the best interests of the child's moral, emotional, mental, social, and physical well-being;
6. When a child is placed in a foster home, the foster parent shall be allowed to integrate the child into the family setting, make the foster child an integral part of the family, and care for the foster child as the foster parent would for the foster parent's own child;

7. When a child is placed in a foster home, the foster parent shall have a right to exercise parental substitute authority over the child. The ability to exercise parental substitute authority shall not be construed to authorize corporal punishment on the foster child by the foster parent;

8. A foster parent has a recognizable interest in the familial relationship that the foster parent establishes with a foster child who has been in the foster parent's care and custody, and shall therefore be considered an essential participant with regard to decisions related to the care, supervision, guidance, rearing and other foster care services provided to such child;

9. Permanent placement shall be achieved as soon as possible for every child in out-of-home placement pursuant to the conditions and restrictions of the Oklahoma Foster Care and Out-of-Home Placement Act;

- ~~7.~~ 10. a. The best interests of the child shall be the standard for recommendations made by the Department of Human Services and the courts for deprived action determinations with regard to whether a child should be reunified with the child's family, should be permanently removed from the home, or should remain in the home in which the child has been abused or neglected.
- b. For delinquent children and children in need of supervision, the best interests of the child consistent with the state's interest in the protection of the public shall be the standard for recommendations made by the Department of Juvenile Justice and the courts for determinations with regard to whether a delinquent child or a child in need of supervision should be reunified with the child's family, should be permanently removed from the home, or should remain in the home;

~~8.~~ 11. The goal of reunification of a child who has been adjudicated deprived with the parents or any other person responsible for the child's welfare shall be abandoned when, after a reasonable period of time, pursuant to the conditions and restrictions of the Oklahoma Foster Care and Out-of-Home Placement Act and the Oklahoma Children's Code, there is sufficient evidence that the conduct of the parents toward the child, or the conduct of the parents during the child's out-of-home placement, including, but not limited to, compliance with a treatment and service plan or court order, is determined not to be in the child's best interests, and abandonment of such goal is determined to be in the child's best interests. In such cases, the district attorney and the court shall provide for termination of parental rights in an expeditious manner if the grounds, situations or conditions exist to support termination of parental rights and the child is otherwise available for adoption;

~~9. Foster parents have a limited but recognizable interest in the familial relationship they have established with a foster child who has been in their care and custody, and shall therefore be construed to be essential participants with regard to decisions related to the the growth, development, care, protection and treatment of such children; and~~

~~10.~~ 12. When two or more children in foster care are siblings, every reasonable attempt should be made to place them in the same home. In making a permanent placement, such children should be placed in the same permanent home or, if the siblings are separated, should be allowed contact or visitation with other siblings;

provided, however, the best interests of each sibling shall be the standard for determining whether they should be placed in the same foster placement or permanent placement, or allowed contact or visitation with other siblings.

SECTION 3. AMENDATORY Section 3, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1997, Section 7203), is amended to read as follows:

Section 7203. For purposes of the Oklahoma Foster Care and Out-of-Home Placement Act:

1. "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;

2. "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 out-of-home placement,~~ including, but not limited to, the care, supervision, guidance, and rearing of a foster child by the foster parent;

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

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

5. "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 specialized foster home, a therapeutic foster family home, the home of relative, or a kinship care home;

6. "Foster parent" means any individual maintaining a foster family home, who is responsible for the care ~~of,~~ supervision, guidance, rearing and other foster care services provided to a foster child;

7. "Foster parent eligibility assessment" includes a criminal background investigation, including, but not limited to, a national criminal history records search based upon the submission of fingerprints, home assessments, and any other assessment required by the Department of Human Services, the Department of Juvenile Justice, or any child-placing agency pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act and the Oklahoma Foster Care and Out-of-Home Placement Act. Foster parent eligibility assessments shall be similar to the procedures used by the Oklahoma Department of Public Safety for determining suitability of individuals for employees as highway patrol officers;

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

~~8.~~ 9. "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;

~~9.~~ 10. "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~~ a kinship relation;

11. "Kinship relation" means relatives, members of the relative's clan, stepparents, or other responsible adults who have an existing bond with a child and/or to whom has been ascribed a family relationship role with the child's parent or the child;

~~10.~~ 12. "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 or a permanent placement is made;

~~11.~~ 13. "Parental substitute authority" means the ability of a foster parent to integrate the foster child into the family setting and to care for the foster child as the foster parent would the foster parent's own child. The term "parental substitute authority" also includes, but is not limited to, the ability of the foster parent to:

- a. protect, advance and nurture the foster child's physical, emotional and psychological well-being,
- b. meet the foster child's needs and maintain the health and personal hygiene of the foster child,
- c. teach the foster child ways to prevent and solve problems,
- d. maintain and build the foster parent/foster child relationship, and
- e. teach self-control and responsibility to the foster child;

14. "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;

~~12.~~ 15. "Specialized foster care" means foster care provided to a child in a specialized foster home or agency-contracted home which:

- a. has been certified by the Developmental Disabilities Services Division of the Department of Human Services,
- b. is monitored by the Division, and
- c. is funded through the Home- and Community-Based Waiver Services Program administered by the Division;

16. "State agency" means the Department of Human Services or the Department of Juvenile Justice, as applicable; and

~~13.~~ 17. "Therapeutic foster home" means a foster family home which provides specific supportive 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.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7203.1 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Legislature recognizes that parents have the right and duty to provide for the care, guidance, supervision and rearing of their children.

B. The Legislature also recognizes that when a child is in need of foster care, the foster parent should have the ability and authority to integrate the foster child into the family setting and to care for the foster child as the foster parent would the foster parent's own child. As such, the foster parent shall be granted parental substitute authority.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7203.2 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Pursuant to the provisions of the Oklahoma Foster Care and Out-of-Home Placement Act, the ability to exercise parental substitute authority over a foster child by the foster parent shall

give a foster parent the ability to integrate a foster child into the family setting and to care for the foster child as the foster parent would the foster parent's own child.

