

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1927

By: Boyd (Laura)

AS INTRODUCED

An Act relating to children; amending 10 O.S. 1991, Section 21.1, which relates to order of preference for custody; adding certain determinations to be made by court; amending 10 O.S. 1991, Sections 1107, as last amended by Section 10, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995, 1109, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 6, Chapter 200, O.S.L. 1996, 1115.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 20, Chapter 353, O.S.L. 1996, 1115.2, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 21, Chapter 353, O.S.L. 1996, and 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. 1996, Sections 7003-2.1, 7003-3.7, 7003-5.3, 7003-5.4 and 7003-8.1), which relate to court procedures for deprived children; clarifying language; modifying duties of certain attorneys; modifying contents of certain plans; modifying provisions regarding forwarding of certain information; modifying term; amending 21 O.S. 1991, Section 845, as renumbered

by Section 20, Chapter 353, O.S.L. 1995, and as last amended by Section 16, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7102), which relates to protection of children; modifying provisions regarding child returned to family under certain circumstances; amending Sections 5, 8 and 9, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1996, Sections 7205, 7208 and 7209), which relate to foster care placement; clarifying language; modifying provisions regarding rights of certain parties; amending 10 O.S. 1991, Section 1211, as last amended by Section 2, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1996, Section 1211), which relates to juvenile law training; modifying training provision for certain individuals; establishing certain procedures for disciplining judges under certain circumstances; providing for codification; and providing an effective date.

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

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

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

1. A parent or to both parents jointly except as otherwise provided in subsection B of this section;
2. A grandparent;
3. A person who was indicated by the wishes of a deceased parent;

4. A relative of either parent;

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

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

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

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

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

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

2. The noncustodial parent has abandoned the child; or

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

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

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

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

SECTION 2. AMENDATORY 10 O.S. 1991, Section 1107, as last amended by Section 10, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1996, Section 7003-2.1), is amended to read as follows:

Section 7003-2.1 A. A child may be taken into protective custody prior to the filing of a petition:

1. By a peace officer or employee of the court, without a court order if the child's surroundings are such as to endanger the welfare of the child;

2. By an order of the district court issued upon the application of the office of the district attorney. The application presented by the district attorney may be supported by a sworn affidavit which may be based upon information and belief. The application shall state facts sufficient to demonstrate to the court that there is reasonable suspicion to believe the child is in need of protection due to abandonment, abuse or neglect, or is in surroundings that are such as to endanger the welfare of the child. The application may be verbal, which shall be supported by facts sufficient to demonstrate to the court that there is reasonable suspicion to believe that the child is in need of protection due to abandonment, abuse or neglect or is in surroundings that are such as to endanger the welfare of the child. If verbal, a written application shall be submitted to the district court no later than the close of the next day that the court is open for business; and

3. By order of the district court when the child is in need of medical treatment or mental health treatment in order to protect the child's health or welfare and the child's parent, legal guardian, legal custodian or other person having custody or control of the child is unwilling or unavailable to consent to such medical or mental health treatment or other action pursuant to this article.

B. Whenever a child is taken into protective custody:

1. Such child may be taken to a children's shelter located within the county where protective custody is assumed or, if there is no children's shelter within the county, to a children's shelter designated by the court;

2. Except as otherwise provided by subsection C of this section, such child may be taken before a judge of the district court for the purpose of obtaining an order for protective custody. The child may be placed in the custody of the Department, if ordered by the court, for placement in a relative's home or in foster care

if such placement is determined by the Department to meet the needs of the child;

3. ~~Such~~ The child may be taken directly to or retained in a health care facility for medical treatment, when it reasonably appears to the peace officer or court employee that the child is in need of immediate medical treatment to preserve the child's health, or as otherwise directed by the court; or

4. ~~Such~~ The child may be taken directly to or retained in a mental health facility for mental health care, or inpatient mental health evaluation or inpatient mental health treatment, in accordance with the provisions of the Inpatient Mental Health Treatment of Children Act, when it reasonably appears to the peace officer or court employee that the child is in need of emergency mental health care to preserve the child's health, or as otherwise directed by the court; and

5. Except as otherwise provided by subsection C of this section, the district court of the county where the protective custody is assumed shall be immediately notified, verbally or in writing, that the child has been taken into protective custody. If notification is verbal, written notification shall be sent to the district court by the close of business on the next day that the court is open for business.

