

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2452

By: Seikel of the House

and

Cain of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to children; amending Section 1, Chapter 396, O.S.L. 1999, Section 2, Chapter 396, O.S.L. 1999, Section 3, Chapter 396, O.S.L. 1999, Section 4, Chapter 396, O.S.L. 1999, 10 O.S. 1991, Sections 1101, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 2, Chapter 421, O.S.L. 1998, 1102.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 4, Chapter 421, O.S.L. 1998, 1136, as last amended by Section 6, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995, Section 9, Chapter 352, O.S.L. 1995, as last amended by Section 1, Chapter 44, O.S.L. 1999, 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, Section 11, Chapter 352, O.S.L. 1995, Section 13, Chapter 352, O.S.L. 1995, as amended by Section 7, Chapter 421, O.S.L. 1998, Section 14, Chapter 352, O.S.L. 1995, 1109, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 12, Chapter 421, O.S.L. 1998, 1110, as last amended by Section 22, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995, 1111, as last amended by Section 23, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995, Section 14, Chapter 421, O.S.L. 1998, 1115.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 16, Chapter 421, O.S.L. 1998, Section 22, Chapter 353, O.S.L. 1996, as amended by Section 4, Chapter 389, O.S.L. 1997, 1116, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 18, Chapter 421, O.S.L. 1998, 1116.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 19, Chapter 421, O.S.L. 1998, Section 21, Chapter 421, O.S.L. 1998, Section 23, Chapter 421, O.S.L. 1998, Section 17, Chapter 414, O.S.L. 1998, as amended by Section 7, Chapter 396, O.S.L. 1999, 1119, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 2, Chapter 1, O.S.L. 1999, Section 25, Chapter 353, O.S.L. 1996, as last amended by Section 2, Chapter 2, O.S.L. 1999, 1403.3, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 7, Chapter 389, O.S.L. 1997, 1125.2, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last

amended by Section 8, Chapter 416, O.S.L. 1998, Section 3, Chapter 306, O.S.L. 1993, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 9, Chapter 416, O.S.L. 1998, 1130, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 20, Chapter 414, O.S.L. 1998 and 1134, as last amended by Section 69, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1999, Sections 7007-1.1, 7007-1.2, 7007-1.3, 7007-1.4, 7001-1.3, 7002-1.2, 7002-2.1, 7003-1.1, 7003-2.1, 7003-2.2, 7003-2.4, 7003-2.5, 7003-3.7, 7003-3.8, 7003-4.1, 7003-4.6, 7003-5.3, 7003-5.4a, 7003-5.5, 7003-5.6, 7003-5.6d, 7003-5.6f, 7003-5.6g, 7003-8.1, 7004-1.5, 7004-3.4, 7005-1.3, 7005-1.4, 7006-1.1 and 7006-1.5), which relate to the Oklahoma Children's Code; extending date of termination for the Child Welfare System Reform Review Committee; updating language; adding and deleting certain purposes; deleting, modifying and adding terms; removing out-of-date language; making language consistent; authorizing removal if continuation of a child in the child's home is contrary to the health, safety or welfare of the child; requiring certain submissions to be made; modifying certain time limitations; including the Department of Human Services within release of liability provisions; prohibiting certain persons from selecting an attorney for a child; providing for reimbursement; requiring jury trials for termination of parental rights proceedings; making certain hearings confidential and private; providing exceptions; clarifying the sexual offenses which, if convicted of by certain parties, a child may not be returned; clarifying status of certain children testing positive at birth for certain alcohol or other dangerous substances; requiring certain notifications; providing for movement of a child in emergency situations; clarifying language relating to home studies and investigations; requiring certain records and reports; providing for closure; making certain orders remain in full force and effect; modifying and adding to requirements relating to relative custodian and kinship guardians; making the Department of Human Services not responsible for certain home studies; requiring adequate prior notice of certain hearings; modifying conditions of when a child may be returned home; adding to list of persons who may enter into an open adoption; extending certain date for certain permanency hearings; modifying kinship program relating to certain payments; providing for assistance for certain persons; updating language relating to client advocacy; adding to list of persons eligible to receive certain juvenile court records and agency records; adding to list of persons whose parental rights may be terminated; amending 21 O.S. 1991, Sections 845, as renumbered by Section 20, Chapter 353, O.S.L. 1995, and as last amended by Section 11, Chapter 416, O.S.L. 1998, 846, as renumbered by Section 20, Chapter 353, O.S.L. 1995, and as last amended by Section 12, Chapter 416, O.S.L. 1998, Section 6, Chapter 353, O.S.L. 1995, as last amended

by Section 1, Chapter 425, O.S.L. 1999 and Section 10, Chapter 353, O.S.L. 1995, as last amended by Section 1 of Enrolled House Bill No. 2007 of the 2nd Session of the 47th Oklahoma Legislature (10 O.S. Supp. 1999, Sections 7102, 7103 and 7106), which relate to the Oklahoma Child Abuse Reporting and Prevention Act; modifying definitions; modifying reporting requirements; adding to functions of the multidisciplinary child abuse teams; providing for a written protocol; providing for contents; providing for approvals; providing for reviews; requiring certain training; amending Section 3, Chapter 353, O.S.L. 1996, as amended by Section 3, Chapter 414, O.S.L. 1998, Section 8, Chapter 353, O.S.L. 1996, as last amended by Section 9, Chapter 414, O.S.L. 1998 and Section 12, Chapter 353, O.S.L. 1996, as last amended by Section 4, Chapter 2, O.S.L. 1999 (10 O.S. Supp. 1999, Sections 7203, 7208 and 7212), which relate to the Oklahoma Foster Care and Out-of-Home Placement Act; modifying and adding definitions; modifying certain child removal provisions relating to foster care parents; making certain education requirements for foster care based on same standards and criteria; providing for payments and reimbursements; amending 63 O.S. 1991, Section 1-227.9, as last amended by Section 22, Chapter 389, O.S.L. 1997 (63 O.S. Supp. 1999, Section 1-227.9), which relates to the Child Abuse Training and Coordination Council; adding to powers and duties; creating the Independent Living Act; specifying purpose; providing for eligibility; making certain eligible individuals eligible for certain tuition waivers; requiring eligible standards and criteria; requiring standards to retain eligibility; specifying legislative intent; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 1, Chapter 396, O.S.L. 1999 (10 O.S. Supp. 1999, Section 7007-1.1), is amended to read as follows:

Section 7007-1.1 A. The Legislature hereby establishes to continue until June 30, 2001, the Child Welfare System Reform Review Committee ~~and directs the~~. The Committee ~~to shall~~ undertake a thorough study of the policies, procedures and statutes governing Oklahoma's child abuse and child welfare system and ~~to make~~ shall recommend necessary ~~recommended~~ revisions to this system.

B. All departments, officers, agencies and employees of this state shall cooperate with the Child Welfare System Reform Review Committee in carrying out its duties and responsibilities, including providing any information, records and reports as may be requested by the Committee.

SECTION 2. AMENDATORY Section 2, Chapter 396, O.S.L. 1999 (10 O.S. Supp. 1999, Section 7007-1.2), is amended to read as follows:

Section 7007-1.2 A. The Child Welfare System Reform Review Committee shall consist of the following twenty-two (22) members:

1. One member who is the Chair of the Human Services Committee of the Oklahoma House of Representatives;
2. One member who is the Chair of the Human Resources Committee of the Oklahoma State Senate;
3. Three members who are judges having juvenile docket responsibilities, appointed by the Juvenile Justice Oversight Committee of the ~~Oklahoma~~ Supreme Court;
4. Two members who are district attorneys having knowledge and experience in actions concerning deprived children, appointed by the District Attorneys Council;
5. One member who serves on a post-adjudication review board, appointed by the State Post-Adjudication Review Advisory Board;
6. One member who serves as a foster parent and who has a current contract with the Department of Human Services to provide foster care services, appointed by the Foster Care Association of Oklahoma;
7. One member who serves as a Court-Appointed Special Advocate, appointed by the Oklahoma CASA Association;
8. Three members appointed by the Speaker of the House of Representatives of whom:

- a. one member represents a child-placing agency that has a current contract with the Department of Human Services to provide foster care services,
- b. one person is a child advocate having current knowledge and experience concerning Oklahoma's child welfare system, and
- c. one person represents a local unit on aging interested in grandparents' concerns;

9. Three members appointed by the President Pro Tempore of the Senate of whom:

- a. one person is a member of the Governor's Task Force on Children in Custody,
- b. one person is a child advocate having current knowledge of Oklahoma's child welfare system, and
- c. one person is a practicing attorney in the area of child welfare and who is an active member of the Family Law Section of the Oklahoma Bar Association;

10. Three members appointed by the Governor of whom:

- a. one is a person from the law enforcement community who is currently working with a multidisciplinary child abuse team,
- b. one person is a practicing public defender or employee of the Office of Public Defender who represents parents who is knowledgeable in deprived actions or termination of parental rights actions and is an active member of the Family Law Section of the Oklahoma Bar Association, and
- c. one person is a practicing attorney in the area of child welfare and who is an active member of the Family Law Section of the Oklahoma Bar Association;

11. Ex officio members of the Child Welfare System Reform Review Committee shall also include the following:

- a. the Director of the Department of Human Services, or designee,
- b. the State Commissioner of Health, or designee, and
- c. the Director of the Oklahoma Commission on Children and Youth, or designee.

~~B. Each member of the Child Welfare System Reform Review Committee initially appointed shall make the appointments known to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Governor by August 1, 1999.~~

~~C.~~ Members of the Committee shall serve until June 30, ~~2000~~ 2001. Any vacancies in the membership of the Committee shall be filled for the unexpired term in the same manner as the original appointment.

~~D.~~ C. The Committee may divide into subcommittees in furtherance of its purposes.

SECTION 3. AMENDATORY Section 3, Chapter 396, O.S.L. 1999 (10 O.S. Supp. 1999, Section 7007-1.3), is amended to read as follows:

Section 7007-1.3 A. 1. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint one member of the Child Welfare System Reform Review Committee to serve as cochairs who shall serve until June 30, ~~2000~~ 2001. ~~Cochairs shall be appointed by August 15, 1999.~~

2. If a vacancy occurs in such office, a new cochair shall be appointed from the Committee in the same manner as the original appointment.

3. Other officers may be elected to serve the Committee for terms of office as may be designated by the Committee members. A majority of members present shall represent a quorum and a majority present may act for the Committee.

~~B. 1. The cochairs shall call the first meeting of the Committee no later than September 15, 1999.~~

~~2.~~ The Committee may meet at least one time per month and at such other times as may be set by the cochairs of the Committee.

C. Members of the Committee shall receive no salary; however, all members of the Committee shall be reimbursed for their actual and necessary travel expenses as follows:

1. Legislative members of the Committee shall receive reimbursement from the house in which they serve pursuant to Section 456 of Title 74 of the Oklahoma Statutes;

2. Nonlegislative Committee members employed by the state shall be reimbursed by their respective employing agency pursuant to the State Travel Reimbursement Act; and

3. Any other Committee member shall receive reimbursement pursuant to the State Travel Reimbursement Act from funds of the Legislative Service Bureau.

SECTION 4. AMENDATORY Section 4, Chapter 396, O.S.L. 1999 (10 O.S. Supp. 1999, Section 7007-1.4), is amended to read as follows:

Section 7007-1.4 A. The purposes of the Child Welfare System Reform Review Committee shall be to conduct a systematic review and study of all policies, procedures and Oklahoma Statutes concerning the child welfare system, and to update, reform and recodify ~~the,~~ as necessary, any statutes and programs encompassed in the system. The duties of the Committee in preparing recommendations shall be as follows:

1. To consolidate similar statutes;

2. To repeal or modify obsolete or duplicate statutes or any statutes which shall have been declared unconstitutional by court decision;

3. To recommend changes in Title 10 and Title 63 of the Oklahoma Statutes concerning the child welfare system;

4. To clarify and update any existing statutory language;

5. To recodify those sections of law which relate to child welfare reform when ~~the move~~ such recodification will improve the location, use, application and appropriateness of those sections of law; and

6. To perform any other acts necessary to complete the purposes of the Committee, including, but not limited to:

- a. the feasibility of videotaping or audiotaping a child alleged to be severely physically or sexually abused at the investigatory stage,
- ~~b. the feasibility of removing the right of a jury trial at the adjudicatory court hearing for determining deprived status or at the termination of parental rights hearing or both,~~
- ~~c. reviewing the statutory provisions in the Oklahoma Children's Code requiring a deprived child to testify in a criminal proceeding under penalty of imprisonment,~~
- ~~d. studying whether parents or custodians of a child should be given a Miranda-type warning during a child abuse investigation,~~
- ~~e. c.~~ c. examining the fair and impartial hearing procedure for foster parents provided by the Department of Human Services and the Department of Juvenile Justice,
- ~~f. d.~~ d. examining sibling visitation rights,
- ~~g. e.~~ e. examining how to improve representation of abused and neglected children in the court system,
- ~~h. f.~~ f. prohibiting homosexuals from adopting children, ~~and~~
- ~~i. g.~~ g. recognizing rights of relatives, including grandparents or other relatives who have physical custody of children related to them within the third degree of consanguinity or affinity standing in loco

parentis to such children in deprived or nondeprived cases,

h. involving the following entities in the establishment of a professional foster parent curriculum for use in a community college or vo-tech setting:

(1) higher education,

(2) vo-tech,

(3) State Department of Education,

(4) a trainer who is a foster parent approved by the Department of Human Services,

(5) a trainer who is a therapeutic foster parent approved by the Department of Human Services, and

(6) a behavioral health specialist with experience in the area of child abuse and neglect,

i. determining the feasibility of abolishing the two percent (2%) cap on enrollment for therapeutic foster children in a school district,

j. studying the feasibility of increasing foster care provider rates,

k. reviewing prevention programs and determining if adequate funding exists to provide statewide services and resources,

l. determining the feasibility and impact of increasing funding levels to the Child Abuse Training Coordination Council to provide more educational training to professionals involved in child abuse prevention, investigation and prosecution,

m. studying child abuse and neglect assessment and investigation procedures to determine if certain procedures need to be modified or refined,

n. establishing a policy to encourage district attorneys' offices to assign an experienced attorney to a

deprived child proceeding and to allow an assistant district attorney and a public defender assigned to a deprived child proceeding to receive equal pay commensurate with experience,

- o. determining methods for improving the quality of legal representation available to children adjudicated deprived including, but not limited to, a requirement that an attorney who is involved in a deprived child proceeding shall annually attend at least six (6) hours of related training, to be made available at a nominal and reasonable cost, in order to be eligible to receive compensation from the local court,
- p. studying, in conjunction with the Juvenile Justice Oversight Committee of the Supreme Court, the feasibility of:

 - (1) establishing uniform court rules and procedures for use in deprived proceedings, and
 - (2) drafting a statute to deem a parent an "interested" or "necessary" party in a deprived child proceeding when that parent is not accused of causing the deprivation of the child,
- q. evaluating and making recommendations regarding the use of the term "dependence" in Section 7001-1.3 of this title and "chemically dependent" in Section 7103 of this title, and
- r. reviewing statutes related to mandatory reporting of child abuse.