B. Each order made by the court granting custody of a child to a state agency, an individual, or any child-placing agency shall be deemed to give parental substitute authority to the state agency, the individual or the child-placing agency.

SECTION 6. AMENDATORY Section 4, Chapter 353, O.S.L. 1996, as amended by Section 10, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7204), is amended to read as follows:

Section 7204. A. The Department of Human Services and the Department of Juvenile Justice shall each establish a program of foster care for children in the custody of the state agency.

B. Each Department, in implementing the foster care program within its jurisdictional area, shall:

1. Recruit their respective foster families for children in the custody of the state agency;

2. Contract with foster parents and child-placing agencies to provide foster care services to children within the custody of the state agency;

3. Exercise supervision over all foster placements with whom the state agency has a contract for foster care services;

4. Exercise oversight of all foster children within the custody of the state agency who are in out-of-home placement, including, but not limited to, foster children placed in foster homes by a child-placing agency;

5. Advise and cooperate with the governing boards of all child-placing agencies and with foster parents;

6. Assist the staff of all child-placing agencies, foster parents and foster families by advising them on methods and procedures relating to child care, parental substitute authority, behavioral management techniques, and improvement of services;

7. Establish rules and standards for providing foster care services in addition to those required by the Oklahoma Child Care Facilities Licensing Act;

8. Require initial and ongoing foster parent training and education programs related to the area of parental substitute authority and behavioral management techniques, including, but not limited to, restraining and holding techniques, parent-child conflict resolution techniques, stress management, and any other appropriate technique to teach a foster parent how to control potentially violent behavior in a manner appropriate to the age and development of a foster child;

9. Provide foster parents with a statewide, toll-free telephone number, titled the Foster Parent Hotline, for obtaining information related to foster care services and for the filing of any complaints or grievances;

10. Cooperate, collaborate and assist postadjudication review boards in the review of the placement of each child in foster care in order to achieve the goals in the treatment and service plan required for each child by this title;

11. Provide for insurance coverage pursuant to the provisions of the Oklahoma Foster Care and Out-of-Home Placement Act;

12. Provide for collection, through assignment, attachment, garnishment, liens, or other legal process, of the cost for out-of-home placement services provided through the state agency from the parents, guardian, or other person responsible for the care and support of a child in the custody of the state agency;

13. Cooperate and work with a foster parent in integrating a foster child into a foster family setting. The state agency shall

provide a foster parent with information, on an ongoing basis, pertinent to the care, guidance, supervision and rearing of a foster child;

14. Apprise the foster family of changes in laws, rules and policy changes on a timely basis;

15. Cooperate with and help promote foster parent associations. The state agency shall provide foster parent associations with data, information and guidelines on the obligations, responsibilities and opportunities of foster parenting and shall keep the associations and members apprised of changes in laws and rules relevant to foster parenting;

~~14.~~ 16. Through the individualized service planning process, develop a permanency plan for each child in custody who is placed in foster care with the goal of placement of the child in a home environment that can be reasonably expected to be stable and permanent; and

~~15.~~ 17. Exercise and perform such other acts as may be necessary to implement the Oklahoma Foster Care and Out-of-Home Placement Act.

C. The Department of Human Services and the Department of Juvenile Justice shall not be liable for any costs or expenses expended voluntarily by a foster parent for a foster child which are in excess of the funds authorized for providing foster care services to the foster child.

SECTION 7. AMENDATORY Section 6, Chapter 353, O.S.L. 1996, as amended by Section 12, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7206), is amended to read as follows:

Section 7206. A. The Department of Human Services, the Department of Juvenile Justice or any child-placing agency shall, prior to any out-of-home foster placement, enter into a written contract with the foster care placement provider. The contract shall provide, at a minimum:

1. That the state agency and the child-placing agency shall have access at all times to the child and to the foster placement;

2. A listing of any specific requirements, specific duties or restrictions in providing foster care services;

3. That any foster child shall have access to and be accessible by any court-appointed special advocate for the foster child and the foster child's attorney;

4. That the foster care placement provider shall comply with performance standards required pursuant to the Oklahoma Foster Care and Out-of-Home Placement Act, the Oklahoma Children's Code, the Juvenile Justice Code, and the Oklahoma Child Care Facilities Licensing Act;

5. Information regarding the amount of payments to be made for foster care services, including but not limited to a description of the process involved in receiving payments, including projected time frames, ~~and~~ information related to reimbursements for eligible costs and expenses for which the foster parent may be reimbursed and any information concerning the accessibility and availability of funds for foster parents;

6. That any foster child placed with a foster care placement provider shall be released to the state agency or the child-placing agency whenever, in the opinion of the state agency or the child-placing agency, the best interests of the deprived child require such release, or the best interests of the delinquent child or the child in need of supervision, consistent with the state's interest in the protection of the public, require such release pursuant to the Oklahoma Foster Care and Out-of-Home Placement Act; and

7. Such other information required by the state agency and the child-placing agency.

B. The state agency or child-placing agency shall provide the following information to the foster ~~parents~~ parent at the time of placement, along with a copy of the written contract required pursuant to subsection A of this section:

1. The names and telephone numbers of the child's case worker, the foster parents' case worker, the case workers' supervisors, and the contact within the state agency central office, or the name and telephone number of the contact person within the child-placing agency and any other medical, psychological, social or other pertinent information relating to foster care;

2. A copy of the grievance procedure established by the state agency or the child-placing agency pursuant to the Oklahoma Foster Care and Out-of-Home Placement Act;

3. The name and telephone number of any foster parent association in the county of residence of the foster parent;

4. For foster parents of deprived children, the name and telephone number of any postadjudication review board established in the county of residence of the foster parent or the nearest postadjudication review board and the court having jurisdiction over the child;

5. A copy of the statement of foster parent rights;

6. Information detailing the foster parents' ability to submit written reports to the court, or to petition the court directly for review of a decision by the state agency or the child-placing agency to remove a foster child who has been placed with the foster parent, in accordance with the limitations and requirements of Section 7208 of this title; and

7. A copy of the policies and procedures of the Department or child-placing agency which pertain to placement operations of the agency, and which may be necessary to properly inform the out-of-home placement providers of the duties, rights and responsibilities of the out-of-home placement providers and the Department.