C. The court may provide, in an order issued pursuant to this section or by a standing order or rule, for the disposition of children taken into protective custody and notification of the protective custody. Such order or rule shall be consistent with the provisions of subsection B of this section, but may also:

1. Designate a licensed child care facility other than a children's shelter appropriate for the temporary care of deprived children if such facility is willing to provide care;

2. Authorize the release of a child from protective custody in accord with such criteria as the court specifies or the placement of

a child with such responsible persons as the court may designate and who are willing to provide care for the child pending further proceedings; and

3. Require such notice to the court concerning the assumption of protective custody and the disposition of children taken into protective custody as the court may direct.

D. No child taken into protective custody pursuant to this section shall be confined in any jail, adult lockup, or adult or juvenile detention facility. No child shall be transported or detained in a secure facility in association with delinquent, criminal, vicious, or dissolute persons.

SECTION 3. AMENDATORY 10 O.S. 1991, Section 1109, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 6, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7003-3.7), is amended to read as follows:

Section 7003-3.7 A. If the parents, guardian, or other legal custodian of the child requests an attorney and is found to be without sufficient financial means, counsel shall be appointed by the court if a petition has been filed alleging that the child is a deprived child or if termination of parental rights is a possible remedy, provided that the court may appoint counsel without such request, if it deems representation by counsel necessary to protect the interest of the parents, guardian or other legal custodian. If the child is not otherwise represented by counsel, whenever a petition is filed pursuant to the provisions of this part, the court shall appoint a separate attorney, who shall not be a district attorney, for the child regardless of any attempted waiver by the parent or other legal custodian of the child of the right of the child to be represented by counsel. The attorney appointed for the child shall make arrangements to meet with the child as soon as possible after receiving notification of the appointment. Except for good cause shown, the attorney shall meet with the child not

less than twenty-four (24) hours prior to any hearing in such proceeding. The attorney may speak with the child over the telephone if a personal visit is not possible due to exigent circumstances.

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

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

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

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

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

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

SECTION 4. AMENDATORY 10 O.S. 1991, Section 1115.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 20, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7003-5.3), is amended to read as follows:

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

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

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

The plan shall be:

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

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

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

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

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

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

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

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

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

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

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

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

- b. the reasons for such placement and a statement as to the unavailability or inappropriateness of local placement, or other good cause, for any placement more than forty (40) miles from the home of the child,
- c. the services to be provided to the child while in such placement and the projected date of discharge,
- d. the services necessary to assist the child to reintegrate with the child's family or other community-based placement and a description of acts by and conduct that is expected of the parent or parents, legal guardian, legal custodian, or stepparent or other adult person living in the home that would alleviate the conditions that resulted in the removal of the child before the child can be returned home,
- e. if the child is sixteen (16) years of age or older, the services necessary to make the transition from foster care or other community placement to independent living,
- f. a description of the permanency goal for the child, including the type of placement,
- g. a description of the type of placement in which the child is to be placed,
- h. a description of the initial support obligation to the child, as determined by the court,
- i. a description of the visitation rights and obligations of the parent or parents during the period the child is in care, and
- j. a discussion of the appropriateness of the child's placement, which placement is intended to be in the least restrictive and most family-like setting available, consistent with the best interest and

special needs of the child and in as close proximity as possible to the child's home;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 5. AMENDATORY 10 O.S. 1991, Section 1115.2, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 21, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7003-5.4), is amended to read as follows:

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

1. Demographic information;
2. Strengths, needs and general behavior of the child;
3. Circumstances which necessitated placement;
4. Type of custody and previous placement;
5. Pertinent family information including, but not limited to, the names of family members who are and who are not, by court order, allowed to visit the child and the child's relationship to the family which may affect placement;
6. ~~Important~~ Relevant, known, important life experiences and relationships which may significantly affect the child's feelings, behavior, attitudes or adjustment;
7. Whether the child has third-party insurance coverage which may be available to the child;
8. Education history to include present grade placement, last school attended, and special strengths and weaknesses. The Department of Human Services shall also assist the foster parents in

getting the foster child's school records and assistance in school admission;

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

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

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

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

1. Any medical or psychological conditions;
2. Diseases, illnesses, accidents, allergies, and congenital defects; and
3. Immunization history.