B. 1. The staff of the Committee shall be responsible for drafting recommended legislation in accordance with ~~the~~ current legislative drafting procedures.

2. The Committee shall prepare a final draft of recommended changes, and shall submit ~~the recommended changes~~ its

recommendations to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Governor by February 15, ~~2000~~ 2001.

~~C. The Child Welfare System Reform Review Committee shall cease to function June 30, 2000.~~

SECTION 5. AMENDATORY 10 O.S. 1991, Section 1101, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 2, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7001-1.3), is amended to read as follows:

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

1. "Abandoned infant" means a child who is twenty-four (24) months of age or younger whose parent:

- a. has willfully left the infant alone or in the ~~possession~~ care of another who is not the parent of the infant without identifying the infant or furnishing any means or methods of identification,
- b. has willfully left the infant alone or in the ~~possession~~ care of another who is not the parent of the infant and expressed a willful intent by words, actions, or omissions not to return for the infant,
- c. has knowingly placed or knowingly allowed the infant be placed in or remain in conditions or surroundings that posed or constituted a serious danger to the health and safety of the infant thereby demonstrating wanton disregard for the child's well-being,
- d. is a father, or a putative father if the infant was born out of wedlock, and:
 - (1) if an infant is less than ninety (90) days of age, who fails to show that he has exercised proper parental rights or duties with regard to the infant, including, but not limited to,

contributing to the support of the mother of the infant to the extent of his financial ability during her term of pregnancy,

- (2) (a) if an infant is older than ninety (90) days but less than fourteen (14) months of age, who fails to show that he has exercised proper parental rights or duties with regard to the infant, including, but not limited to, contributing to the support of the infant to the extent of his financial ability, which may include contributing to the support of the mother of the infant to the extent of his financial ability during her term of pregnancy.

- (b) ~~Pursuant to this subdivision,~~ failure to contribute to the support of the mother during her term of pregnancy, pursuant to this subdivision, shall not in and of itself be grounds for termination of the parental rights of the father or putative father, or

- (3) (a) if ~~an~~ the infant is fourteen (14) months of age or older, who fails to show that he has exercised proper parental rights or duties with regard to the infant, including, but not limited to, contributing to the support of the infant to the extent of his financial ability.

- (b) Pursuant to this subdivision, failure to contribute to the support of the mother during her term of pregnancy shall not in and of itself be grounds for termination of

the parental rights of the father or putative father.

In any case where a father, or a putative father of an infant born out of wedlock, claims that prior to the receipt of notice of the hearing provided for in Section 7006-1.2 of this title he had been specifically denied knowledge of the infant or denied the opportunity to exercise parental rights or duties with regard to the infant, such father or putative father shall prove to the satisfaction of the court that he made sufficient attempts to discover if he had fathered a child or made sufficient attempt to exercise parental rights or duties with regard to the infant prior to the receipt of notice, ~~or~~

- e. has not had significant or meaningful contact with the infant during the six (6) months immediately prior to out-of-home placement or the six (6) continuous months ~~after~~ while in out-of-home placement, and has not made meaningful efforts to gain or regain custody of or to have regular visitation with the infant, despite being given the opportunity to do so.

Incidental or token visits, communications or contributions shall not be construed or considered in establishing the proper exercise of parental rights or duties with regard to the infant;

2. "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition pursuant to the provisions of Part 3 of Article III of this Code are supported by the evidence and whether a child should be adjudged to be a ward of the court;

3. "Assessment" means a systematic process utilized by the Department of Human Services to respond to reports of alleged child abuse or neglect which, according to priority guidelines established by the Department, do not constitute a serious and immediate threat

to a child's health ~~or~~, safety or welfare. The assessment includes, but is not limited to, the following elements:

- a. an evaluation of the child's safety, and
- b. ~~a determination of the factors of the alleged abuse or neglect, and~~
- e. a determination regarding the family's need for ~~preventive and intervention-related~~ services;

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

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

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

7. "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;

8. "Chronic abuse or chronic neglect of a child" means a pattern of physical or sexual abuse or neglect which is repeated or continuing;

9. "Community-based services" or "community-based programs" means services or programs which maintain community participation or supervision in their planning, operation, and evaluation.

Community-based services and programs may include, but are not limited to, emergency shelter, crisis intervention, group work, case supervision, job placement, recruitment and training of volunteers, consultation, medical, educational, home-based services, vocational, social, preventive and psychological guidance, training, counseling, early intervention and diversionary substance abuse treatment, sexual abuse treatment, transitional living, independent living, and other related services and programs;

10. "Court-appointed special advocate" or "CASA" means a responsible adult who ~~is associated with~~ has been trained and is supervised by a court-appointed special advocate program recognized by the court, and who has volunteered to be available for appointment by the court to serve as an officer of the court as a guardian ad litem, pursuant to the provisions of Section 7003-3.7 of this title, to represent the best interests of any deprived child or child alleged to be deprived over whom the district court exercises jurisdiction, until discharged by the court;

11. "Court-appointed special advocate program" means an organized program, administered by either an independent, not-for-profit corporation, a dependent project of an independent, not-for-profit corporation or a unit of local government, which recruits, screens, trains, assigns, supervises and supports volunteers to be available for appointment by the court as guardians ad litem, to represent the best interests of a deprived child or a child alleged to be deprived in a case for which a deprived petition has been filed;

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

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

14. "Deprived child" means a child:

- a. who is for any reason destitute, homeless, or abandoned,
- b. who does not have the proper parental care or guardianship or whose home is an unfit place for the child by reason of neglect, abuse, cruelty, or depravity on the part of the child's parents, legal guardian, or other person responsible for the child's health or welfare,
- c. who is a child in need of special care and treatment because of the child's physical or mental condition ~~including, but not limited to, a child born in a condition of dependence on a controlled dangerous substance,~~ and the child's parents, legal guardian, or other custodian is unable or willfully fails to provide such special care and treatment. As used in this paragraph, a child in need of special care and treatment includes, but is not limited to, a child who at birth tests positive for alcohol or a controlled dangerous substance and who, pursuant to a drug or alcohol screen of the child and an assessment of the parent, is determined to be at risk for future exposure to such substances,
- d. who is a child with a disability deprived of the nutrition necessary to sustain life or of the medical treatment necessary to remedy or relieve a life-threatening medical condition in order to cause or allow the death of the child if such nutrition or medical treatment is generally provided to similarly situated children without a disability or children with disabilities; provided that no medical treatment shall be necessary if, in the reasonable medical

- judgment of the attending physician, such treatment would be futile in saving the life of the child,
- e. who is, due to improper parental care and guardianship, absent from school as specified in Section 10-106 of Title 70 of the Oklahoma Statutes, if the child is subject to compulsory school attendance, or
 - f. whose parent, legal guardian or ~~legal~~ custodian for good cause desires to be relieved of custody.

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

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

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

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

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

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

18. "Foster care" or "foster care services" means continuous twenty-four-hour care and supportive services provided for a child, in foster placement, including, but not limited to, the care, supervision, guidance, and rearing of a foster child by the foster parent;

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

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

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

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

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

24. "Guardian ad litem" means a person appointed by the court to protect the best interests of a child pursuant to the provisions of ~~subsection B of~~ Section 7003-3.7 of this title in a particular case before the court;

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

26. "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, such features as minimal direct staff supervision, and the provision of supportive services to assist children with activities necessary for finding an appropriate place of residence, completing an education or vocational training, obtaining employment, or obtaining other similar services;

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

28. "Investigation" means an approach utilized by the Department to respond to reports of alleged child abuse or neglect which, according to priority guidelines established by the Department, constitute a serious and immediate threat to ~~the~~ a child's health or safety. An investigation includes, but is not limited to, the following elements:

- a. an evaluation of the child's safety,
- b. a determination whether or not child abuse or neglect occurred, and
- c. a determination regarding the family's need for prevention and intervention-related services;

29. "Kinship care" means full-time care of a child by a kinship relation;

30. "Kinship guardianship" means a judicially created relationship between a child and a kinship relation of the child established pursuant to the provisions of Section 7003-5.5 of this title;

31. "Kinship relation" or "kinship relationship" means relatives, ~~members of the relative's clan,~~ stepparents, or other responsible adults who have ~~an existing~~ a bond or tie with a child

and/or to whom has been ascribed a family relationship role with the child's parents or the child;

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

33. "~~Multidisciplinary personnel~~ child abuse team" 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 child abuse ~~cases~~ and who are qualified to facilitate a broad range of ~~interventions~~ prevention and intervention-related services and services related to child abuse;

34. "Near death" means a child is in serious or critical condition, as certified by a physician, as a result of abuse or neglect;

35. "Neglect" means neglect as such term is defined by the Oklahoma Child Abuse Reporting and Prevention Act;

~~36.~~ 36. "Out-of-home placement" means a placement, other than a placement in the home of the parent ~~or~~, legal guardian or custodian from whose custody the court has removed the child, ~~until the child is reunified with the child's parents or has been adopted~~;

~~36.~~ 37. "Permanency hearing" means a hearing by the court to determine whether a child is to be returned to the child's home or whether other permanent placement will be sought within a specific time frame for the child;

~~37.~~ 38. "Permanent custody" means a court-ordered custody of an adjudicated deprived child whose parent's parental rights have been terminated;

~~38.~~ 39. "Person responsible for a child's health, safety 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;

~~39. "Preliminary inquiry" means an assessment and determination as to whether there is sufficient information to proceed with an investigation of abuse or neglect of a child or an investigation of failure to protect by the person responsible for the child when there are allegations of abuse or neglect;~~

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

41. "Putative father" means the father of a child:

- a. born out of wedlock, or
- b. whose mother was married to another person at the time of the birth of such child or within ten (10) months prior to the birth of the child.

The term "putative father" includes, but is not limited to:

- (1) a man who has acknowledged or claims paternity of the child,
- (2) a man named as the father by the mother of the child, or
- (3) any man alleged to have engaged in sexual intercourse with the mother during a possible time of conception;

42. "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~~ third degree of consanguinity;

43. "Residential child care center" means a twenty-four-hours-a-day residential group care facility at which a specified number of

children, normally unrelated, reside with adults other than their parents;

44. "Reasonable efforts" means the reasonable exercise of diligence and care, with regard to a child who is in out-of-home placement, or who is at imminent risk of being harmed, to:

- a. refer to, arrange for, or develop reasonable supportive and rehabilitative services for the family of such child that are required both to prevent unnecessary placement of ~~a~~ the child outside of the child's home and to foster, whenever appropriate, the safe reunification of such child with the child's family, or
- b. place a child who cannot be returned home into a permanent placement;

45. a. "Residual parental rights and responsibilities" means those rights and responsibilities that remain with the parent:

- ~~a.~~ (1) after transfer of legal custody of the child, other than adoption, or
- ~~b.~~ (2) when a guardianship or kinship guardianship is established for the child.
- b. Residual parental rights and responsibilities, ~~which~~ may be limited or restricted as determined by the court, and include, but are not limited to:
 - (1) the right of visitation,
 - (2) the right to consent to adoption,
 - (3) the responsibility for support of and costs of medical care for the child, and
 - (4) the right to determine the religious faith of the child;

46. "Responsible adult" for purposes of the release of a child from protective custody, means a stepparent, foster parent, ~~person~~

~~related to a relative of the juvenile in any manner~~ child who is eighteen (18) years of age or older, or any person having an obligation and authority to care for or safeguard the juvenile child in another person's absence who is eighteen (18) years of age or older;

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

48. "Serious bodily injury" means a bodily injury that involves:

- a. substantial risk of death,
- b. extreme physical pain,
- c. protracted and obvious disfigurement, or
- d. protracted loss or impairment of the function of a bodily member, organ or mental faculty;

49. "Serious danger to the health and safety" means that without the intervention of another person or agency, a child would likely or in all probability sustain severe or permanent disability or injury, illness, or death;

50. "Sibling" means a biologically or legally related brother or sister of a child;

51. "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;

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

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

54. "Torture" means to inflict:

- a. intense emotional or psychological anguish to or suffering by a child, or
- b. physical pain for the purpose of coercing or terrorizing a child;

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

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

57. "Treatment and service plan" means a document written pursuant to Section 7003-5.3 ~~which includes at least the following:~~

- ~~a. a description of the type of home or facility in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the judicial determination made with respect to the child, and~~

~~b. a plan for assuring that the child receives proper care and that services are provided to the parents, child, and placement providers in order to improve the conditions in the parents' home, facilitate return of the child to the child's own home or to an alternate permanent placement, and address the needs of the child while in out-of-home care, including a discussion of the appropriateness of the services that have been provided to the child under the plan of this title; and~~

58. "Voluntary foster care placement" means the temporary placement of a child by the parent, legal guardian or custodian of the child in foster care pursuant to a signed placement agreement between the Department or a child-placing agency and the child's parent, legal guardian or custodian.

B. Unless the context otherwise requires, the terms defined in the Oklahoma Child Abuse Reporting and Prevention Act and the Oklahoma Foster Care and Out-of-Home Placement Act shall have the same meaning when used in the Oklahoma Children's Code.

SECTION 6. AMENDATORY 10 O.S. 1991, Section 1102.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 4, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7002-1.2), is amended to read as follows:

Section 7002-1.2 A. 1. If the evidence in a juvenile action, or an action for a divorce, for alimony without a divorce, for an annulment, for custody of a child ~~or~~, for the appointment of a guardian of the person of a child, for habeas corpus, or in subsequent proceedings in such actions, indicates that a child is or may be deprived, the referring court shall notify the appropriate county office of the Department of Human Services that the child may be a victim of abuse or neglect.

2. The county office shall conduct a ~~preliminary inquiry~~ an assessment or investigation concerning such report in accordance with priority guidelines established by the Department of Human Services.

3. The Department shall submit all ~~findings~~ reports regarding the ~~preliminary inquiry~~ assessment or investigation to the office of the district attorney and send a copy of its ~~findings~~ reports to such court within thirty (30) days of such notice, and notify parties to the proceeding of the submission of the report to the court.

4. The district attorney shall advise the court within three (3) days of the receipt of the Department's findings whether a deprived petition will be filed by that office. If no deprived petition is filed, the court may take appropriate action regarding the custody of the child, or appointment of a guardian for the child.

B. Nothing in this section shall preclude the referring court from entering an order to have the child taken into emergency custody if evidence presented to the referring court indicates a child is in surroundings that are such as to endanger the welfare of the child. If a child is taken into emergency custody by such an order, the provisions of Article III of the Oklahoma Children's Code shall apply.

C. If, in any proceeding listed in subsection A of this section, the evidence indicates that a child has been subject to abuse or neglect, the court shall appoint an attorney to represent the child for that proceeding and any related proceedings and, as provided by Section 7003-3.7 of this title, the court shall appoint a guardian ad litem for the child.