C. 1. In addition to other requirements made pursuant to the Oklahoma Child Care Facilities Licensing Act, each child-placing agency shall maintain supervision of all children placed by the agency in foster placement and shall maintain supervision of and make regular visits to such foster placements.

2. The child-placing agency shall visit each foster placement no less than once every month.

3. The child-placing agency shall prepare and maintain a written report of its findings for each visit.

4. a. A complete written review of the placement, well-being and progress of any foster child in foster care with a child-placing agency shall be made by the child-placing agency as required by the state agency with which the child-placing agency has a contract.

b. If a child-placing agency is providing foster care services for a child pursuant to a written agreement or contract with the parents or guardian of a child, the child-placing agency shall provide a copy of the written review to the parents or guardian of the child. The written agreement or contract shall specify how often the review shall be conducted.

SECTION 8. AMENDATORY Section 13, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7206.1), is amended to read as follows:

Section 7206.1 A. A statement of foster parent's rights shall include, but not be limited to, the right to:

1. Be treated with dignity, respect, and consideration as a professional member of the child welfare team;

2. Be given appropriate, ongoing education and continuing education and training related to parental substitute authority and behavioral management to develop and enhance foster parenting skills;

3. Be informed about ways to contact the state agency or the child-placing agency in order to receive information and assistance to access supportive services for any child in the foster parent's care;

4. Receive timely financial reimbursement for providing foster care services;

5. Be notified of any costs or expenses for which the foster parent may be eligible for reimbursement;

6. Be provided a clear, written explanation of the individual treatment and service plan concerning the child in the foster parent's home, listing components of the plan pursuant to the provisions of the Oklahoma Children's Code and the Oklahoma Foster Care and Out-of-Home Placement Act;

7. Receive, at any time during which a child is placed with the foster parent, additional or necessary information that is relevant to the care of the child;

8. Be notified of scheduled permanency planning review meetings concerning the foster child in order to actively participate in the case planning and decision-making process regarding the child;

9. Provide input concerning the plan of services for the child and to have that input be given full consideration in the same manner as information presented by any other professional on the team;

10. Communicate with other foster parents in order to share information regarding the foster child. In particular, receive any information concerning the number of times a foster child has been moved and the reasons why, and the names and telephone numbers of the previous foster parent if the previous foster parent has authorized such release;

11. Communicate with other professionals who work with the foster child within the context of the team including, but not limited to, therapists, physicians, and teachers;

~~11.~~ 12. Be given, in a timely and consistent manner, any information regarding the child and the child's family which is pertinent to the care and needs of the child and to the making of a permanency plan for the child. Disclosure of information shall be limited to that information which is authorized by the provisions of Article V of the Oklahoma Children's Code for foster parents and Article VII of the Oklahoma Juvenile Code;

~~12.~~ 13. Be given reasonable notice of any change in or addition to the services provided to the child pursuant to the child's individual treatment and service plan;

~~13.~~ 14. a. Be given written notice of:

(1) plans to terminate the placement of the child with the foster parent pursuant to Section 7208 of Title 10 of the Oklahoma Statutes this title, and

(2) the reasons for the changes or termination in placement, and

b. The notice shall be waived only in emergency cases pursuant to Section 7208 of Title 10 of the Oklahoma Statutes this title;

~~14.~~ 15. Be notified by the court in a timely and complete manner of all court hearings, including notice of the date and time

of any court hearing, the name of the judge or hearing officer hearing the case, the location of the hearing, and the court docket number of the case;

~~15.~~ 16. Be informed of decisions made by the court, the state agency or the child-placing agency concerning the child;

~~16.~~ 17. Be considered as a preferred placement option when a foster child who was formerly placed with the foster parent is to reenter foster care at the same level and type of care, if that placement is consistent with the best interest of the child and other children in the foster parent's home;

~~17.~~ 18. Be provided a fair, timely, and impartial investigation of complaints concerning the foster parent's certification;

~~18.~~ 19. Be provided the opportunity to request and receive a hearing regarding decisions that affect certification retention;

~~19.~~ 20. Be allowed the right to exercise parental substitute authority;

21. Have timely access to the state agency's and child placement agency's appeals process and the right to be free from acts of harassment and retaliation by any other party when exercising the right to appeal;

~~20.~~ 22. Be given the number of the statewide toll-free Foster Parent Hotline established in Section ~~10~~ 7204 of this ~~act~~ title; and

~~21.~~ 23. File a grievance and be informed of the process for filing a grievance.

B. The Department of Human Services, the Office of Juvenile Justice, and a child-placing agency under contract with the Department shall be responsible for implementing this section.

C. Nothing in this section shall be construed to create a private right of action or claim on the part of any individual, the Department of Human Services, the Office of Juvenile Justice or any child-placing agency.