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

2. The Department shall provide for the examinations or tests on the child in accordance with rules promulgated by the Department and based on the Centers for Disease Control guidelines for time and frequency of testing, and shall, for a child in the Department's

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

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

SECTION 6. 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. 1996, Section 7003-8.1), is amended to read as follows:

Section 7003-8.1 A. In placing a child in the custody of ~~an~~ any individual or in the custody of a private agency or institution, the court 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 shall be left to the discretion of the judge to place children where their total needs will best be served. Under no circumstances shall a child be placed in the custody of ~~an~~ any 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 to placing a child in the custody of ~~an~~ any individual, the court shall inquire as to whether the individual has been previously convicted of a felony or a relevant misdemeanor or has any felony or relevant misdemeanor charges pending. 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 obtained from a county sheriff upon payment of Ten Dollars (\$10.00) to the sheriff's office. For purposes of this subsection, "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.

SECTION 7. AMENDATORY 21 O.S. 1991, Section 845, as renumbered by Section 20, Chapter 353, O.S.L. 1995, and as last amended by Section 16, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7102), is amended to read as follows:

Section 7102. A. 1. It is the policy of this state to provide for the protection of children who have ~~had physical injury inflicted upon them and who, in the absence of appropriate reports concerning their condition and circumstances,~~ been abused or neglected and who may be further threatened by the conduct of persons responsible for the care and protection of such children. ~~Once conditions of a court-ordered service plan have been met or when allegations in a petition have been corrected~~ any child of a

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

2. It is the policy of this state that in investigating allegations of child abuse and neglect, in any necessary removal of a child from the home, in placements of a child required pursuant to the Oklahoma Child Abuse Reporting and Prevention Act or in any administrative or judicial proceeding held pursuant to the provisions of the Oklahoma Child Abuse Reporting and Prevention Act, the best interests of the child shall be of paramount consideration.

B. As used in the Oklahoma Child Abuse Reporting and Prevention Act:

1. "Abuse and neglect" means harm or threatened harm to a child's health or welfare by a person responsible for the child's health or welfare;

2. "Harm or threatened harm to a child's health or welfare" includes but is not limited to nonaccidental physical or mental injury; sexual abuse; sexual exploitation; or negligent treatment or maltreatment including but not limited to the failure or omission to provide adequate food, clothing, shelter, or medical care or protection from harm or threatened harm;

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

4. "Person responsible for a child's health or welfare" includes a parent; a legal guardian; custodian; a foster parent; a person eighteen (18) years of age or older with whom the child's

parent cohabitates or any other adult residing in the home of the child; an agent or employee of a public or private residential home, institution, facility or day treatment program as defined in Section 175.20 of this title; or an owner, operator, or employee of a child care facility as defined by Section 402 of this title;

5. "Sexual abuse" includes but is not limited to rape, incest and lewd or indecent acts or proposals, as defined by law, by a person responsible for the child's health or welfare;

6. "Sexual exploitation" includes but is not limited to allowing, permitting, or encouraging a child to engage in prostitution, as defined by law, by a person responsible for the child's health or welfare or allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic photographing, filming, or depicting of a child in those acts as defined by the state law, by a person responsible for the child's health or welfare;

7. "Multidisciplinary personnel" means any team established pursuant to Section 7110 of this title of three or more persons who are trained in the prevention, identification, investigation, prosecution and treatment of child physical and sexual abuse cases and who are qualified to facilitate a broad range of interventions and services related to child abuse;

8. "Ruled out" means a report which is determined by a child protective services worker:

- a. to be false,
- b. to be unfounded,
- c. to be inherently improbable,
- d. to involve an accidental injury where neglect was not a factor, or
- e. as not constituting child abuse or neglect;

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

10. "Uncertain report" means a report which is not ruled out by a child protective services worker, but which has inconclusive findings and for which there is insufficient evidence to determine whether child abuse or neglect has occurred;

11. "Child protective services worker" means a person employed by the Department of Human Services with sufficient experience or training as determined by the Department in child abuse prevention and identification;

12. "Department" means the Department of Human Services; and

13. "Commission" means the Commission for Human Services.