SECTION 7. AMENDATORY 10 O.S. 1991, Section 1136, as last amended by Section 6, Chapter 352, O.S.L. 1995, and as

renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1999, Section 7002-2.1), is amended to read as follows:

Section 7002-2.1 A. It shall be the responsibility of the Department of Human Services to provide care for deprived children who are committed to the ~~care~~ custody of the Department ~~for custody or guardianship~~.

B. The Department shall provide for the care of such children pursuant to Article IV of this Code.

SECTION 8. AMENDATORY Section 9, Chapter 352, O.S.L. 1995, as last amended by Section 1, Chapter 44, O.S.L. 1999 (10 O.S. Supp. 1999, Section 7003-1.1), is amended to read as follows:

Section 7003-1.1 A. 1. Upon notification or receipt of a report that a child may be deprived or whenever the county office determines that there are reasonable grounds to believe that a child may be deprived, the Department of Human Services shall conduct a ~~preliminary inquiry~~ an assessment or investigation in accordance with priority guidelines established by the Department.

2. Notification or receipt of a report that a child may be a victim of abuse or neglect, and any investigation or assessment made as a result of such notification or report, shall be subject to and conducted pursuant to the provisions of the Oklahoma Child Abuse Reporting and Prevention Act.

3. The Department shall forward its findings to the district attorney's office.

B. 1. If, after the ~~preliminary inquiry~~ assessment or investigation, the Department determines that:

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

responsible for the child's health, safety or welfare
to provide protection for the child,

the Department shall immediately verbally notify an appropriate local law enforcement agency for the purpose of conducting a possible criminal investigation. The verbal notification to the local law enforcement agency shall be followed by a written referral transmitted no later than the close of the next business day ~~that the local law enforcement agency is open for business.~~

2. ~~During the preliminary inquiry or investigation, the~~ The Department shall determine whether the alleged perpetrator is a parent of any child or is otherwise a person responsible for ~~any~~ the child's health, safety or welfare. If the alleged perpetrator is determined to be a parent of a child or is otherwise a person responsible for ~~any~~ the child's health, safety or welfare, such determination shall constitute reasonable grounds to conduct a ~~preliminary inquiry~~ an assessment or investigation regarding such child pursuant to subsection A of this section.

3. After making the referral to the law enforcement agency, the Department shall not be responsible for further investigation of the case unless:

- a. notice is received from the law enforcement agency as provided by subsection C of this section,
- b. the alleged perpetrator is a person responsible for ~~any~~ the child's health, safety or welfare, or
- c. the appropriate law enforcement agency requests the Department, in writing, to participate in the investigation. If funds and personnel are available, as determined by the Director of Human Services, the Department may assist in the investigation of physical or sexual abuse of a child perpetrated by a person other than the parent or person responsible for the health ~~and~~, safety or welfare of the child.

4. The Commission for Human Services shall promulgate rules for the implementation of the provisions of this subsection. Such rules shall include, but not be limited to, provision for adequate and appropriate ~~inquiry~~ assessment or investigation by the Department prior to notification of a local law enforcement agency.

C. 1. Any law enforcement agency receiving a referral as provided in this section shall provide the Department of Human Services' local child welfare office with a copy of the report of its investigation resulting from a referral from the Department or shall provide a written statement as to why a criminal investigation was not conducted.

2. a. Whenever, in the course of any criminal investigation, a law enforcement agency determines that there is cause to believe that a child may be or is alleged to be abused, neglected or deprived by reason of the acts or omissions of a person responsible for the health ~~and, safety or~~ welfare of the child or the failure on the part of a person responsible for the child's health, safety or welfare to provide protection for the child, the law enforcement agency shall immediately verbally contact the local child welfare office for the purpose of an investigation by that office.

b. The verbal notification to the local child welfare office shall be followed by a written referral to the Department of Human Services no later than the close of the next business day ~~that the Department is open for business.~~

SECTION 9. 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. 1999, 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 or if continuation of the child in the child's home is contrary to the health, safety or welfare of the child;

2. By an order of the district court issued upon the application of the office of the district attorney. The court shall include in the order a specific determination that continuation of the child in the child's home is contrary to the health, safety or welfare of the child. 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~~ within one (1) judicial day from the issuance of the order; 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, safety 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. The court shall specifically include in the order authorization for

such medical or mental health treatment as it deems necessary. The court shall include in the order a specific determination that continuation of the child in the child's home is contrary to the health, safety or welfare of the child.

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 court may be placed~~ place the child in the custody of the Department, ~~if ordered by the court, for placement.~~ The Department may place the child in a ~~relative's~~ kinship foster care home ~~or in foster care if such,~~ another foster home or other suitable placement that is determined by the Department to meet the needs of the child;

3. Such 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~~ emergency medical treatment to ~~preserve~~ maintain the child's health, or as otherwise directed by the court; or

4. Such 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~~ within one (1) judicial day of such verbal notification.

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 10. AMENDATORY Section 11, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1999, Section 7003-2.2), is amended to read as follows:

Section 7003-2.2 A. If ~~the~~ a child ~~who~~ is taken into protective custody without a court order due to the need ~~of~~

~~immediate~~ for emergency medical ~~treatment~~ or mental health ~~care~~ treatment to protect the child's health, safety or welfare, the court may issue an emergency ex parte order authorizing such treatment upon application of the district attorney of the county in which the child is located. The application for an emergency ex parte order may be verbal or in writing and shall be supported by facts sufficient to demonstrate to the court that there is reasonable cause to believe that the child is in need of emergency medical or mental health treatment ~~or care~~ to protect the child's health, safety or welfare. If verbal, a written application shall be submitted to the court as soon as practicable.

B. The emergency ex parte order shall be in effect until a full hearing is conducted. A copy of the application, notice for full hearing and a copy of any emergency ex parte order issued by the court shall be served upon such parent, legal guardian, or person having custody or control of the child. Within twenty-four (24) hours of the filing of the application, the court shall hold a full hearing on the application, regardless of whether an emergency ex parte order had been issued or denied.

SECTION 11. AMENDATORY Section 13, Chapter 352, O.S.L. 1995, as amended by Section 7, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7003-2.4), is amended to read as follows:

Section 7003-2.4 A. 1. The peace officer or an employee of the court shall provide the parent, legal guardian, or custodian of a child immediate written notice of the protective or emergency custody of the child whenever possible.

2. The written notice shall:

- a. inform the parents, legal guardian, or custodian that the child has been removed from the home,
- b. inform the parent, legal guardian, or custodian of the child that an emergency custody hearing to determine custody of the child will occur within two (2)

judicial days from the date the child was removed from the home, and

c. contain information about the:

- (1) emergency custody hearing process, including, but not limited to, the date, time and place that the child was taken into protective or emergency custody,
- (2) nature of the allegation that ~~lead~~ led to placement of the child into protective or emergency custody,
- (3) address and telephone number of the local and county law enforcement agencies,
- (4) phone number of the local child welfare office of the Department of Human Services, and
- (5) right of the parent, legal guardian or custodian to contact an attorney.

3. The written notice shall also contain the following or substantially similar language: "FAILURE TO RESPOND TO THIS NOTICE OR TO APPEAR AT THE EMERGENCY CUSTODY HEARING MEANS YOUR CHILD WILL STAY OR BE PLACED IN EMERGENCY CUSTODY. YOUR FAILURE TO RESPOND OR COOPERATE MEANS YOU MAY LOSE CUSTODY OF THIS CHILD OR YOUR RIGHTS AS A PARENT MAY BE TERMINATED."

B. 1. Within the next two (2) judicial days following the child being taken into protective or emergency custody, the court shall conduct an emergency custody hearing to determine whether evidence or facts exist that are sufficient to demonstrate to the court there is reason to believe the child is in need of protection due to ~~abandonment~~ or abuse or neglect, or is in surroundings that are such as to endanger the health, safety ~~and~~ or welfare of the child.

2. At the emergency custody hearing, the court shall advise the parent, legal guardian or custodian of the child in writing of the

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

- a. ~~the~~ any right of the parent or legal guardian or custodian to testify and present evidence at court hearings,
- b. the right to be represented by an attorney at court hearings as authorized by law,
- c. the consequences of failure to attend any hearings which may be held, and
- d. the right to appeal and the procedure for appealing the finding of a court on custody issues as authorized by law.

3. At the emergency custody hearing, the court shall:

- a. ~~release the child to the child's parent, legal guardian or custodian,~~
- ~~b.~~ release the child to the child's parent, legal guardian or custodian or other responsible adult without conditions or under such conditions as the court finds reasonably necessary to ensure the health, safety ~~and~~ or welfare of the child, or
- ~~e.~~ b. continue the child in or place the child into emergency custody if continuation of the child in the child's home is contrary to the health, safety or welfare of the child, and
- c. obtain information from the parent, legal guardian or custodian necessary to identify and locate kinship placement resources.

C. 1. ~~a.~~ Except as otherwise provided by this subsection, a petition for a deprived child proceeding shall be filed and a summons issued within five (5) judicial days from the date of assumption of custody; provided, however, such time period ~~shall not apply~~ may be

extended a period of time not to exceed fifteen (15) calendar days from the date of assumption of custody of the child if, upon request of the district attorney at the emergency custody hearing, the court determines ~~that~~ there are compelling reasons ~~that an~~ to grant additional ~~amount of~~ time for the filing of the petition for a deprived child proceeding ~~is warranted.~~

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

2. If the petition is not filed as required by this subsection, then the emergency custody order shall expire. The district attorney shall submit for filing in the court record a written memoranda record specifying the reasons why the petition was not filed and ~~note the person~~ specifying to whom the child was released.

D. ~~1.~~ If ~~the~~ a petition ~~was~~ is filed within the time period specified in subsection C of this section, ~~except as otherwise provided by this section,~~ the emergency custody order shall remain in force and effect for not longer than ~~thirty (30)~~ sixty (60) days, except as otherwise provided by this subsection.

~~2. The court for good and sufficient cause shown may extend the effective period of such an order for an additional thirty (30) days.~~

~~3. No~~ The emergency custody order shall not be extended beyond ~~the additional thirty (30)~~ sixty (60) days absent a showing that such further extension is necessary to ensure the health and, safety or welfare of the child and is in the best interests of the child.

E. 1. The court may hold additional hearings at such intervals as may be determined necessary by the court to provide for the health, safety and or welfare of the child.

2. The parent, legal guardian or custodian of the child, the child's attorney, the district attorney and guardian ad litem if

appointed shall be given prior adequate notice of the date, time, place and purpose of any hearing by the court.

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

G. 1. No order of the court providing for the removal of a child alleged to be deprived from the home of such child shall not be entered unless the court makes a determination:

- a. that continuation of the child in the child's home is contrary to the ~~welfare,~~ health ~~and,~~ safety or welfare of the child, and
- b. as to whether or not reasonable efforts were made to prevent the need for the removal of the child from the child's home, or
- c. as to whether or not an absence of efforts to prevent the removal of the child from the child's home is reasonable because the removal is due to an alleged emergency and is for the purpose of providing for the health ~~and,~~ safety or welfare of the child, or
- d. reasonable efforts to provide for the return of the child to the child's home are not required pursuant to Section ~~14~~ 7003-4.6 of this ~~act~~ title; provided, however, upon such determination, the court shall inform the parent that a permanency hearing will be held within thirty (30) days from the determination.

2. In all proceedings or actions pursuant to this subsection, the child's health ~~and,~~ safety or welfare shall be the paramount concern.

SECTION 12. AMENDATORY Section 14, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1999, Section 7003-2.5), is amended to read as follows:

Section 7003-2.5 No peace officer, employee of the court, employee of the Department of Human Services, or person acting

pursuant to a court order authorizing medical treatment or mental health evaluation or treatment in accordance with the provisions of this ~~part~~ title for any child found in need of such medical treatment or mental health evaluation or treatment shall have any liability, civil or criminal, for such authorization.

SECTION 13. AMENDATORY 10 O.S. 1991, Section 1109, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 12, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7003-3.7), is amended to read as follows:

Section 7003-3.7 A. 1. a. If the parents, legal guardian or 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, legal guardian or custodian.

b. The court shall not be required to appoint an attorney for any person other than for the parents, legal guardian or custodian of the child pursuant to the provisions of this paragraph.

2. a. ~~If the child is not otherwise represented by counsel,~~
~~whenever~~ Whenever a petition is filed pursuant to the provisions of this part, the court shall appoint a separate attorney, who shall not be a district attorney, regardless of any attempted waiver by the parent, legal guardian or custodian of the child of the right of the child to be represented by counsel. The parent, legal guardian or custodian shall not select the child's attorney. If financially capable,

the parent, legal guardian or custodian shall reimburse the Court Fund for the services of a court-appointed attorney for the child.

- b. The attorney appointed for the child shall make arrangements to meet with the child as soon as possible after receiving notification of the appointment. Except for good cause shown, the attorney shall meet with the child not less than twenty-four (24) hours prior to any hearing in such proceeding. The attorney may speak with the child over the telephone if a personal visit is not possible due to exigent circumstances. If a meaningful attorney-client relationship between the child and the attorney is prohibited due to age or disability of the child, the attorney shall contact the custodian or caretaker of the child prior to the hearing.
- c. The attorney shall be given access to all reports, records and other information relevant to the case and to any reports of examination of the child's parents, legal guardian or custodian made pursuant to this section. The attorney shall represent the child and any expressed interests of the child. The attorney shall make such further inquiry as the attorney deems necessary to ascertain the facts, to interview witnesses, examine and cross-examine witnesses, make recommendations to the court and participate further in the proceedings to the degree appropriate for adequately representing the ~~legal~~ interests of the child.

3. The attorney shall be allowed a reasonable fee for such services as determined by the court, as authorized by law.

B. 1. 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 or for any other action related to the child.

2. The court shall appoint a guardian ad litem upon the request of the child, the attorney of the child, the Department of Human Services, a licensed child-placing agency, or any other party to the action.

3. A guardian ad litem shall not be a district attorney, an employee of the office of the district attorney, the child's 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.

4. The guardian ad litem shall be appointed to objectively advocate on behalf of the child and act as an officer of the court to investigate all matters concerning the best interests of the child. In addition to other duties required by the court and as specified by the court, a guardian ad litem shall have the following responsibilities:

- a. review documents, reports, records and other information relevant to the case, meet with and observe the child in appropriate settings, and interview parents, foster parents, health care providers, child protective services workers and any other person with knowledge relevant to the case,
- b. advocate for the child's best interests by participating in the case, attending any hearings in the matter and advocating for appropriate services for the child when necessary,
- c. maintain the confidentiality of information related to a case as required by Article 7 of the Oklahoma Children's Code,

- d. monitor the child's best interests throughout any judicial proceeding, and
- e. present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

5. The guardian ad litem shall be given access to the court files and agency files and access to all documents, reports, records and other information 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.