SECTION 9. AMENDATORY Section 8, Chapter 353, O.S.L. 1996, as amended by Section 15, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7208), is amended to read as follows:

Section 7208. A. In making placements in foster care, the Department of Human Services, the Department of Juvenile Justice and any child-placing agency shall, if possible, arrange for a preplacement visit for ~~the~~ any child five (5) years of age or older with the persons who will be providing foster care. Persons involved in the preplacement visits should make every effort to discuss with the child how the care, supervision, and guidance, including, but not limited to, parental substitute authority, shall be achieved.

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

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

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

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

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

C. When a child, under the jurisdiction of a court pursuant to the Oklahoma Children's Code, is placed in the custody of the

Department of Human Services, or a child, under the jurisdiction of a court pursuant to the Juvenile Justice Code is placed in the custody of the Department of Juvenile Justice, or is placed in the custody of any child-placing agency, the state agency or child-placing agency shall have discretion to determine an appropriate foster placement for the child. Except as provided in this section, the state agency or child-placing agency may remove a child in its custody from a foster placement whenever the state agency or child-placing agency determines that removal is in the best interests of the deprived child, or the delinquent child or the child in need of supervision, consistent with the state's interest in the protection of the public.

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

- a. the child has been moved once since the last court hearing, as provided in Section 7003-5.4a of this title, and
- b. a foster parent with whom the child has resided for more than six (6) months objects, in writing pursuant to the provisions of this subsection, after notice of the removal of the child by the state agency or the child-placing agency.

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

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

- a. substantial noncompliance by the foster parent with applicable foster family home standards and agreements,
- b. pending investigation of allegations of abuse or neglect of the child by a foster parent or other person residing in the foster family home, or
- c. reunification with a parent that contributed to the child being deprived, with the prior approval of the court.

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

E. The Department of Human Services shall inform the court as to the reason why the foster child is being removed from the foster home. The Department of Human Services shall also inform the court as to the number of times a foster child has been moved within the foster family system.

F. The court, in the court record, shall explain the reasons why the removal of a foster child from the foster home is in the best interests of the foster child.

G. The Department of Human Services shall not remove the foster child from the foster home solely on the grounds that a foster parent has exercised substitute parental authority.

SECTION 10. AMENDATORY Section 9, Chapter 353, O.S.L. 1996, as amended by Section 14, Chapter 386, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7209), is amended to read as follows:

Section 7209. A. 1. Except as otherwise provided by law, the Department of Human Services or the Department of Juvenile Justice shall not place a child in out-of-home placement unless ~~a criminal background investigation~~ foster parent eligibility assessment has been conducted on the foster parent prior to the first placement of a foster child in foster care, and a national criminal history records search based upon submission of fingerprints for such other persons residing in the home has been completed, as required by the Oklahoma Child Care Facilities Licensing Act and the Oklahoma Foster Care and Out-of-Home Placement Act.

2.
 - a. The Department of Human Services shall be the lead agency for disseminating fingerprint cards for obtaining and requesting a national criminal history records search based upon submission of fingerprints from the Oklahoma State Bureau of Investigation.
 - b. The Department of Juvenile Justice, courts and child-placing agencies may request the Department of Human Services to obtain from the Oklahoma State Bureau of Investigation a national criminal history records search based upon submission of fingerprints for foster parents and other persons requiring such search pursuant to the Oklahoma Child Care Facilities Licensing Act and the Oklahoma Foster Care and Out-of-Home Placement Act. Any fees charged by the Oklahoma State Bureau of Investigation or the Federal Bureau of Investigation for such searches shall be paid by the requesting entity.
 - c. The Department of Human Services shall contract with the Oklahoma State Bureau of Investigation to obtain national criminal history records searches based upon submission of fingerprints.
 - d. Upon request for a national criminal history records search based upon submission of fingerprints, the Oklahoma State Bureau of Investigation shall forward one set of fingerprints to the Federal Bureau of Investigation for the purpose of conducting such a national criminal history records search.

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

B. 1. A child-placing agency may place a child who is in the custody of the agency in out-of-home placement; provided, a criminal background investigation foster parent eligibility assessment or a national criminal history records search based upon submission of fingerprints has been completed for each individual as required to be investigated pursuant to the Oklahoma Child Care Facilities Licensing Act or the Oklahoma Foster Care and Out-of-Home Placement Act.

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

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

- a. require that when custody is placed with an individual, a ~~home study and a criminal history investigation~~ foster family eligibility assessment be conducted of the foster parents prior to placement of the child, and
- b. require that if custody is awarded to a child-placing agency, ~~the home study or placement study and criminal history investigation~~ a foster family eligibility assessment be conducted as ~~otherwise~~ required by the Oklahoma Child Care Facilities Licensing Act.

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

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

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

D. 1. When the court awards custody of a child to an individual or a child-placing agency as provided by this subsection, the individual or child-placing agency shall be responsible for the completion of and costs of the ~~home study,~~ national criminal history investigation records search based upon submission of fingerprints, the foster parent eligibility assessment, the preparation of a treatment and service plan, and the medical examination required by this subsection.

2. The Department of Human Services and the Department of Juvenile Justice shall be responsible for the completion of and costs of the ~~home study, criminal history investigation~~ foster parent eligibility assessment and any national criminal history records search based upon submission of fingerprints, preparation of a treatment and service plan, and the medical examination required by this subsection only for the children placed in the custody of the state agency. The state agency may provide for reimbursement of such expenses, costs and charges so incurred pursuant to the Oklahoma Children's Code and the Juvenile Justice Code, as applicable.

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

- a. be specific,
- b. be in writing,

- c. be prepared by the agency in conference with the child's parents,
- d. state appropriate deadlines,
- e. state specific goals for the treatment of the child,
- f. describe the conditions or circumstances causing the child to be placed in foster care,
- g. describe the services that are necessary to remedy and that have a reasonable expectation of remedying the conditions or circumstances causing the child to be placed in foster care,
- h. state to whom the services will be delivered and who will deliver the services, and
- i. prescribe the time the services are expected to begin and the time within which expected results can reasonably be accomplished.