SECTION 8. AMENDATORY Section 5, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1996, Section 7205), is amended to read as follows:

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

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

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

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

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

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

- a. give a minimum of five (5) days' advance notice to the foster care family before removing a child from their care, and
- b. at the time of such notification, provide the foster family with a written statement of the reasons for removing a child; and

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

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

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

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

- a. the child has been moved once since the last court hearing, as provided in Section ~~22~~ 7003-5.4a of this ~~act~~ title, ~~and~~ or
- b. a foster parent with whom the child has resided for more than one (1) year objects, in writing pursuant to the provisions of this subsection, after notice of the removal of the child by the state agency or the child-placing agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. be specific,
- b. be in writing,
- c. be prepared by the agency in conference with the child's parents,
- d. state appropriate deadlines,

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

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

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

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

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

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

2. No child shall be eligible for any reimbursement through the state Medicaid program for placement in therapeutic foster care

unless such placement has been reviewed and approved pursuant to rules regarding medical necessity for therapeutic foster care placement promulgated by the Oklahoma Health Care Authority Board.

SECTION 11. AMENDATORY 10 O.S. 1991, Section 1211, as last amended by Section 2, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1996, Section 1211), is amended to read as follows:

Section 1211. A. The Supreme Court is required to establish by rule, education and training requirements for judges, associate judges, special judges, and referees who have juvenile court docket responsibility. The Administrative Director of the Courts shall be responsible for developing and administering procedures and rules for such courses for judicial personnel.

B. All judges having juvenile or domestic docket responsibility shall attend at least twelve (12) hours of training per year pertinent to issues relating to juvenile law ~~and,~~ child abuse and neglect ~~and,~~ domestic abuse issues and other issues relating to children such as foster care and parental divorce. The Administrative Office of the Courts shall monitor the attendance of judges having juvenile docket responsibility at such training.

C. District attorneys and assistant district attorneys whose duties include responsibility for the juvenile court docket shall complete education and training courses in juvenile law ~~and,~~ child abuse and neglect and other issues relating to children such as foster care and parental divorce. The District Attorneys Council shall be responsible for developing and administering procedures and rules for such courses for district attorneys and assistant district attorneys.

D. Any public defender, or assistant public defender, whose duties include responsibility for a juvenile court docket shall complete education and training courses in juvenile law ~~and,~~ child abuse and neglect and other issues relating to children such as foster care and parental divorce. The public defender shall be

responsible for developing and administering procedures and rules for such courses.

E. Any attorney employed by or under contract with the Oklahoma Indigent Defense System whose duties include responsibility for a juvenile court docket shall complete education and training courses in juvenile law ~~and~~, child abuse and neglect and other issues relating to children such as foster care and parental divorce. The Executive Director of the Oklahoma Indigent Defense System shall be responsible for developing and administering procedures and rules for such courses.

F. Any court-appointed special advocate (CASA) available for appointment pursuant to the Oklahoma Children's Code or the Oklahoma Juvenile Code shall complete education and training courses in juvenile law ~~and~~, child abuse and neglect and other issues relating to children such as foster care and parental divorce. The chief judge of the judicial district for which a court-appointed special advocate serves shall be responsible for developing and administering procedures and rules for such courses.

G. The training and education programs required by this section shall be developed and provided by or in cooperation with the Child Abuse Training and Coordinating Council.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1211A of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Failure of a district judge, associate district judge or special district judge to comply with the training requirements of subsection B of Section 1211 of Title 10 of the Oklahoma Statutes or the mandatory stay provision of subsection C of Section 7003-6.2 of Title 10 of the Oklahoma Statutes upon report of the failure to the Chief Justice of the Oklahoma Supreme Court shall subject the judge to having the Chief Justice institute any one of the following disciplinary measures:

1. A reprimand for conduct that is unacceptable but that does not merit formal proceedings or further discipline;

2. An admonishment stating the need to avoid such conduct in the future;

3. A direction to seek professional counseling and monitoring of the subsequent behavior of the judge; or

4. An imposition of conditions on the future conduct of the judge or an instruction to a judge to make a specific change in particular matters of conduct.

B. The Chief Justice shall take any necessary action regarding the imposition of a disciplinary measure listed in subsection A of this section within ten (10) days of the receipt of the report of the failure.

SECTION 13. This act shall become effective November 1, 1997.

46-1-5081

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