C. 1. Whenever a court-appointed special advocate program is available to the court to serve as a guardian ad litem, priority shall be given to appointment of the court-appointed special advocate to serve as guardian ad litem for the child regardless of whether a guardian ad litem has been requested pursuant to the provisions of this subsection.

2. A Court-Appointed Special Advocate Program shall be made available to each judicial district.

3. For purposes of the Oklahoma Children's Code, the ~~term~~ terms "court-appointed special advocate" and "guardian ad litem" shall have the same ~~meaning as "guardian ad litem"~~ function. In like manner, a court-appointed special advocate, except as specifically otherwise provided by law or by the court, shall have the same power, duties and responsibilities as assigned to a guardian ad litem by law and shall have such other qualifications, duties and responsibilities as may be prescribed by rule by the ~~Oklahoma~~ Supreme Court.

4. A court-appointed special advocate shall serve without compensation.

D. 1. 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.

2. Any person serving in ~~positions of~~ a management position of a court-appointed special advocate organization, including ~~members~~ a member 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 court-appointed special advocate organization advocates, managers, or directors.

E. 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 14. AMENDATORY 10 O.S. 1991, Section 1110, as last amended by Section 22, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1999, Section 7003-3.8), is amended to read as follows:

Section 7003-3.8 ~~In adjudicatory hearings to determine if a~~ termination of parental rights proceeding initiated pursuant to the provisions of the Oklahoma Children's Code, the parent of a child is deprived, any person entitled to service of summons whose parental rights to the child are sought to be terminated, the child, or the state shall have the right to demand a trial by jury, which shall be granted as in other cases, unless waived, ~~or.~~ In addition, the judge ~~on his own motion~~ may call a jury to try any such case. ~~Such~~ In such cases, the jury shall consist of six ~~(6)~~ persons.

SECTION 15. AMENDATORY 10 O.S. 1991, Section 1111, as last amended by Section 23, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1999, Section 7003-4.1), is amended to read as follows:

Section 7003-4.1 A. All cases of deprived children shall be heard separately from the trial of cases against adults. The

adjudicative hearings and hearings for termination of parental rights shall be conducted according to the rules of evidence, ~~and may be adjourned from time to time.~~

1. Hearings

- a. Except as otherwise provided by this paragraph, all deprived proceedings shall be private unless specifically ordered by the judge to be conducted in public, but persons having a direct interest in the case shall be admitted.
- b. To the extent that deprived proceedings involve discussion of confidential information from any child abuse or neglect report and record, or any information obtained from the Department of Human Services concerning a child or family who is receiving Title IV-B child welfare services, Title IV-E foster care or adoption assistance, the confidentiality requirements of those programs apply. Accordingly, such information shall not be discussed in open court. To the extent that confidential information is relevant to the proceedings, it must be discussed in the court's chambers or some other restricted setting, and the pertinent sections of the transcript shall be kept confidential.

2. Stenographic notes or other transcript of the hearings shall be kept as in other cases, but they shall not be open to inspection except by order of the court or as otherwise provided by law.

B. A child who is determined to be competent to testify shall not refuse to be a witness in a hearing to determine whether or not ~~said~~ the child is deprived, unless the privilege against self-incrimination is invoked. The testimony of ~~said~~ the child may be given as provided by this part or as otherwise authorized by law for the protection of child witnesses.

C. A decision determining a child to be deprived must be based on sworn testimony and the child must have the opportunity for cross-examination unless the facts are stipulated.

SECTION 16. AMENDATORY Section 14, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7003-4.6), is amended to read as follows:

Section 7003-4.6 A. ~~Reasonable~~ The court, on its own motion or upon motion of a party, may determine that reasonable efforts to provide for the return of a child to the child's home or to preserve the family of the child shall not be required prior to or following the adjudicatory hearing if the court determines based upon competent evidence that:

1. The parent, legal guardian or custodian 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;

2. The child or a sibling of the child:

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

3. The child is an abandoned infant;

4. The parent, legal guardian or custodian of the child has been convicted of the murder of any child or aided or abetted, attempted, conspired or solicited the commission of murder of any child;

5. The parent, legal guardian or custodian of the child has been convicted of voluntary manslaughter of another child of the parent, legal guardian or custodian or aided or abetted, attempted, conspired in or solicited the commission of voluntary manslaughter of another child of the parent, legal guardian or custodian or another child within the household where the child resided;

6. 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 sexual abuse, severe neglect or a felonious assault resulting in serious bodily injury to the child, a sibling of the child, or a child within the household where the child resides, by the parent, legal guardian or custodian of the child;

7. 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;

8. The parents have deserted a child without good cause or excuse and such desertion continues for a period of at least six (6) months immediately prior to the filing of the petition adjudicating the child deprived or petition to terminate parental rights;

9. The parent of the child willfully abandoned the child without regard to length of abandonment, and the court finds that the abandonment itself constituted a serious danger to the health and safety of the child;

10. A child has resided out of the ~~parental~~ child's home under court order for a cumulative period of more than one (1) year within a three-year period following a deprived child adjudication;

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

12. The parent, legal guardian or custodian who is or has been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state or who has been convicted of a ~~Schedule S-1, S-2, S-3 or S-4~~ sexual felony offense pursuant to Section 1024.2, 1031, 1040.52, 1040.53, 1081, 1085, 1086, 1117, 1118, 1119, 1192 or 1192.1 of Title 21 of the Oklahoma Statutes; or

13. The parent, legal guardian or custodian 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 deprived petition which brought that child to the court's attention.

B. Upon a determination by the court that any of the conditions specified in subsection A of this section exist, the court shall conduct a permanency hearing within thirty (30) days of the determination by the court pursuant to the provisions of Section ~~21~~ 7003-5.6d of this ~~act~~ title. Reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan.

C. Except when a petition for the termination of parental rights is required to be filed pursuant to the provisions of Section ~~15~~ 7003-4.7 of this ~~act~~ title, the district attorney, the child's attorney, or both may file a petition for termination of parental rights.

SECTION 17. 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 16, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1999, 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 a child has been adjudicated to be deprived.

B. The plan shall be filed by the Department of Human Services or the agency responsible for the supervision of the case, or by the Department or the agency or licensed child-placing agency 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 with the participation or input of the parent, legal guardian, or custodian of the child, the child's attorney and the guardian ad litem of the child, if any, and, if appropriate, the child;

2. Individualized and specific to each child and the child's family. The plan shall contain specific time frames;

3. Written in simple and clear English. If English is not the principal language of the child's parent, legal 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;

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

5. 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, custodian, stepparent, other adult person living in the home or other family members, to remediate or alleviate the conditions that led to the adjudication, including services needed to assist the family to provide safe and proper care of the child or to prevent further harm to the child;

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

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

5. If the child is placed outside the home:

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

b. the reasons for such placement and a statement as to the unavailability or inappropriateness of local

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

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

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

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

9. The permanency goal for the child and the reason for selection of that goal; and

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

(1) find an adoptive family or other permanent living arrangement for the child,

(2) place the child with an adoptive family, a fit and willing ~~relative~~ kinship relation, a legal guardian, kinship guardian, or in another planned permanent living arrangement, and

(3) finalize the adoption or guardianship, kinship guardianship or other permanent placement.

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

E. Each treatment plan shall specifically provide for the safety of the child, in accordance with state and federal law, and clearly define what actions or precautions will, or may, be necessary to provide for the safety and protection of the child.

F. 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.

G. 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 the child's family upon discharge of the child from inpatient mental health treatment.

H. In addition to the information required pursuant to subsection A of this section, when a child, ~~born in a condition of dependence on~~ who at birth tested positive for alcohol or a controlled dangerous substance and who was determined to be at risk for future exposure to such substances, 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 a safe home;

2. May require, as part of the treatment and service plan, that the father of the child, legal guardian, custodian, stepparent or other adult person living in the home who is an alcohol-dependent or a drug-dependent person, as such ~~term is~~ terms are 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~~ alcohol or drugs, 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 safe home; and

3. May require testing for substance abuse of the mother, father, legal guardian, 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 a safe home. A positive test of any such person shall be presented to the Department of Human Services and the district attorney.

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

J. 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 a safe home, to facilitate the return of the child to the family home, or to facilitate the permanent placement of the child. The plan shall focus on clearly defined objectives and shall provide the most efficient path to quick reunification or permanent placement. To the extent possible, the plan shall contain outcome based evaluation criteria that measure success in the reunification or permanent placement process.

K. In the event that the parent or 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 or parents and shall file the document with the court.

L. The parents, any foster parents of the child, the child's attorney and the guardian ad litem of the child, if any, shall be

each provided a copy of the treatment and service plan approved by the court.

SECTION 18. AMENDATORY Section 22, Chapter 353, O.S.L. 1996, as amended by Section 4, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1999, Section 7003-5.4a), is amended to read as follows:

Section 7003-5.4a

- A. 1. a. The Department of Human Services shall notify the court having jurisdiction, the appropriate postadjudication review board, the appropriate district attorney ~~and,~~ the child's attorney and court-appointed special advocate of the child, if any, whenever a child in the custody of the Department is moved from one location to another. ~~Foster parents shall be notified by the Department prior to movement of the child pursuant to the provisions of Section 7208 of this title.~~
2. b. The Department shall notify the foster family prior to movement of the child pursuant to the provisions of Section 7208 of this title.
- c. The Department shall inform the court and the child's attorney ~~regarding~~ of the location of the child ~~unless.~~

2. If the movement was due to an emergency situation, ~~in which case~~ the notification required by this ~~paragraph~~ subsection shall be within one (1) business day after such movement. As used in this subsection, "emergency situation" means ~~a~~ movement of ~~the~~ a child that is:

- a. requested by ~~a person having actual physical custody~~ the child-placing agency or foster parent of ~~a~~ the child, if the request is made at a time when the business offices of the parties to be notified are closed, ~~or if movement is~~
- b. for emergency medical or mental health treatment,

- c. for substantial noncompliance by a foster parent or child-placing agency with applicable placement standards and agreements such that the health, safety or welfare of the child is endangered, or
- d. due to a pending investigation of an allegation of abuse or neglect of a child by a foster parent or child-placing agency or other person residing in the foster family home.

B. 1. The Department shall not move any deprived child from one placement to another if the child has already been moved once since the last court hearing without first obtaining the approval of the court following a hearing into the reasons and necessity for moving the child.

2. However, the Department may move any child due to an emergency pursuant to subsection A of this section, in which case a hearing shall be conducted concerning the reasons and necessity for moving the child, if requested in writing, within ten (10) days following the moving of the child.

3. Court approval shall not be required for movement to or from a children's shelter due to an emergency, including a placement failure, a placement disruption, or similar cause.

SECTION 19. AMENDATORY 10 O.S. 1991, Section 1116, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 18, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7003-5.5), is amended to read as follows:

Section 7003-5.5 A. 1. When a child has been adjudicated deprived pursuant to the provisions of Section 7003-4.5 of this title, the court may enter a dispositional order on the same day, but in any event the court shall hold a dispositional hearing and enter such order within forty (40) days of such adjudication unless the court finds on the record that the best interests of the child will be served by granting a delay.

2. If the court grants a delay, the court shall state why the delay is necessary and shall state the minimum amount of time needed to resolve any such reasons for the delay. The court shall schedule the dispositional hearing at the earliest possible time following the delay.

B. 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.

C. The following kinds of orders of disposition may be made in respect to wards of the court pursuant to a deprived child proceeding:

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

~~2.~~ If it is consistent with the welfare of the child, the child shall be placed with the child's parent ~~or~~, legal guardian, ~~but~~ or custodian. Provided, that if it appears to the court that the conduct of ~~such~~ the parent, legal guardian, custodian, or a stepparent or other adult person living in the home has contributed to such deprivation, the court may issue a written order specifying conduct to be followed by such parent, legal guardian, ~~legal~~ custodian, stepparent or other adult person living in the home with respect to such child. The conduct specified shall be such as would reasonably prevent the child from becoming or continuing to be deprived. ~~Such~~ The order placing the child under supervision by the

Department in the child's own home shall remain in effect for a period of not more than one (1) year, to be specified by the court, and the order may be extended or renewed by the court.

2. The court may place the child in the custody of a suitable individual subject to the conditions and restrictions specified in Section 7003-8.1 of this title.

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

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

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

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

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

8.

a. The court may order a child's permanent care and custody transferred to another person, subject to residual parental rights and responsibilities, and subject to ~~order~~ such orders of the court ~~and upon the written consent of the parents~~ as deemed necessary for the health, safety or welfare of the child pursuant to the provisions of this paragraph, upon the written consent of both parents of the child or upon the consent of one parent only if:

- (1) the other parent is deceased,
- (2) the other parent has been determined by a court of law to be incompetent or incapacitated,
- (3) the other parent's whereabouts or identity is unknown. This fact shall be attested to by an affidavit of the consenting parent,
- (4) the other parent who is eighteen (18) years of age or older, has signed a statement consenting to the transfer, executed before a notary public,
- (5) the parental rights of the other parent has been terminated,
- (6) the other parent has been or is found by the court of law to be unfit or unable to exercise parental rights and responsibilities for the child based upon situations enumerated in Section 7006-1.1 of this title,
- (7) is or has been subject to the registration requirements of the Oklahoma Sex Offenders

Registration Act or any similar act in any other state, or

(8) has abandoned the child or is determined by the court to be otherwise unfit to assume custody of the child for any other reason.

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

(1) the Department has previously conducted a home study on the prospective custodian within the past three (3) years, or

(2) the child is in the custody or under the legal supervision of the Department.

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

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

(2) the child marries or is legally emancipated, or

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

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

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

~~(3)~~

(4) the district attorney, attorney for the child, or custodian petitions the court for modification of the order transferring permanent care and custody and the court finds after evidentiary hearing that it is in the best interests of the child for the order to be modified and the custody of the child be given to another person, pursuant to the Oklahoma Guardianship and Conservatorship Act or the Oklahoma Children's Code,

(5) the order terminates because of the death or incapacity of the custodian or the death of the child, or

(6) the child is adopted.

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

(1) shall require that the placement be reviewed within one (1) year after transfer and may require the person to whom custody is transferred to submit any records or reports the court deems necessary for purposes of such review. Such order shall not require the Department to supervise the placement during such period,

(2) shall not require periodic reviews by the court thereafter if the parties agree with the assent

of the court that such reviews are not necessary to serve the best interests of the child, and (3) unless periodic reviews are required pursuant to this subparagraph, the court may close the case, provided the order transferring the permanent care and custody of the child shall remain in full force and effect subject to the provisions of subparagraph b of this paragraph.