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

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

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

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

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

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

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7209.1 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. 1. In order to ensure the health, safety and welfare of a child placed in out-of-home placement, the Department of Human Services shall conduct a study concerning the implementation of a statewide personality inventory program to assess whether a psychological profile is a useful tool and resource for determining the capability of an individual to properly and adequately care for a foster child.

2. Such study shall include, but not be limited to, the costs associated with administering and evaluating results for such a program, the types of personality inventories that are utilized by licensed mental health professionals, the effectiveness of such inventories, recommended time frame for actual statewide implementation of such a program, and any other consideration to effectively and efficiently implement such a statewide program.

B. The Department shall issue a report of its findings and any recommendations to the Governor and the Legislature not later than January 15, 1999.

SECTION 12. AMENDATORY Section 12, Chapter 353, O.S.L. 1996, as amended by Section 16, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7212), is amended to read as follows:

Section 7212. A. 1. The Department of Human Services, the Department of Juvenile Justice and each child-placing agency shall develop:

- a. a foster care education program to provide training for persons intending to furnish foster care services, and
 - b. continuing educational programs for foster parents.
2. The Department of Human Services shall develop:
- a. a kinship foster care training program, and
 - b. continuing educational programs for foster parents providing kinship foster care.

B. 1. In addition to any other conditions and requirements specified by the state agency or child-placing agency, as applicable, prior to placement of a child in foster placement other than kinship care, each foster parent shall have completed the training approved by the Department of Human Services, the Department of Juvenile Justice or the child-placing agency, as appropriate.

2. Approved training shall require a minimum of twelve (12) hours of study related, but not limited, to physical care, education, learning disabilities, procedures for referral to and receipt of necessary professional services, behavioral assessment and modification, independent-living skills, and procedures for biological parent contact. Such training shall relate to the area of parental substitute authority, behavioral management techniques including, but not limited to, restraining and holding techniques, parent-child conflict resolution techniques, stress management, and any other appropriate technique to teach the foster parent how to control potentially violent behavior in a manner appropriate to the age and development of the foster child.

3. The foster parent or person intending to provide foster care services may complete the training as part of an approved training program offered by a public or private agency with expertise in the provision of child foster care or in related subject areas.

C. 1. A foster parent providing kinship foster care shall, if possible, complete the training developed by the Department of Human Services for kinship care prior to placement or at such other times as required by the Department; provided, however, in no event shall such training take place later than three (3) months after placement of the child with such foster parent. Such training shall relate to the area of parental substitute authority, behavioral management techniques including, but not limited to, restraining and holding techniques, parent-child conflict resolution techniques, stress management, and any other appropriate technique to teach the foster parent how to control potentially violent behavior in a manner appropriate to the age and development of the foster child.

2. The Department shall complete a home study or other evaluation required by the Department of Human Services for the purpose of placing a child into kinship foster care as soon as is feasible after the initial placement of a child.

3. In order to provide for the payment or reimbursement for the providing of kinship foster care services until the certification and training requirements have been completed, the Department shall enter into a ninety-day contract with the foster parent during which time the Department and the foster parents shall satisfy the certification and training requirements.

D. Foster parent training programs may include, but need not be limited to, in-service training, workshops and seminars developed by the state agency; seminars and courses offered through public or private education agencies; and workshops, seminars and courses pertaining to behavioral and developmental disabilities and to the development of mutual support services for foster parents.

E. The Department of Human Services, the Department of Juvenile Justice and each child-placing agency shall provide statewide training, education, and continuing education programs for foster parents.

F. The Department of Human Services, the Department of Juvenile Justice or each child-placing agency shall notify a foster parent at least ten (10) business days in advance of the statewide scheduling of education, continuing education or foster parent training occurring near the vicinity of the home of a foster parent.

G. The Department of Human Services may also provide additional foster care training to a foster parent. A foster parent may request in writing to the Department of Human Services that additional foster parent training is needed.

SECTION 13. AMENDATORY Section 18, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7220), is amended to read as follows:

Section 7220. A. The Oklahoma Legislature finds and declares that:

1. An increasing number of children under the age of eighteen (18) years, including many children who would otherwise be at risk of abuse or neglect, are in the care of a grandparent;

2. A principal cause for this increase is an increase in the incidence of parental substance abuse, child abuse, mental illness, poverty, and death, as well as concerted efforts by families and by the child welfare service system to keep children with relatives whenever possible;

3. Grandparents providing primary care for at-risk children may experience unique resultant problems, such as financial stress due to limited incomes, emotional difficulties related to dealing with the loss of the child's parents or to the child's unique behaviors, and decreased physical stamina combined with a much higher incidence of chronic illness;

4. Many children being raised by grandparents experience one or more of a combination of emotional, behavioral, psychological, academic, or medical problems, especially those born to a substance-abusing mother or those who are at risk of child abuse, neglect, or abandonment; and

5. Grandparents providing primary care for children lack appropriate information about the issues of kinship care, the special needs, both physical and psychological, of children born to a substance-abusing mother or who are at risk of child abuse, neglect, or abandonment, and the support resources currently available to them.

B. The Department of Human Services shall establish an informational and educational program including, but not limited to, the area of parental substitute authority, for grandparents who provide primary care for children who are at risk of child abuse, neglect, or abandonment or who were born to substance-abusing mothers. As a part of the program, the Department shall develop, publish, and distribute an informational brochure for grandparents who provide primary care for children who are at risk of child abuse, neglect, or abandonment or who were born to substance-abusing mothers. The information provided under the program authorized by this section may include, but is not limited to, the following:

1. The problems experienced by children being raised by grandparents;
2. The problems experienced by grandparents providing primary care for children who have special needs;
3. The legal system as it relates to children and grandparents;
4. The benefits available to children and grandparents providing primary care; and
5. A list of support groups and resources located throughout the state.