~~9.~~ 8. a. When reunification of the family is not recommended or possible, as determined by the court, the court may order a child's permanent care and custody transferred to a kinship guardian subject to residual parental rights and responsibilities and subject to such orders of the court as deemed necessary for the health, safety or welfare of the child. Kinship guardianship shall include, but not be limited to, the following parental responsibilities with respect to a child:

- (1) protection,
- (2) education,
- (3) care and control,
- (4) custody, and
- (5) decision making.

b. A kinship foster parent may file a petition with the court to be appointed as kinship guardian for a child.

c. The petition for kinship guardianship shall allege that:

- (1) ~~a~~ the child is ~~placed with~~ in the legal custody of the Department,
- (2) more than twelve (12) months have passed since the date of the dispositional order placing such child ~~with~~ in the legal custody of the Department,

- (3) the parents of the child are presently and for the foreseeable future unable to provide proper and adequate care for the child,
- (4) the prospective kinship guardian consents to the appointment,
- (5) the child has resided with the kinship foster parent and there exists a loving and emotional tie between the child and the kinship foster parent, and
- (6) it would be in the best interests of the child for the petition to be granted.

~~e.~~ d. Notice of the petition and a copy of the petition shall be served upon the parties, the Department, and the guardian ad litem of the child, if any.

~~d.~~ e. Prior to the entry of an order appointing a kinship guardian, the court shall receive the most recent report regarding the background and home of the prospective kinship guardian.

f. If the court finds that the elements of the petition have been proven based on clear and convincing evidence, or upon the consent of all parties, the court shall grant the petition.

~~e.~~ g. An order appointing a person as a kinship guardian shall award custody of the child to the kinship guardian. A kinship guardian shall have the same authority as a parent to consent on behalf of a child, except that a kinship guardian shall not consent to the adoption or surrender of a child.

~~f.~~ ~~If the Department's Title 4E waiver application for assisted guardianship is approved, the Department shall, if funds are available, make monthly payments to the kinship guardian as if the child were in foster~~

~~care and subject to the procedures, limitations and minimum payments of such foster care program. Funds available to the child based on the child's eligibility under the Medicaid program shall be provided to the child without regard to the kinship guardian's income or resources.~~

~~g.~~ h. Upon the entry of an order providing for the transfer of the permanent care and custody of a child to a kinship guardian, the order shall remain in full force and effect until:

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

~~or~~

(2) the child is married or legally emancipated,

(3) the court finds after evidentiary hearing:

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

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

~~(3)~~

(4) the district attorney, an attorney for the child, or the kinship guardian petitions the court for modification of the order transferring permanent care and custody to a kinship guardian and the court finds after evidentiary hearing that it is in the best interests of the child for the order to be modified and the custody of the child be given to another person, pursuant to the Oklahoma Guardianship and Conservatorship Act or the Oklahoma Children's Code,

- (5) the order terminates because of the death or incapacity of the kinship guardian or the death of the child, or
- (6) the child is adopted.

~~h.~~ i. An order appointing a kinship guardian shall:

- (1) require that the placement be reviewed within one (1) year after transfer and may require the kinship guardian to whom custody is transferred to submit any records or reports the court deems necessary for purposes of such review. Such order shall not require the Department to supervise the placement during such period,
- (2) not require periodic reviews by the court thereafter if the parties agree with the assent of the court that such reviews are not necessary to serve the best interests of the child, unless periodic reviews are ~~required pursuant to the Department's obtaining a Title IV-E waiver, or such reviews~~ are otherwise required by the court, and
- (3) ~~close the case~~ unless periodic reviews are required, the court may close the case, provided the order transferring permanent care and custody to a kinship guardian shall remain in full force and effect subject to the provisions of this subparagraph.

~~i.~~ j. Except as otherwise provided by the court, the appointment of a kinship guardian shall not affect or impair the visitation rights of a parent.

9. Except as otherwise provided by law, the court may dismiss the petition and terminate its jurisdiction at any time for good cause shown when doing so is in the best interests of the child.

D. Any order entered pursuant to this section shall include a statement informing the child's parent that the consequences of noncompliance with the requirement of the court may include termination of the parent's rights with respect to the child or shall include a statement informing the child's legal guardian or custodian that the consequences of noncompliance with the requirement of the court may include removal of the child from the custody of the legal guardian or custodian.

E. 1. Except as otherwise provided in subsection F of this section, in any dispositional order removing a child from the home of the child, the court shall make a determination as to whether, in accordance with the best interests of the child:

- a. reasonable efforts have been made to provide for the safe return of the child to the child's own home, or
- b. reasonable efforts to reunite the family are not feasible, and reasonable efforts are being made to secure an alternate permanent placement for the child.

2. In determining reasonable efforts to be made with respect to a child and in making such reasonable efforts, the child's health ~~and~~, safety or welfare shall be the paramount concern.

F. 1. At any hearing held pursuant to the provisions of this section, if the court finds that continuation of reasonable efforts to return the child home are inconsistent with the permanency plan for a child, the court shall determine whether reasonable efforts have been made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child.

2. Reasonable efforts to reunite the child with the child's family shall not be required however, pursuant to the provisions of Section ~~14~~ 7003-4.6 of this ~~act~~ title.

G. 1. If it is consistent with the welfare of the child, in cases where the child has been adjudicated to be deprived due to

repeated absence from school, the court may order counseling and treatment for the child and the parents of the child to be provided by the local school district, the county, the Department or a private individual or entity.

2. Prior to final disposition, the court shall require that it be shown by the appropriate school district that a child found to be truant has been evaluated for literacy, learning disabilities, mental retardation, and hearing and visual impairments and other impediments which could constitute an educational handicap. The results of such tests shall be made available to the court for use by the court in determining the disposition of the case.

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

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

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

I. 1. If reasonable efforts are required for the return of the child to the child's home, the court shall allow the parent of the child not less than three (3) months to correct conditions which led to the adjudication of the child as a deprived child prior to terminating the parental rights of the parent pursuant to the provisions of Section 7006-1.1 of this title.

2. The court shall not terminate the rights of a parent who has not been notified that the parental rights might be terminated.

3. If the court terminates the rights of a parent and places the child with an individual or agency, the court may invest in such individual or agency authority to consent to the adoption of the child. Provided, that where the court places the child with the Department, it shall vest the Department with authority to place the child and, upon notice to the court that an adoption petition has been filed concerning such child, invest the Department with authority to consent to the adoption of the child, and the jurisdiction of the committing court shall terminate upon final decree of adoption.

SECTION 20. AMENDATORY 10 O.S. 1991, Section 1116.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 19, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7003-5.6), is amended to read as follows:

Section 7003-5.6 A. Pursuant to the provisions of Section 7003-5.5 of this title, every disposition order regarding a child adjudicated to be deprived shall be reviewed by the court at a hearing at least once every six (6) months until such time as:

1. The conditions which caused the child to be adjudicated have been corrected;

2. The parental rights of the parent are terminated and a final adoption decreed or the child is placed with a ~~guardian~~ suitable custodian or kinship guardian; or

3. Until the court otherwise terminates jurisdiction.

B. The provisions of this section shall also apply to a child who has been removed from the home of the ~~lawful~~ parent or parents, legal guardian or custodian of the child after the child has been returned to that home.

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

D. In addition to the parties, adequate prior written notice of review hearings, as determined by the Department pursuant to rules promulgated by the Commission for Human Services, shall be provided by the Department to the current foster parents and an opportunity to be heard at such hearings shall be provided by the court to the ~~present~~ current foster parent of a child, the child's guardian ad litem, and to any preadoptive parent or relative providing care for the child; ~~provided, however, if the name and address of the current foster parent is not available to the court when such notice is to be mailed, then the Department shall provide adequate prior notice to the foster parent of the child.~~ Such notice and opportunity to be heard shall not be construed as requiring any foster parent, preadoptive parent or relative to be made a party to such deprived proceedings if not currently a party to the action.

E. The court shall receive all evidence helpful in deciding the issues before the court, including, but not limited to, oral and written reports, which may be admitted and relied upon to the extent of their probative value, even though not competent for purposes of an adjudicatory hearing.

F. At each review hearing, the court shall:

1. Determine whether:

a. the child should be returned to the child's parent or placed with willing and suitable ~~relatives~~ kinship relations. ~~If~~ Before a return to the child's parent ~~remains the plan for the child is ordered,~~ the court must find that the parties:

(1) have complied with, performed, and completed ~~each and every term and condition~~ the terms and conditions of the individual treatment and service plan which ~~was previously court ordered~~ are essential and fundamental to the health,

safety or welfare of the child as determined by
the court,

(2) have corrected ~~the~~ those conditions which caused the child to be adjudicated and which the court determines to be essential and fundamental to the health, safety or welfare of the child,

(3) have made marked progress towards reunification with the child, and

(4) have maintained a close and positive relationship with the child.

b. the child should continue in out-of-home placement for a specified period. The court shall project a likely date by which the child may be:

(1) returned to and safely maintained in the home ~~or,~~

(2) placed with a willing and suitable guardian or custodian, or

(3) placed for adoption, ~~guardianship, kinship guardianship,~~ or other permanent arrangement,

c. the rights of the parent of the child should be terminated and the child placed for adoption, placed with a guardian, guardianship, kinship guardianship custodian or other provided with another permanent arrangement, or

d. the child, because of exceptional circumstances, should remain in long-term out-of-home placement as a permanent plan or with a goal of independent living;

2. Make a determination:

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

previously determined that reasonable efforts are not required pursuant to the provisions of Section 44 7003-4.6 of this ~~act~~ title or that continuation of reasonable efforts to reunite the child with the child's family is inconsistent with the permanency plan for the child, the court shall determine if reasonable efforts are being made to place the child in a timely manner in accordance with the permanency plan and to complete steps necessary to finalize permanent placement for the child, and

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

3. Determine the safety of the child and consider fully all relevant prior and current information including, but not limited to, the report or reports submitted pursuant to Sections 7208 and 7003-5.6a of this title;

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

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

SECTION 21. AMENDATORY Section 21, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7003-5.6d), is amended to read as follows:

Section 7003-5.6d A. 1. The court shall conduct a permanency hearing pursuant to this section to consider the issue of ~~the establishment of~~ permanency for the child no later than:

- a. twelve (12) months after placing a child in out-of-home placement, or
- b. thirty (30) days after a determination by the court that reasonable efforts are not required pursuant to the provisions of Section ~~14~~ 7003-4.6 of this ~~act~~ title.

2. A child shall be considered to have entered out-of-home placement 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. A permanency hearing may be held concurrently with a dispositional or review hearing. During the hearing, the court shall consider the child's need for a secure and permanent placement in light of any permanency plan or evidence submitted to the court. Upon completion of the permanency hearing, the court shall enter written findings and make a determination which will best serve the ~~child's individual~~ long-term interests ~~at that time~~ of the child's health, safety or welfare.

C. In addition to the parties, adequate prior written notice of a permanency hearing and an opportunity to be heard at such hearing shall be provided by the ~~court~~ Department of Human Services to the present foster parents of a child, the child's guardian ad litem, and to any preadoptive parent or relative providing care for the child. Such notice and opportunity to be heard shall not be construed as requiring any foster parent, preadoptive parent or relative to be made a party to such action.

D. At the permanency hearing, the court shall consider at a minimum, for the health ~~and,~~ safety or welfare of the child and in the best interests of the child, whether:

1. The child should ~~be returned to the child's parents~~ continue in out-of-home placement for a specified period;

2. The child should ~~continue in out-of-home placement for a specified period~~ be returned home. If returning home remains the plan for the child, the court must find that:

- a. the parent has made marked progress towards reunification with the child,
- b. the parties have complied with, performed, and completed ~~each and every term and condition~~ the terms and conditions of the court-ordered individual treatment and service plan ~~which was previously court ordered,~~ which are essential and fundamental to the health, safety or welfare of the child, as determined by the court, and have corrected the conditions which caused the child to be adjudicated,
- c. the parent, legal guardian or custodian has maintained a close and positive relationship with the child, and
- d. the child is likely to return home within the near future pursuant to the provisions of subsection E of this section;

3. The child should be placed in a planned permanent living arrangement if the Department has documented a compelling reason for the court to determine that it would not be in the best interests of the child to return home, or be placed for adoption or with a fit and willing relative or a legal guardian;

4. A petition to terminate the rights of the parents of the child will be filed and the child placed for adoption; or

5. If the child has been placed in an out-of-home placement, the placement continues to be safe and appropriate and in the best interests of the child.

E. At the permanency hearing, the court shall enter an order to:

1. Return the child to the child's home ~~and set;~~

2. Set a specific date for the return of the child;

~~2. Continue and continue~~ placement of the child for an additional period of time not to exceed three (3) months, at which time the court shall hold a hearing to consider modification of its permanency order; provided, however, an order entered under this paragraph shall enumerate the specific factors, conditions, or expected behavioral changes which ~~comprise the basis for the determination that the need for removal of the child from the child's home will no longer exist at the end of~~ must occur within the additional three-month period before the child may be returned to the home. The reasons for any such extension shall be placed in the record of the court;

3. Approve the plan for the guardianship or kinship guardianship of the child;

4. Order the placement of the child in a planned permanent living arrangement if the Department has documented a compelling reason for the court to determine that it would not be in the best interests of the child to be returned home or to be placed for adoption or with a fit and willing relative or a legal guardian; or

5. Complete all steps necessary to finalize the permanent placement of the child.

SECTION 22. AMENDATORY Section 23, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7003-5.6f), is amended to read as follows:

Section 7003-5.6f A. If a child has resided with a birth relative before being adopted, the adoptive parents and that birth

relative may enter into an agreement pursuant to the provisions of this section regarding communication with, visitation of or contact between the child, adoptive parents and the birth relative.

B. For purposes of this section, "birth relative" means a parent, stepparent, grandparent, great-grandparent, brother, sister, uncle or aunt of a minor adoptee. This relationship may be by blood or marriage. For an Indian child, birth relative includes members of the extended family as defined by the laws or customs of the Indian child's tribe or, in the absence of laws or customs, ~~nieces, nephews,~~ shall be a person who has reached eighteen (18) years of age and who is the Indian child's great-grandparent, grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece, nephew, or first or second ~~cousins~~ cousin or stepparent, as provided in the Indian Child Welfare Act, United States Code, Title 25, Section 1903.

C. 1. An agreement regarding communication with, visitation of or contact between the child, adoptive parents and a birth relative is not legally enforceable unless the terms of the agreement are contained in a written court order entered in accordance with this section.

2. An order must be sought ~~at the same time a petition for adoption is~~ and shall be filed in the adoption action.

3. The court shall not enter a proposed order unless the terms of the order have been approved in writing by the prospective adoptive parents, ~~a~~ the birth relative who desires to be a party to the agreement, and, if the child is in the custody of the Department of Human Services, a representative of the Department.

D. The court shall not enter a proposed order unless the court finds that the communication, visitation of or contact between the child, the adoptive parents and a birth relative as agreed upon and contained in the proposed order would be in the child's best

interests and poses no threat to the safety of the child or integrity of the adoptive placement.

E. Failure to comply with the terms of an agreed order regarding communication, visitation or contact that has been entered by the court pursuant to this section shall not be grounds for:

1. Setting aside an adoption decree; ~~and~~

2. Revocation of a written consent to an adoption after that consent has become irrevocable; and

3. An action for citation of indirect contempt of court.

F. 1. An agreed order entered pursuant to the provisions of this section may be enforced or modified by filing a petition or motion with the court that includes a certified copy of the order granting the communication, contact or visitation, but only if the petition or motion is accompanied by an affidavit with supporting documentation that the parties have mediated or attempted to mediate any dispute under the agreement or that the parties agree to a proposed modification.