C. The brochure may be distributed through hospitals, public health nurses, child protective services, medical professional offices, elementary and secondary schools, senior citizen centers, public libraries, and community action agencies selected by the Department.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7221 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. In order to promote the stability and healthy growth of a foster child who has been placed in a foster family home, it is the intent of the Legislature to limit the number of times a foster child is moved within the foster family system.

B. If there is an allegation of abuse or neglect in a foster home, an investigation of the allegation shall be conducted as required in Section 7106 of Title 10 of the Oklahoma Statutes.

C. Required visitations for the foster child are to be made in the home of the foster parent. If there is good cause, other than an allegation of abuse or neglect, to believe the foster child needs to be interviewed alone without the foster parent present, then the foster parent shall provide a location in the home where the foster child can be questioned without the foster parent's being present.

SECTION 15. AMENDATORY 10 O.S. 1991, Section 402, as amended by Section 2, Chapter 122, O.S.L. 1993 (10 O.S. Supp. 1997, Section 402), is amended to read as follows:

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

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

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

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

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

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

6. "Foster parent eligibility assessment" includes a criminal background investigation, including, but not limited to, a national criminal history records search based upon the submission of fingerprints, home assessments, and any other assessment required by the Department of Human Services, the Department of Juvenile Justice, or any child-placing agency pursuant to the provisions of the Oklahoma Foster Care and Out-of-Home Placement Act. A foster parent eligibility assessment shall be similar to the procedures

used by the Oklahoma Department of Public Safety for determining suitability of an individual for employment as a highway patrol officer;

~~7.~~ 7. "Group homes" means homes providing full-time care and community-based services for more than five children but less than thirteen;

~~7.~~ 8. "Day care" means the provision of care and supervision of a child who resides in its own home or with relatives but is in the care of another person for part of the day who is conducting a family day care home or persons conducting a day care center;

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

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

~~10.~~ 11. "Part-day child care program" means a licensed facility which provides care and supervision for eight or more children and which operates for more than fifteen (15) but less than thirty (30) hours per week;

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

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

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

SECTION 16. AMENDATORY 10 O.S. 1991, Section 404.1, as last amended by Section 1 of Enrolled House Bill No. 3348 of the 2nd Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 404.1 A. 1. ~~The~~ Except as otherwise provided by subsection B of this section, 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.~~
- ~~e. 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. If the adult has lived in Oklahoma for less than one (1) year, a criminal history investigation shall also be obtained from the previous state of residence.~~

~~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~~

~~a. On and after September 1, 1998:~~

- ~~(1) any child-placing agency contracting with a 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 foster parent eligibility assessment for the foster care provider,~~
- ~~(2) any child-placing agency contracting with a person for foster family home services shall arrange for a national criminal history records search based upon submission of fingerprints for any adult residing in the foster family home through the Department of Human Services pursuant to the provisions of the Oklahoma Foster Care and Out-of-Home Placement Act. A national criminal history records search based upon submission of fingerprints to the Oklahoma State Bureau of Investigation shall also be completed for any adult who subsequently moves into the residence, and~~
- ~~(3) any child care facility contracting with any person for foster family home services shall request the Office of Juvenile Justice to conduct a juvenile justice information system review pursuant to the provisions of 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 legal guardian of the child for such review.

b. The provisions of this paragraph shall not apply to foster care providers having a contract or contracting with a child-placing agency, the Department of Human Services or the Department of Juvenile Justice prior to September 1, 1998. Such existing foster care providers shall comply with the provisions of 10 O.S. Supp. 1997, Section 404.1, until otherwise provided by rules of the Commission for Human Services or by law.

2. a. On and after September 1, 1998, 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~~ foster parent eligibility assessment pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act, for such foster family applicant and a national criminal history records search based upon submission of fingerprints for any adult residing in such foster family home. A ~~criminal history investigation~~ national criminal history records search based upon submission of fingerprints conducted by the Oklahoma State Bureau of Investigation shall also be completed for any adult who subsequently moves into the residence.

b. The provisions of this paragraph shall not apply to foster care providers having a contract or contracting with a child-placing agency, the Department of Human Services or the Department of Juvenile Justice prior to September 1, 1998. Such existing foster care providers shall comply with the provisions of 10 O.S. Supp. 1997, Section 404.1, until otherwise provided by rules of the Commission for Human Services or by law.

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

C. The Commission for Human Services shall promulgate rules to identify circumstances when a criminal history investigation or foster parent eligibility assessment 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 or a national criminal history records search based upon submission of fingerprints to the Federal Bureau of Investigation pursuant to this section:

- a. a parent volunteer who transports children on an irregular basis, and
- b. a child ~~day~~ of a child 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 requesting a national criminal history records search based upon submission of fingerprints or investigating criminal, abusive or harmful behavior of such persons, if warranted.

E. A Except as otherwise provided by the Oklahoma Children's Code and subsection G of this section, 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, foster parent eligibility assessment, or a national criminal history records search based upon submission of fingerprints shall not be made a part of that individual's personnel or contract records but shall be maintained pursuant to this subsection. ~~Such~~ The 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 or national criminal history records search based upon submission of fingerprints 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.

H. 1. In order to protect the health and safety of a child in out-of-home placement, the Department of Human Services shall study the feasibility of implementing a statewide program for a national criminal history records search based upon fingerprints submitted to the Oklahoma State Bureau of Investigation for a foster parent who is currently caring for a child in the custody of the Department of Human Services and the Department of Juvenile Justice on the effective date of this act.

2. The study shall include, but not be limited to, assessing the costs associated with requiring national fingerprint checks on such foster parent, recommending time frames for implementation for such program, and any other consideration for the efficient and effective implementation of such a program.