2. The prevailing party may be awarded reasonable attorney fees and costs.

3. The court shall not modify an agreed order pursuant to this section unless it finds that the modification is necessary to serve the best interests of the child, and:

a. the modification is agreed to by the adoptive parent and the birth relative, or

b. exceptional circumstances have arisen since the agreed order was entered that justify modification of the order.

SECTION 23. AMENDATORY Section 17, Chapter 414, O.S.L. 1998, as amended by Section 7, Chapter 396, O.S.L. 1999 (10 O.S. Supp. 1999, Section 7003-5.6g), is amended to read as follows:

Section 7003-5.6g A. On or after January 1, ~~2001~~ 2003, 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 24. AMENDATORY 10 O.S. 1991, Section 1119, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 2, Chapter 1, O.S.L. 1999 (10 O.S. Supp. 1999, 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.

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.

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 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~~ individual seeking custody 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. ~~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.

F. The provisions of this section shall not apply in any paternity or domestic relations case, unless otherwise ordered by the court.

SECTION 25. AMENDATORY Section 25, Chapter 353, O.S.L. 1996, as last amended by Section 2, Chapter 2, O.S.L. 1999 (10 O.S. Supp. 1999, Section 7004-1.5), is amended to read as follows:

Section 7004-1.5 A. There is hereby established a Kinship Foster Care Program in the Department of Human Services.

B. 1. When a child has been removed from the child's home and is in the care and custody of the Department, the Department shall attempt to place the child with a person determined by the Department to have a kinship relationship with the child if such placement is in the best interests of the child. A child's health, safety ~~and~~ or welfare shall be of paramount concern in any placement.

2. The Department shall establish, in accordance with the provisions of this section, eligibility standards for becoming a kinship foster care family.

C. 1. ~~A person shall be eligible to become a kinship foster parent only upon~~ Upon the completion of the records search to ascertain if there is an Oklahoma record of criminal history for the prospective kinship foster parent or any other adult residing in the prospective kinship foster parent's home and subject to any other standards established by the Department, a child may be placed in the kinship home. A kinship foster parent shall not be entitled to any payments for providing foster care until such foster parent receives final approval from the Department to be a kinship foster parent.

2. Following placement, the Oklahoma State Bureau of Investigation shall complete a national criminal history records search based upon submission of fingerprints for any kinship foster parent and any adult residing in the home of such parent, and shall make the results of the records search available to the Department pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act. The Director of Human Services or designee may authorize an exception to the fingerprinting requirement for an adult residing in the kinship foster care home who has a severe physical condition which precludes such person's being fingerprinted.

3. The Department shall maintain the confidentiality of the records search results and shall use the results only for purposes of determining a person's eligibility to become a kinship foster parent.

4. It shall be unlawful, except for the purpose of determining a person's eligibility for kinship foster care, for any person to disclose information obtained under this subsection.

5. Any person violating the provisions of this subsection shall be guilty of a misdemeanor.

D. A person related by blood, marriage, adoption and by ~~emotional~~ tie or bond to a child and/or to whom has been ascribed a family relationship role with the child's parents or the child may be eligible for approval as a kinship foster care parent.

E. The Department shall determine whether the person is able to effectively care for the foster child by:

1. Reviewing personal and professional references;
2. Observing during a visit to the home of the kinship foster care family; and
3. Interviewing the kinship foster care parent.

F. ~~If~~ When the ~~person~~ kinship foster parent is finally approved by the Department ~~to provide kinship foster care services,~~ in accordance with rules promulgated by the Commission for Human Services regarding foster care services, ~~and a placement with the kinship foster care family is made,~~ the kinship foster care family shall be eligible to receive payment for the full foster care rate for the care of the child and any other benefits that might be available to foster parents, whether monetary or in services. If a child is placed with a kinship foster parent prior to the home's final approval as a foster care home, the Department shall immediately refer such child and family for assistance through the Temporary Assistance for Needy Families Program.

G. 1. The Department and the kinship foster care parent shall develop a plan for the care of the child, which shall be periodically reviewed and updated.

2. The kinship foster parent shall cooperate with any activities specified in the case plan for the child including, but not limited to, counseling, therapy, court sessions, visits with the child's parents or other family members, and training.

H. The Commission for Human Services shall promulgate rules necessary to carry out the provisions of this section pursuant to the Administrative Procedures Act.

SECTION 26. AMENDATORY 10 O.S. 1991, Section 1403.3, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 7, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1999, Section 7004-3.4), is amended to read as follows:

Section 7004-3.4 A. The Commission for Human Services shall establish and maintain a fair, simple and expeditious system for resolution of grievances of all ~~persons committed to~~ children in the custody of the Department of Human Services regarding the substance or application of any written or unwritten policy or rule of the Department or of an agent ~~or contractor~~ of the Department or any decision, ~~behavior~~ or action by an employee or an agent of, ~~contractor with the Department, or other person committed to~~ of any child in the custody of the Department.

B. The Commission ~~for Human Services~~ is authorized and directed to establish the Office of ~~Advocate Defender~~ Client Advocacy within the Department and to employ such personnel as may be necessary to carry out the purposes of subsection A of this section and the duties listed in this subsection. Such personnel may be dismissed only for cause.

1. The chief administrative officer of the Office of ~~Advocate Defender~~ Client Advocacy shall be the Advocate General, who shall be an attorney selected from a list of three names submitted by the Oklahoma Commission on Children and Youth. The Advocate General shall be a member of the Oklahoma Bar Association and shall have a minimum of three (3) years' experience as an attorney. The compensation of the Advocate General shall be no less than that of the classification of Attorney III as established in the Merit System of Personnel Administration classification and compensation plan, but shall be an unclassified position.

2. The duties and responsibilities of the Advocate General are as follows:

- a. supervise personnel assigned to the Office of ~~Advocate~~ Defender Client Advocacy,
- b. monitor and review grievance procedures and hearings,
- c. investigate unresolved grievances of children in the custody of the Department, and staff grievances ~~related to children which are not resolved at the facility level~~ on behalf of any such child,
- d. investigate grievances of foster parents related to the provision of foster care services pursuant to this section and Section ~~44~~ 7204.1 of this ~~act~~ title,
- e. investigate allegations of abuse or neglect of children ~~in Department-operated facilities or children who are in the custody of the Department and placed in a private facility~~, regardless of custody, residing outside their own homes other than children in foster care,
- f. investigate allegations of abuse or neglect of any child in a day treatment program as defined in Section 175.20 of this title, and submit a report of the results of the investigation to the appropriate district attorney and to the State Department of Health,
- g. coordinate any hearings or meetings of Departmental administrative review committees conducted as a result of unresolved grievances or as a result of investigations,
- ~~g.~~ h. make recommendations to the Director, and provide regular or special reports regarding grievance procedures, hearings and investigations to the Director, the Commission, the Office of Juvenile

System Oversight and other appropriate persons as necessary,

- ~~h.~~ i. forward to the Office of Juvenile Systems Oversight, for the information of the Director of that office, a copy of the final report of ~~a complaint~~ any grievance which is not resolved, ~~through the system for resolution of grievances established by the Commission,~~ in the favor of the complainant, and
- ~~i.~~ j. perform such other duties as required by the Director of ~~Human Services~~ the Department or the Commission.

C. The Department shall promptly ~~and immediately~~ report to the appropriate district attorney ~~having jurisdiction~~ any act or omission committed by ~~persons employed by the Department,~~ ~~perpetrated, committed or suffered~~ 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 allowed to be perpetrated or committed by any such person ~~or persons,~~ upon ~~any child in the custody of the Department, wherever housed,~~ a child receiving services in a day treatment program or residing outside the child's own home, other than a child in foster care, when such act or omission, upon conviction, would constitute a criminal offense. Copies of all such reports shall be forwarded to the Attorney General.

~~D. The Office of Advocate Defender shall investigate allegations of abuse or neglect of a patient in a day treatment program as defined in Section 175.20 of this title, if funds are available. The Advocate General shall file a report of the results of the investigation with the appropriate district attorney having jurisdiction and the State Department of Health.~~

~~E.~~ 1. The Office of ~~Advocate Defender~~ Client Advocacy shall investigate any complaint alleging ~~that~~ an employee of the Department or of a child-placing agency has threatened a foster

parent with removal of a child from the foster parent, harassed a foster parent, or refused to place a child in a licensed or certified foster home, or disrupted a child placement as retaliation or discrimination towards a foster parent who has:

- a. filed a grievance pursuant to Section 7213 of this title,
- b. provided information to any state official or Department employee, or
- c. testified, assisted, or otherwise participated in an investigation, proceeding or hearing against the Department or child-placing agency.

2. The provisions of this subsection shall not ~~be construed to include~~ apply to any complaint resulting from an administrative, civil or criminal action taken by the Department or child-placing agency for violations of law or rules, or contract provisions by the a foster parent regarding the result of a criminal, administrative or civil proceeding for a violation of any law, rule or contract provision by that foster parent, or the action taken by the Department or a child-placement agency in conformity with the result of any such proceeding.

3. The Office of ~~Advocate-Defender~~ Client Advocacy shall at all times be granted access to any foster home or any child-placing agency which is certified, authorized or funded by the Department ~~or a child-placing agency.~~

SECTION 27. AMENDATORY 10 O.S. 1991, Section 1125.2, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 8, Chapter 416, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7005-1.3), is amended to read as follows:

Section 7005-1.3 A. Juvenile court records may be inspected, and their contents shall be disclosed, without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. The court having the child currently before it in any proceeding pursuant to this title, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, and court-appointed special advocates;

2. Members of postadjudication review boards established pursuant to the provisions of Section 1116.2 of this title, the Child Death Review Board, and multidisciplinary personnel. In addition to juvenile court records, members of such postadjudication review boards may inspect, without a court order, information that includes, but is not limited to:

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

3. A district attorney, United States Attorney, or Attorney General of this or another state and the employees of ~~an office of a district attorney~~ such offices in the course of their official duties pursuant to this title or the prosecution of crimes against children, or upon their request in their official capacity as advisor in a grand jury proceeding;

4. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of this title, including the attorney representing a child pursuant to the provisions of subsection C of Section 7002-1.2 of this title or representing a child pursuant to the provisions of subsection A of Section 7112 of this title. Such attorney may also access other records listed in subsection A of Section 7005-1.2 of this title for use in the legal representation of the child;

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

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

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

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

9. The Department of Human Services or other public or private agency or individual having court-ordered custody or custody pursuant to Department of Human Services placement of the child who is the subject of the record;

10. The Office of Juvenile Affairs;

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

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

- a. investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody, ~~or~~

- b. providing services to or for the benefit of a child including, but not limited to, protective, emergency, social and medical services, or
- c. the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

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

~~13.~~ The Governor or to any person the Governor designates, in writing, ~~and any;~~

~~14.~~ Any federal official of the United States Department of Health and Human Services;

~~14.~~ 15. Any member of the Legislature approved in writing by the Speaker of the House of Representatives or the President Pro Tempore of the Senate;

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

~~16.~~ 17. A foster parent, with regard to records concerning the social, medical, psychological or educational needs of a child currently placed with that foster parent or of a child being considered for placement with that foster parent;

18. An employee of any state or federal corrections or law enforcement agency in the performance of such employee's official duties concerning presentence investigations or supervision of a parent of an alleged or adjudicated deprived child, or the legal guardian, custodian or any other adult member of the child's home who is responsible for the health, safety or welfare of the child;
and

19. An employee of a state agency of this or another state in the performance of such employee's official duties concerning the establishment of paternity or the establishment or enforcement of a child support order or other entitlement for the benefit of a child; provided, disclosure shall be limited to information directly related to the purpose of such disclosure.

B. In accordance with the rules ~~adopted~~ promulgated for such purpose pursuant to Section 620.6 of this title, records listed in subsection A of Section 7005-1.2 of this title may be inspected and their contents disclosed without a court order to participating agencies.

C. Records and their contents disclosed without an order of the court as provided by this section shall remain confidential. The use of such information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for commercial, political or any other unauthorized purpose.

SECTION 28. AMENDATORY Section 3, Chapter 306, O.S.L. 1993, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 9, Chapter 416, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7005-1.4), is amended to read as follows:

Section 7005-1.4 A. Department of Human Services agency records pertaining to a child may be inspected and their contents disclosed without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. The court having the child currently before it in any proceeding pursuant to this title, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court,

postadjudicatory review boards, court-appointed special advocates, and members of the Child Death Review Board;

2. Any district court which has ordered a home study by the Department in an action for divorce, annulment, custody of a child, or appointment of a legal guardian of a child, or any subsequent proceeding in such actions; provided, however, the Department may limit disclosure in the home study to summaries or to information directly related to the purpose of such disclosure;

3. A district attorney, United States Attorney or Attorney General of this or another state and the employees of ~~an office of a district attorney~~ such offices in the course of their official duties pursuant to this title or the prosecution of crimes against children or upon their request in their official capacity as advisor ~~to~~ in a grand jury proceeding;

4. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of this title including the attorney representing a child pursuant to the provisions of subsection C of Section 7002-1.2 of this title or representing a child pursuant to the laws relating to child abuse and neglect. Such attorney may also access other records listed in subsection A of Section 7005-1.2 of this title for use in the legal representation of the child;

5. Employees of juvenile bureaus in the course of their official duties;

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

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

8. The Office of Juvenile Affairs;

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

10. Members of multidisciplinary teams or multidisciplinary personnel designated by the Department of Human Services, investigating a report of known or suspected child abuse or neglect or providing services to a child or family which is the subject of the report;

11. A physician who has before him or her a child whom the physician reasonably suspects may be abused or neglected or any health care or mental health professionals involved in the evaluation or treatment of the child, the child's parents, legal guardian, foster parent, custodian or other family members;

12. Any public or private agency or person authorized by the Department to diagnose, or provide care, treatment, supervision or other services to a child who is the subject of a report or record of child abuse or neglect, provided the Department may limit such disclosure to summaries or to information directly necessary for the purpose of such disclosure;

13. Any federally recognized Indian tribe or state or county child protective services or child welfare agency providing for or supervising the diagnosis, care, treatment, supervision or other services provided such child;

14. A parent ~~or~~, legal guardian or custodian of the child who is the subject of such records; provided, that records disclosed shall be limited to juvenile court records as defined by Section 7005-1.1 of this title. All other agency records pertaining to or related to any alleged or adjudicated abuse or neglect of said the child shall not be inspected or disclosed pursuant to this paragraph;

15. Any person or agency for research purposes, if all of the following conditions are met:

- a. the person or agency conducting such research is employed by the State of Oklahoma or is under contract with this state and is authorized by the Department of Human Services to conduct such research, and
- b. the person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to such documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed;

16. Persons authorized by and in the manner provided in the Oklahoma Child Abuse Prevention and Reporting Act;

17. A foster parent, with regard to records concerning the social, medical, psychological or educational needs of a child currently placed with that foster parent or of a child being considered for placement with that foster parent;

18. The Governor or to any person the Governor designates, in writing, ~~and any;~~

19. Any federal official of the United States Department of Health and Human Services;

~~19.~~ 20. The Oklahoma Health Care Authority;

~~20.~~ 21. Any member of the Legislature approved in writing by the Speaker of the House of Representatives or the President Pro Tempore of the Senate;

~~21.~~ 22. Any person or agency authorized to receive any paper, record, book or other information pursuant to the Oklahoma Adoption ~~Act~~ Code pertaining to a child who is the subject of an adoption

proceeding or ~~the parents, grandparents or relatives of~~ who are related to such child within the third degree of consanguinity; and

~~22.~~ 23. Employees of ~~the Department of Corrections~~ any state or federal corrections or law enforcement agency in the performance of their official duties concerning presentence investigations or supervision of a parent of an alleged or adjudicated deprived child or the legal guardian, custodian or any other adult member of the child's home who is responsible for the care of the child; and

24. An employee of a state agency of this or another state in the performance of such employee's official duties concerning the establishment of paternity or the establishment or enforcement of a child support order or other entitlement for the benefit of a child; provided, the Department shall limit disclosure to information directly related to the purpose of such disclosure.

B. In accordance with the rules ~~adopted~~ promulgated for such purpose pursuant to the provisions of Section 620.6 of this title, records may be inspected and their contents disclosed without a court order to participating agencies.

C. Nothing in this section shall be construed as prohibiting the Department from disclosing such confidential information as may be necessary to secure appropriate care, treatment, protection or supervision of a child alleged to be abused or neglected.

D. Records and their contents disclosed pursuant to this section shall remain confidential. The use of such information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for any unauthorized purpose.

E. 1. In cases involving the death or near death of a child when a person responsible for the child has been charged by information or indictment with committing a crime resulting in the child's death or near death, there shall be a presumption that the

best interest of the public will be served by public disclosure of certain information concerning the circumstances of the investigation of the death or near death of the child and any other investigations concerning that child, or other children living in the same household.

2. At any time subsequent to seven (7) days of the date the person responsible for the child has been criminally charged, the Department of Human Services, the Oklahoma Commission on Children and Youth, or the district attorney may release the following information to the public:

- a. a confirmation that a report has been made concerning the alleged victim or other children living in the same household and whether an investigation has begun,
- b. confirmation as to whether previous reports have been made and the dates thereof, a summary of those previous reports, the dates and outcome of any investigations or actions taken by the Department of Human Services in response to any report of child abuse or neglect, and any actions taken by the district attorney after submission of any investigative report, and
- c. the dates of any judicial proceedings prior to the child's death or near death, a summary of each participant's recommendations made at the judicial proceedings, and the rulings of the court.

3. Any disclosure of information pursuant to this section shall not identify or provide an identifying description of any complainant or reporter of child abuse or neglect, and shall not identify the name of the child victim's siblings or other children living in the same household, the parent or other person responsible for the child or any other member of the household, other than the person criminally charged.

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

SECTION 29. AMENDATORY 10 O.S. 1991, Section 1130, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 20, Chapter 414, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7006-1.1), is amended to read as follows:

Section 7006-1.1 A. 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; provided,~~ however, the paramount consideration in proceedings concerning termination of parental rights shall be the health, safety or welfare 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;

2. A finding that a parent who is entitled to custody of the child has abandoned 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~~ care 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~~ care 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 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:
 - a. the child has been adjudicated to be deprived, and
 - b. such condition is caused by or contributed to by acts or omissions of the parent, and
 - c. termination of parental rights is in the best interests of the child, and
 - d. the parent has failed to show that the condition which led to the adjudication of a child deprived has been corrected although the parent has been given not less than the time specified by Section 7003-5.5 of this title to correct the condition;

6. A finding that a subsequent child has been born to a parent whose parental rights to any other 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 child has not been corrected. As used in this paragraph, the term "applicant" shall include, but not be limited to, a district attorney or the child's attorney;

7. A finding that a parent who does not have custody of the child has 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~~ support shall not be construed or considered in establishing whether a parent has maintained or contributed to the support of the child;

8. A conviction in a criminal action pursuant to the provisions of Sections 1021.3, 1111 ~~and or~~ 1123 of Title 21 of the Oklahoma Statutes, or Section 7115 of this title;

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

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

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 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;

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.

D. 1. A petition for termination of parental rights may be filed by the district attorney or the attorney of a child alleged to be or adjudicated deprived.

2. A petition for termination of parental rights shall be filed by the district attorney for those petitions required to be filed pursuant to the provisions of Section 7003-4.7 of this title.

3. If a child's attorney files a petition for the termination of the parental rights of the parents of the child, the district attorney shall join in the petition or motion for those petitions or motions required to be filed by the district attorney pursuant to the provisions of Section 7003-4.7 of this title.

SECTION 30. AMENDATORY 10 O.S. 1991, Section 1134, as last amended by Section 69, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1999, Section 7006-1.5), is amended to read as follows:

Section 7006-1.5 A. Except as otherwise provided for in subsection B of this section, an action to adopt a child shall not be combined with an action to terminate parental rights and when the rights of a parent have been terminated, neither an interlocutory

nor a final decree of adoption may be rendered until the decree terminating parental rights has become final.

B. This section shall not apply to:

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

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

3. Proceedings pursuant to the provisions of Section ~~60.6~~ 7505-4.2 of this title.

SECTION 31. AMENDATORY 21 O.S. 1991, Section 845, as renumbered by Section 20, Chapter 353, O.S.L. 1995, and as last amended by Section 11, Chapter 416, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7102), is amended to read as follows:

Section 7102. A. 1. It is the policy of this state to provide for the protection of children who have been abused or neglected and who may be further threatened by the conduct of persons responsible for ~~the care and protection of such children~~ health, safety or welfare of such children.

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

B. ~~As~~ Except as otherwise provided by and used in the Oklahoma Child Abuse Reporting and Prevention Act:

1. "Abuse" means harm or threatened harm to a child's health ~~or~~, safety or welfare by a person responsible for the child's health

~~or~~, safety or welfare including sexual abuse and sexual exploitation;

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

- a. nonaccidental physical or mental injury,
- b. sexual abuse,
- c. sexual exploitation,
- d. neglect, ~~or~~
- e. failure or omission to provide protection from harm or threatened harm, or
- f. abandonment;

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

- a. adequate food, clothing, shelter, medical care, and supervision, ~~or~~
- b. special care made necessary by the physical or mental condition of the child, or
- c. abandonment;

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

5. "Person responsible for a child's health ~~or~~, safety or welfare" includes a parent; a legal guardian; a 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;

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

7. "Sexual exploitation" includes, but is not limited to, allowing, permitting, or encouraging a child to engage in prostitution, as defined by law, by a person responsible for the child's health ~~or~~, safety 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~~, safety or welfare;

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

9. "Child advocacy center" means an entity that is an associate or full member in good standing of the National Children's Alliance;

10. "Assessment" means a systematic process utilized by the Department of Human Services to respond to reports of alleged child abuse or neglect which, according to priority guidelines established by the Department, do not constitute a serious and immediate threat to the child's health ~~or~~, safety or welfare. The assessment includes, but is not limited to, the following elements:

- a. an evaluation of the child's safety, ~~a determination of the factors of the alleged abuse or neglect,~~ and
- b. a determination regarding the family's need for ~~prevention and intervention-related services;~~

~~10.~~ 11. "Investigation" means an approach utilized by the Department to respond to reports of alleged child abuse or neglect

which, according to priority guidelines established by the Department, constitute a serious and immediate threat to the child's health or safety. An investigation includes, but is not limited to, the following elements:

- a. an evaluation of the child's safety or welfare,
- b. a determination whether or not child abuse or neglect occurred, and
- c. a determination regarding the family's need for prevention and intervention-related services;

~~11.~~ 12. "Services not needed determination" means a report in which a child protective services worker, after ~~initiating~~ an investigation ~~or assessment~~, determines that there is no identified risk of abuse or neglect;

~~12.~~ 13. "Services recommended determination" means a report ~~which is determined~~ in which a child protective services worker, after an investigation, determines the allegations to be unfounded or for which there is insufficient evidence to fully determine whether child abuse or neglect has occurred, but one in which the Department determines that the child and the child's family could benefit from receiving prevention and intervention-related services;

~~13.~~ 14. "Confirmed report - services recommended" means a report which is determined by a child protective services worker, after an investigation and based upon some credible evidence, to constitute child abuse or neglect which is of such a nature that the Department recommends prevention and intervention-related services for the parents or persons responsible for the care of the child or children, but for which initial court intervention is not required;

~~14.~~ 15. "Confirmed report - court intervention" means a report which is determined by a child protective services worker, after an investigation and based upon some credible evidence, to constitute child abuse or neglect which is of such a nature that the Department finds that the child's health ~~or~~, safety or welfare is threatened;

~~15.~~ 16. "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;

~~16.~~ 17. "Department" means the Department of Human Services;

~~17.~~ 18. "Commission" means the Commission for Human Services;
and

~~18.~~ 19. "Prevention and intervention-related services" means community-based programs that serve children and families on a voluntary and time-limited basis to help reduce the likelihood or incidence of child abuse and neglect.

SECTION 32. AMENDATORY 21 O.S. 1991, Section 846, as renumbered by Section 20, Chapter 353, O.S.L. 1995, and as last amended by Section 12, Chapter 416, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7103), is amended to read as follows:

Section 7103. A. 1. Every:

- a. physician or surgeon, including doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, examining, attending or treating a child under the age of eighteen (18) years,
- b. registered nurse examining, attending or treating such a child in the absence of a physician or surgeon,
- c. teacher of any child under the age of eighteen (18) years, and
- d. other person

having reason to believe that a child under the age of eighteen (18) years is a victim of abuse or neglect, shall report the matter promptly to ~~the county office of~~ the Department of Human Services ~~in the county wherein the suspected abuse or neglect occurred~~. Such reports may be made by telephone, in writing, personally or by any other method prescribed by the Department. Any report of abuse or neglect made pursuant to this section shall be made in good faith.

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

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

4. The reporting obligations under this section are individual, and no employer, supervisor or administrator shall impede or inhibit the reporting obligations of any employee or other person. No employer, supervisor or administrator of any employee or other person required to provide information pursuant to this section shall discharge, or in any manner discriminate or retaliate against, the employee or other person who in good faith provides such child abuse reports or information, testifies, or is about to testify in any proceeding involving child abuse or neglect; provided, that the person did not perpetrate or inflict such abuse or neglect. Any employer, supervisor or administrator who discharges, discriminates or retaliates against the employee or other person shall be liable for damages, costs and attorney fees. Internal procedures to facilitate child abuse or neglect reporting and inform employers, supervisors and administrators of reported suspected child abuse or neglect may be established provided that they are not inconsistent with the provisions of this section and that such procedures shall not relieve the employee or such other person from the individual reporting obligations required by this section.

5. Every physician or surgeon making a report of abuse or neglect as required by this subsection or examining a child to determine the likelihood of abuse or neglect and every hospital or related institution in which the child was examined or treated shall

provide copies of the results of the examination or copies of the examination on which the report was based and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to law enforcement officers conducting a criminal investigation into the case and to employees of the Department of Human Services conducting an investigation of alleged abuse or neglect in the case.

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

1. The names and addresses of the child and the child's parents or other persons responsible for the child's ~~care~~ health, safety or welfare;

2. The child's age;

3. The nature and extent of the abuse or neglect, including any evidence of previous injuries;

4. ~~The nature and extent of the child's dependence on a~~ If the child has tested positive for alcohol or a controlled dangerous substance; and

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

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

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

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

E. 1. Nothing in this section shall be construed to mean a child is abused or neglected for the sole reason the parent, legal guardian or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

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

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

SECTION 33. AMENDATORY Section 6, Chapter 353, O.S.L.

1995, as last amended by Section 1, Chapter 425, O.S.L. 1999 (10 O.S. Supp. 1999, Section 7106), is amended to read as follows:

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

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

3. If an investigation or assessment conducted by the Department of Human Services in response to any report of child abuse or neglect shows that the incident reported was the result of the reasonable exercise of parental discipline involving the use of ordinary force, including, but not limited to, spanking, switching or paddling, the investigation or assessment will proceed no further. If such incident was the result of the reasonable exercise of parental discipline involving the use of ordinary force,

including, but not limited to, spanking, switching or paddling, all records regarding the incident shall be expunged.

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

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

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

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

4. An evaluation of the parents or persons responsible for the ~~care~~ health, safety or welfare of the child;

5. The adequacy of the home environment;

6. The relationship of the child to the parents or persons responsible for the ~~care~~ health, safety or welfare of the child;

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

8. All other pertinent data.

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

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

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

access to the records pursuant to terms and conditions prescribed by the court.

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

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

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

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

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

E. The Department shall immediately commence an investigation if it is determined, at any time during the assessment process, that an investigation is warranted as provided for in the priority guidelines established by the Department.

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

G. 1. The county office shall make a complete written report of the investigation. The investigation report, together with its recommendations, shall be submitted to the appropriate district attorney's office.

2. Reports of assessment recommendations shall not be required to be submitted to appropriate district attorneys unless such district attorneys request that copies of the assessment recommendations be submitted to them. Immediately after the effective date of this act, the Department shall send written notice to all district attorneys in this state informing them of their right to request and receive copies of the assessment recommendations.

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

I. Except as otherwise provided by the Oklahoma Child Abuse Reporting and Prevention Act, the ~~preliminary inquiry or~~ investigation of a child abuse or neglect report shall comply with the provisions of Section 7003-1.1 of this title.

J. If the Department has reason to believe that a parent of the child or other person may remove the child from the state before the investigation is completed, the Department may request the district attorney to file an application for a temporary restraining order in

any district court in the State of Oklahoma without regard to continuing jurisdiction of the child. After a hearing on the application, the court may enter a temporary restraining order prohibiting the parent or other person from removing the child from the state pending completion of the investigation if the court finds that the county office or the Department has probable cause to conduct the investigation.

SECTION 34. AMENDATORY Section 10, Chapter 353, O.S.L. 1995, as last amended by Section 1 of Enrolled House Bill No. 2007 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 7110. A. 1. In coordination with the Child Abuse Training and ~~Coordinating~~ Coordination Council, each district ~~attorney's district attorney~~ shall ~~be responsible for convening a meeting of a coordinated~~ develop a multidisciplinary child abuse team, ~~if such a team is not already in existence to determine whether the establishment of a coordinated multidisciplinary child abuse team is feasible in the district. If the district attorney's office is unwilling or unable to convene the meeting, the meeting shall be convened by one of the other entities listed in subsection B of this section~~ in each county of the district attorney or in a contiguous group of counties.