3. The Department shall issue a report on its findings and any other recommendations to the Governor and the Legislature not later than January 15, 1999.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7003-5.6g of Title 10, unless there is created a duplication in numbering, reads as follows:

A. On or after January 1, 2000, permanency hearings required for adjudicated deprived children by Part V of Article III of the Oklahoma Children's Code shall be held pursuant to the time frames specified by this section.

B. The court shall conduct a permanency hearing for each child adjudicated to be deprived in order to consider the issue of the establishment of permanency for the child no later than:

1. Six (6) months for a child who, on the date of initial removal from the physical custody of the parents of such child, was under the age of three (3) years; and

2. Twelve (12) months for a child who, on the date of initial removal from the physical custody of the parents of such child, was three (3) years of age or older.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7003-5.6h of Title 10, unless there is created a duplication in numbering, reads as follows:

A. During any permanency hearing, if it is determined by the court that a child should be placed for adoption, the foster parent of the child may be considered eligible to adopt the child, provided the foster parent meets established eligibility requirements.

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

C. In making such determination, the court shall consider whether the child has become integrated into the foster family to the extent that the child's familial identity is with the foster family, and whether the foster family is able and willing permanently to treat the child as a member of the family. The court shall consider, without limitation:

1. The love, affection, and other emotional ties existing between the child and the relatives of the child, and the child's ties with the foster family;

2. The capacity and disposition of the child's relatives as compared with that of the foster family to give the child love, affection, and guidance and to continue the education of the child;

3. The length of time a child has lived in a stable, satisfactory foster home and the desirability of the child's continuing to live in that environment;

4. The physical and mental health of the relatives of the child as compared with that of the foster family;

5. The experiences of the child in the home, school, and community, both when with the parents from whom the child was removed and when with the foster family; and

6. Any other factor considered by the court to be relevant to a particular placement of the child.

SECTION 19. AMENDATORY 10 O.S. 1991, Section 1119, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 11, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1997, Section 7003-8.1), is amended to read as follows:

Section 7003-8.1 A. In placing a child in the custody of an individual or in the custody of a private agency or institution, the court shall, and the Department of Human Services shall, if at all possible, select a person or an agency or institution governed by persons of the same religious faith as that of the parents of the child, or in case of a difference in the religious faith of the parents, then of the religious faith of the child, or, if the religious faith of the child is not ascertainable, then of the faith of either of the parents.

~~It~~ B. Except as otherwise provided by this section or by law, it shall be left to the discretion of the judge to place the custody of children where their total needs will best be served.

C. If the child is removed from the custody of the child's parent, the court or the Department of Human Services, as applicable, shall immediately consider concurrent permanency planning, so that permanency may occur at the earliest opportunity. Consideration should be given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child.

D. For purposes of this subsection, the State of Oklahoma elects to make subparagraph (A) of paragraph 20 of subsection 3 of Section 471(a) of the Social Security Act (Public Law 105-89) inapplicable to Oklahoma. Instead, the State of Oklahoma requires that:

1. Except as otherwise provided by this subsection, on and after the effective date of this act, the Department or a child-placing agency shall not place a child in out-of-home placement with a foster parent if the foster parent or any other person residing in the home of the foster parent has been convicted of any of the following felony offenses:

- a. within the five-year period preceding the application date, physical assault, battery or a drug-related offense,
- b. child abuse or neglect,
- c. domestic abuse,
- d. a crime against a child, including, but not limited to, child pornography, or
- e. a crime involving violence, including, but not limited to, rape, sexual assault or homicide, but excluding physical assault or battery; and

2. a. A prospective adoptive parent or guardian or kinship guardian or other long-term placement provider shall not be an approved placement for the child if the

person or any other person residing in the home has been convicted of any of the following felony offenses:

- (1) within the five-year period preceding the date of the petition, physical assault, battery or a drug-related offense, except as otherwise authorized by this subsection,
- (2) child abuse or neglect,
- (3) domestic abuse,
- (4) a crime against a child, including, but not limited to, child pornography, and
- (5) a crime involving violence, including, but not limited to, rape, sexual assault or homicide, but excluding physical assault or battery.

b. A prospective adoptive parent or long-term placement provider may be an approved placement regardless of whether such parent or provider has been convicted of any of the felony offenses specified by division (1) of subparagraph a of this paragraph, if an evaluation has been made and accepted by the court which considers the nature and seriousness of the crime in relation to the adoption or long-term placement, the time elapsed since the commission of the crime, the circumstances under which the crime was committed, the degree of rehabilitation, the number of crimes committed by the person involved, and a showing by clear and convincing evidence that the child will not be at risk by such placement.

E. 1. Under no circumstances shall a child be placed in the custody of an individual subject to the Oklahoma Sex Offenders Registration Act or an individual who is married to or living with an individual subject to the Oklahoma Sex Offenders Registration Act. ~~No individual that has been convicted of any crime involving domestic abuse or is married to or living with a person convicted of a crime involving domestic abuse shall receive custody of a child unless that person is able to show by clear and convincing evidence that the child will not be at risk by such placement.~~

~~B. Prior~~ 2. In addition, prior to placing a child in the custody of an individual, the court shall inquire as to whether the individual has been previously convicted of a any other felony or a relevant misdemeanor or has any felony or relevant misdemeanor charges pending.

3. Prior to the custody order being entered, the person shall respond by certified affidavit or through sworn testimony to the court and shall provide an Oklahoma criminal history record obtained pursuant to Section 150.9 of Title 74 of the Oklahoma Statutes, ~~or~~. The person may also provide a local background check obtained from a county sheriff upon payment of Ten Dollars (\$10.00) to the sheriff's office in the county of residence of the individual.

4. For purposes of this subsection, the terms:

- a. "relevant misdemeanor" may include, but shall not be limited to, assault and battery, alcohol- or drug-related offenses, crimes involving domestic abuse and other offenses deemed relevant by the court, and
- b. "individual" shall not include a parent, legal guardian, or custodian of the child.

SECTION 20. AMENDATORY 10 O.S. 1991, Section 1130, as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7006-1.1), and as last amended by Section 6 of

Enrolled House Bill No. 3348 of the 2nd Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 7006-1.1 A. ~~The~~ Pursuant to the provisions of the Oklahoma Children's Code, 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. The paramount consideration in proceedings concerning termination of parental rights shall be the health, safety and best interests of the child:

1. Upon a written consent of a parent, including a parent who is a minor, acknowledged as provided in paragraph 4 of subsection B of Section 7503-2.1 of this title, 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~~ the child. For purposes of this paragraph the term "abandonment" includes, but is not limited to, the following:

a. the parent has willfully left the child alone or in the possession of another who is not the parent of the child without identifying the child or furnishing a means of identification for the child, the whereabouts of the parents are unknown, and the child's identity cannot be ascertained by the exercise of reasonable diligence,

b. the parent has voluntarily left the child alone or in the possession of another who is not the parent of the child and expressed a willful intent by words, actions, or omissions not to return for the child, or

c. the parent fails to maintain a significant relationship with the child through visitation or communication for a period of six (6) consecutive months out of the last fourteen (14) months immediately preceding the filing of a petition for termination of parental rights. Incidental or token visits or communications shall not be construed or considered in establishing whether a parent has maintained a significant relationship with the child;

3. ~~a.~~ A finding that the child is an abandoned infant;

4. A finding that the parent of a child:

a. has voluntarily placed physical custody of the child with the Department of Human Services or with a child-placing agency for out-of-home placement,

b. has not complied with the placement agreement, and

c. has not demonstrated during such period a firm intention to resume physical custody of the child or to make permanent legal arrangements for the care of the child;

5. A finding that:

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

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

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

~~(4)~~ d. the parent has failed to show that the condition which led to the ~~making of such finding~~ adjudication of a child deprived has been corrected although the parent has been given ~~three (3) months~~ not less than the time specified by Section 7003-5.5 of this title 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. 6. A finding that a subsequent child has been born to a parent whose parental rights to any other children have child has 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 child has not been corrected. The court may set the time in which the applicant shall show that the condition has not been corrected, if, in the judgment of the court, it is in the best interests of the child. Until the applicant shows the condition has not been corrected, the child may remain in the custody of the parent, subject to any conditions which the court may impose, or the court may place the child with an individual or an agency. As used in this paragraph, the term "applicant" shall include, but not be limited to, a district attorney or the child's attorney; ~~or~~~~

~~5. 7. 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 for a period of twelve (12) consecutive months out of the last fourteen (14) months immediately preceding the filing of a petition for termination of parental rights, willfully failed, refused or neglected to contribute to the support of such child:~~

- ~~a. in substantial compliance with an order 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 an order.~~

~~Incidental or token visits or communications shall not be construed or considered in establishing whether a parent has maintained or contributed to the support of the child;~~

~~6. 8. 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;~~~~

~~9. A conviction in a criminal action that the parent:~~

- ~~a. caused the death of the child as a result of the physical or sexual abuse or chronic abuse or chronic neglect of such child,~~
- ~~b. caused the death of a sibling of the child as result of the physical or sexual abuse or chronic abuse or chronic neglect of such sibling,~~

- c. committed the murder of any child or aided or abetted, attempted, conspired or solicited to commit murder of any child,
- d. committed voluntary manslaughter of another child of the parent, or aided or abetted, attempted, conspired or solicited to commit voluntary manslaughter of another child of the parent, or
- e. committed a felony assault that has resulted in serious bodily injury to the child or another child of the parent;

10. 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,~~
- b. the child or sibling of such child has suffered severe harm or injury as a result of such physical or sexual abuse, or
- ~~b.~~ c. 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~~

- d. the child has been adjudicated a deprived child, pursuant to the provisions of the Oklahoma Children's Code, as a result of a single incident of severe sexual abuse, severe neglect or the infliction of serious bodily injury or torture to the child, a sibling of the child, or a child within the household where the child resides, by the parent of the child, or
- e. the parent has inflicted chronic abuse, chronic neglect or torture on the child, a sibling of the child or another child within the household where the child resides;

~~8.~~ 11. The child was conceived as a result of rape or an act committed outside of this state which if committed in this state would constitute rape. This paragraph shall only apply to the parent who committed the rape or act and whose child has been placed out of the home;

12. 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 incarcerated, 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.~~ 13. 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;

14. The parent of the child has a history of extensive, abusive and chronic use of drugs or alcohol and has resisted treatment for this problem during a three-year period immediately prior to the filing of the petition which brought that child to the court's attention;

15. A child has been placed in foster care by the Department of Human Services for fifteen (15) of the most recent twenty-two (22) months. For purposes of this paragraph, a child shall be considered to have entered foster care on the earlier of:

- a. the adjudication date, or
- b. the date that is sixty (60) days after the date on which the child is removed from the home.

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

C. 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 21. CODIFICATION Sections 1 and 2 of Enrolled House Joint Resolution No. 1025 of the 2nd Session of the 46th Oklahoma Legislature shall be codified as Sections 230.75 and 230.76 of Title 56 of the Oklahoma Statutes, respectively.

SECTION 22. NONCODIFICATION Section 1 of this act shall not be codified in the Oklahoma Statutes.

SECTION 23. 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 28th day of May, 1998.

Speaker of the House of
Representatives

Passed the Senate the 28th day of May, 1998.

President of the Senate