2. ~~If it is feasible to establish such a team, the~~ The lead agency shall be chosen by the members of the team. The team shall intervene in reports involving child sexual abuse or ~~severe~~ child physical abuse or neglect ~~in order to make responsible efforts to minimize the number of interviews necessary with a child victim.~~

B. The ~~coordinated~~ multidisciplinary child abuse team members ~~may~~ shall include, but need not be limited to:

1. Mental health professionals licensed pursuant to the laws of this state or licensed professional counselors;

2. Police officers or other law enforcement agents with a role in, or experience or training in child abuse and neglect investigation;

3. Medical personnel with experience in child abuse and neglect identification;

4. Child protective services workers within the Department of Human Services;

5. Multidisciplinary child abuse team coordinators, or a Child Advocacy Center Director; and

6. A The district attorney or a designee assistant district attorney.

C. 1. To the extent that resources are available to each of the various ~~coordinated~~ multidisciplinary child abuse teams throughout the state, the functions of the team shall include, but not be limited to, the following specific functions:

a. ~~review investigations, assess service delivery, and facilitate efficient and appropriate disposition of cases through the criminal justice system~~ whenever feasible, law enforcement and child welfare staff shall conduct joint investigations in an effort to effectively respond to child abuse reports,

b. develop a written protocol for investigating child sexual abuse and ~~serious~~ child physical ~~child~~ abuse or neglect cases and for interviewing child victims. The purpose of the protocol shall be to ensure coordination and cooperation between all agencies involved so as to increase the efficiency in handling such cases and to minimize the stress created for the allegedly abused child by the legal and investigatory process. In addition, each team shall develop confidentiality statements and interagency agreements signed by member agencies that specify the role

cooperative effort of the member agencies ~~en~~ to the team. These documents will be approved by the Child Abuse Training and Coordination Council. The Child Abuse Training and Coordination Council shall conduct an annual review of the teams to ensure the teams are functioning effectively. Teams not meeting the minimal standards as promulgated by the Child Abuse Training and Coordination Council shall be removed from the list of functioning teams in the state,

- c. increase communication and collaboration among the professionals responsible for the reporting, investigation, prosecution and treatment of child abuse and neglect cases,
- d. eliminate duplicative efforts in the investigation and the prosecution of child abuse and neglect cases,
- e. identify gaps in service or all untapped resources within the community to improve the delivery of services to the victim and family,
- f. encourage the development of expertise ~~with discipline-specific training and cross-discipline~~ through training. Each team member and those conducting child abuse investigations and interviews of child abuse victims shall be trained in the multidisciplinary team approach, conducting legally sound and age-appropriate interviews, effective investigation techniques and joint investigations as provided through the Child Abuse Training and Coordination Council,
- g. formalize a case review ~~and case tracking process for all or problematic cases of child abuse and neglect~~ and provide data as requested to the Child Abuse Training and Coordination Council, and

h. standardize investigative procedures for the handling of child abuse and neglect cases.

2. All investigations of child sexual abuse and ~~serious~~ child physical ~~child~~ abuse or neglect and interviews of child abuse or neglect victims shall be carried out by appropriate personnel using the protocols and procedures specified in this section.

3. If trained personnel are not available in a timely fashion and, in the judgment of a law enforcement officer or the Department of Human Services, there is reasonable cause to believe a delay in investigation or interview of the child victim could place the child in jeopardy of harm or threatened harm to a child's health or welfare, the investigation may proceed without full participation of all personnel. This authority applies only for as long as reasonable danger to the child exists. A reasonable effort to find and provide a trained investigator or interviewer shall be made.

D. 1. A ~~coordinated~~ multidisciplinary child abuse team may enter into an agreement with the Child Death Review Board within the Oklahoma Commission on Children and Youth and, in accordance with rules promulgated by the Oklahoma Commission on Children and Youth, conduct case reviews of deaths and near deaths of children within the geographical area of that ~~coordinated~~ multidisciplinary child abuse team.

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

E. Nothing in this section shall preclude the use of:

1. Hospital or treatment-based team reviews for client-specific purposes; and

2. Teams in existence prior to July 1, 1995, and coordination of such teams.

F. Such ~~coordinated~~ multidisciplinary child abuse team shall have full access to any service or treatment plan and any personal data known to the Department which is directly related to the implementation of this section.

G. 1. When funds become available, the Department of Human Services, with the assistance of the Child Abuse Training and ~~Coordinating~~ Coordination Council, shall develop the eligibility criteria of applicants for disbursement of funds or for the disbursement of fees for specified services rendered.

2. The Department of Human Services, with the advice of the Child Abuse Training and ~~Coordinating~~ Coordination Council, is authorized to promulgate such rules as may be necessary to set minimum standards.

3. The Department of Human Services, with the assistance of the Child Abuse Training and ~~Coordinating~~ Coordination Council, may develop evaluation criteria to make recommendations for future eligibility and allocation decisions and to evaluate programs funded pursuant to this section.

4. The Department of Human Services shall disburse monies from the Child Abuse Multidisciplinary Account pursuant to the eligibility criteria established by the provisions of this subsection and Sections ~~2~~ 7110.1 and ~~3~~ 7110.2 of this ~~act~~ title.

SECTION 35. AMENDATORY Section 3, Chapter 353, O.S.L. 1996, as amended by Section 3, Chapter 414, O.S.L. 1998 (10 O.S. Supp. 1999, 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, 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 nonkinship foster family home, a specialized foster home, a therapeutic foster family home, the home of a relative, or a other kinship care home;

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

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, such features as minimal direct staff supervision, and the provision of supportive services to assist children with activities necessary for finding an appropriate place of residence, completing an education or vocational training, obtaining employment, or obtaining other similar services;

10. "Kinship care" means full-time care of a child by a kinship relation;

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

12. "Out-of-home placement" means a placement, other than a placement in the home of the parent or legal guardian or custodian 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;

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.

The term "parental substitute authority" shall not be construed to authorize corporal punishment on the foster child by the foster parent;

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~~ third degree of consanguinity;

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

17. "Therapeutic foster family 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 36. AMENDATORY Section 8, Chapter 353, O.S.L. 1996, as last amended by Section 9, Chapter 414, O.S.L. 1998 (10 O.S. Supp. 1999, 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 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~~ or
- 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. an emergency situation. As used in this subparagraph, "emergency situation" means a removal that is:

(1) for emergency medical or mental health treatment,
(2) due to substantial noncompliance by the foster
parent with applicable ~~foster family home~~
~~standards~~ contract requirements and agreements
such that the health, safety or welfare of the
child is endangered, or

~~b.~~ (3) due to a pending investigation of allegations of
abuse or neglect of ~~the~~ a child by a foster
parent or other person residing in the foster
family home, or

~~e.~~ b. 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~~ a
foster child from ~~the~~ a foster home solely on the grounds that a
foster parent has exercised substitute parental authority.

SECTION 37. AMENDATORY Section 12, Chapter 353, O.S.L. 1996, as last amended by Section 4, Chapter 2, O.S.L. 1999 (10 O.S. Supp. 1999, 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 1. A foster care education program to provide training for persons intending to furnish foster care services⁷ⁱ and

~~b. continuing 2. 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. A foster parent providing kinship foster care shall, if possible, complete the training developed by the Department of Human Services for kinship foster 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 one hundred twenty (120) days after placement of the child with such kinship foster parent. Until a kinship foster parent receives final approval from the Department to provide foster care services to a child, the kinship foster parent shall not be eligible to receive any payment for providing such foster care services.

3. 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, parent-child conflict resolution techniques, stress management, and any other appropriate technique to teach the foster parent how to manage the child's behavior in a manner appropriate to the age and development of the foster child.

~~3.~~ 4. 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.

~~4.~~ 5. Within three (3) months of certification, foster parents and kinship foster parents must participate in training for behavioral management techniques which shall include, but not be limited to information regarding restraining and holding techniques, and other techniques appropriate for controlling potentially violent behavior in a manner appropriate to the age and development of the foster child.

~~C. 1. A foster parent providing kinship foster care shall, if possible, complete the training developed by the Department of Human Services for kinship foster 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, parent-child conflict resolution techniques, stress management, and any other~~

~~appropriate technique to manage 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~~ assist persons providing kinship foster care, the Department shall immediately refer such kinship foster parents and the child for assistance under the Temporary Assistance for Needy Families Program until the certification and training requirements have been completed, ~~the Department shall enter into a one hundred twenty-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 be provided.

SECTION 38. AMENDATORY 63 O.S. 1991, Section 1-227.9, as last amended by Section 22, Chapter 389, O.S.L. 1997 (63 O.S. Supp. 1999, Section 1-227.9), is amended to read as follows:

Section 1-227.9 A. There is hereby created the Child Abuse Training and Coordination Council.

B. The Oklahoma Commission on Children and Youth shall appoint a Child Abuse Training and Coordination Council which shall be composed of twenty-one (21) members, as follows:

1. One member shall be a representative of child welfare services within the Department of Human Services;

2. One member shall be a representative of juvenile services within the Department of Human Services;

3. One member shall be a representative of maternal and child health services within the State Department of Health;

4. One member shall be a representative of the State Department of Health;

5. One member shall be a representative of the State Department of Education;

6. One member shall be a representative of the Department of Mental Health and Substance Abuse Services;

7. One member shall be a representative of the Oklahoma State Medical Association and shall be a member of the Oklahoma Chapter of the American Academy of Pediatrics;

8. One member shall be a representative of the judiciary;

9. One member shall be a representative of the Oklahoma Osteopathic Association and shall be a pediatric osteopathic physician;

10. One member shall be a representative of the Oklahoma Coalition on Domestic Violence and Sexual Assault;

11. One member shall be a representative of the District Attorney's Council;

12. One member shall be a representative of the Council on Law Enforcement, Education and Training;

13. One member shall be a representative of the Department of Corrections;

14. One member shall be a representative of Court Appointed Special Advocates;

15. One member shall be a representative of the Oklahoma Bar Association;

16. One member shall be a representative of the Oklahoma Psychological Association;

17. One member shall be a representative of the Oklahoma Chapter of the National Association of Social Workers;

18. One member shall be a representative of the Oklahoma Association of Youth Services;

19. One member shall be a representative of the Indian Child Welfare Association;

20. One member shall be a representative of the Advisory Task Force on Child Abuse and Neglect appointed by the Governor; and

21. One member shall be a representative of the Postadjudication Review Board Program.

C. The appointed members shall be persons having expertise in the dynamics, identification and treatment of child abuse and neglect and child sexual abuse.

D. The Training and Coordination Council shall:

1. Establish objective criteria and guidelines for multidisciplinary and, as appropriate for each discipline, discipline-specific training on child abuse and neglect for professionals with responsibilities affecting children, youth and families;

2. Review curricula and make recommendations to state agencies and professional organizations and associations regarding available curricula and curricula having high standards of professional merit;

3. Review curricula regarding child abuse and neglect used in law enforcement officer training by the Oklahoma Council on Law Enforcement Education and Training (CLEET) and make recommendations regarding the curricula to CLEET;

4. Cooperate with and assist professional organizations and associations in the development and implementation of ongoing training programs and strategies to encourage professionals to participate in such training programs; ~~and~~

5. Make reports and recommendations regarding the continued development and improvement of such training programs to the State Commissioner of Health, the Oklahoma Commission on Children and Youth, and each affected agency, organization and association;

6. Prepare and issue a model protocol for multidisciplinary teams regarding the investigation and prosecution of child sexual abuse, child physical abuse and neglect cases;

7. Review and approve protocols prepared by the local multidisciplinary teams;

8. Advise multidisciplinary teams on team development;

9. Collect data on the operation and cases reviewed by the multidisciplinary teams;

10. Issue annual reports; and

11. Annually approve the list of functioning multidisciplinary teams in the state.

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7004.16 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. This section and Section 40 of this act shall be known and may be cited as the "Independent Living Act".

B. The purpose of the Independent Living Act shall be:

1. To ensure that eligible individuals who have been or are in the foster care program of the Department of Human Services due to abuse or neglect receive the protection and support necessary to allow the individuals to become self reliant and productive citizens through the provision requisite services that include, but are not limited to, housing, medical coverage and education; and

2. To break the cycle of abuse and neglect that obligates the state to assume custody of children.

C. Individuals eligible for services pursuant to the Independent Living Act include any individual up to twenty-one (21) years of age who has been in the custody of the Department of Human Services due to abuse or neglect for any nine (9) of the twenty-four (24) months after the individual's sixteenth birthday and before the individual's eighteenth birthday.

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3230 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Students who are pursuing studies in this state leading to an associate or baccalaureate degree or who are pursuing studies in a postsecondary vocational-technical program or course offered pursuant to a duly approved cooperative agreement between an area vocational-technical school and an institution of The Oklahoma State System of Higher Education, and who are in good academic standing in the institution of higher education or vocational-technical school in which enrolled, shall be eligible for a waiver of:

1. Undergraduate resident tuition at institutions within The Oklahoma State System of Higher Education. Students shall be eligible for such waivers up to the age of twenty-six (26) years or completion of the requirements for a baccalaureate degree, whichever comes first; and

2. Resident tuition for enrollment in postsecondary programs of the area vocational-technical districts. Students shall be eligible

for such waivers up to the age of twenty-six (26) years or earn a program certificate, whichever comes first.

B. To be eligible for a waiver of tuition for the first semester or other academic unit of postsecondary enrollment, a student shall:

1. Be an individual who, within the past three (3) years, has been in the custody of the Department of Human Services for any nine (9) of the twenty-four (24) months after the individual's sixteenth birthday and before the individual's eighteenth birthday;

2. Be a resident of this state;

3. Have graduated within the previous three (3) years from a high school accredited by the State Board of Education, the Oklahoma School of Science and Mathematics, or upon approval of the Oklahoma State Regents for Higher Education, a public high school in a state bordering Oklahoma in which the student enrolled with approval of the State Board of Education as provided in Section 8-103 of Title 70 of the Oklahoma Statutes or have completed General Educational Development (GED) requirements;

4. Have satisfied admission standards as determined by the Oklahoma State Regents for Higher Education for first-time-entering students for the appropriate type of institution; and

5. Have secured admission to, and enrolled in, an institution which is a member of The Oklahoma State System of Higher Education or a postsecondary vocational-technical program offered pursuant to a duly approved cooperative agreement between an area vocational-technical school and an institution of The Oklahoma State System of Higher Education.

C. To retain eligibility for a waiver of tuition while pursuing the program of higher learning in which enrolled, the student shall:

1. Maintain good academic standing and satisfactory academic progress according to standards of the Oklahoma State Regents for Higher Education; and

2. Comply with the standards related to maintenance of eligibility as promulgated by the Oklahoma State Regents for Higher Education.

D. It is the intent of the Legislature that students in the 12th grade for the 1999-2000 school year who are determined to be eligible pursuant to this section shall be the first students eligible for the tuition waiver.

SECTION 41. This act shall become effective July 1, 2000.

SECTION 42. 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.

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