STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2364 By: Piatt

COMMITTEE SUBSTITUTE

An Act relating to children; amending 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, Section 13, Chapter 352, O.S.L. 1995, as amended by Section 7, Chapter 421, O.S.L. 1998, 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, 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, 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 24, Chapter 353, O.S.L. 1996, as amended by Section 20, Chapter 421, O.S.L. 1998, Section 21, Chapter 421, O.S.L. 1998, and Section 8, Chapter 200, O.S.L. 1996, as amended by Section 24, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1999, Sections 7001-1.3, 7002-1.2, 7003-2.4, 7003-3.7, 7003-5.3, 7003-5.5, 7003-5.6, 7003-5.6a, 7003-5.6d and 7003-6.2A), which relate to the Oklahoma Children's Code; modifying definitions; modifying powers and duties of court-appointed special advocates; removing certain restrictions of certain attorneys; clarifying and making statutes consistent; and declaring an emergency.

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

SECTION 1. 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 of another who is not the parent of the infant without identifying the infant or furnishing any means of identification,

b. has willfully left the infant alone or in the possession 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 to 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 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 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 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 prior to out-of-home placement or the six (6) months after 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. The assessment includes, but is not limited to, the following elements:

a. an evaluation of the child's safety,

b. a determination of the factors of the alleged abuse or neglect, and

c. 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 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 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 who reside in their own home, the home of a relative, group home, a foster home or residential child care facility. Day treatment programs include, but are not limited to, educational services;

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,

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 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 family which provides foster care services to a child. Such term shall include a foster family home, a specialized foster home, a therapeutic foster family home, the home of a relative, or a kinship care home;

22. "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;

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

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 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 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" means relatives, members of the relative's clan, stepparents, or other responsible adults who have an existing bond with a child and/or to whom has been ascribed a family relationship role with the child's 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" means any team of three or more persons who are trained in the prevention, identification, investigation, prosecution and treatment of child physical and sexual abuse cases and who are qualified to facilitate a broad range of interventions and services related to child abuse;

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

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

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

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

a. after transfer of legal custody of the child, other than adoption, or

b. when a guardianship or kinship guardianship is established for the child. Residual parental rights and responsibilities, which may be limited or restricted by the court, 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 the juvenile in any manner who is eighteen (18) years of age or older, or any person having an obligation and authority to care for or safeguard the juvenile in another person's absence who is eighteen (18) years of age or older;

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 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 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 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; 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 2. 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 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 in subsequent proceedings in such actions, indicates that a child is 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 or investigation concerning such report in accordance with priority guidelines established by the Department of Human Services.

3. The Department shall submit all findings regarding the preliminary inquiry or investigation to the office of the district attorney and send a copy of its findings 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~~, based on the circumstances of the child, the court shall appoint an attorney to represent the child for that proceeding and any related proceedings ~~and~~. In addition, as provided by Section 7003-3.7 of this title, the court ~~shall~~ may appoint a court-appointed special advocate or a guardian ad litem for the child or both.

SECTION 3. 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 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 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 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 right of the parent or guardian to testify and present evidence at court hearings,

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

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.

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 under such conditions as the court finds reasonably necessary to ensure the health, safety and welfare of the child, or

c. continue the child in or place the child into emergency custody.

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 if, upon request of the district attorney at the emergency custody hearing, the court determines that there are compelling reasons that an 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 written memoranda specifying the reasons why the petition was not filed and note the person to whom the child was released.

D. 1. If the petition was 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) 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 emergency custody order shall be extended beyond the additional thirty (30) days absent a showing that such further extension is necessary to ensure the health and safety of the child and is in the best interests of the child.

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 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 <u>and/or</u>

court-appointed special advocate, 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 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 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 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 shall be the paramount concern.

SECTION 4. 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 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. <u>Depending on the circumstances of the child, the attorney may be appointed to act as guardian ad litem or as counsel to represent the expressed interests of the child. If the attorney is appointed as guardian ad litem and a conflict arises between the duty to advocate the best interests of the child and the child's expressed interests, the court may vacate the order of appointment as guardian ad litem and reappoint the attorney to represent the child's expressed interests.</u>

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.

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, court-appointed special advocate or any other party to the action.

3. A guardian ad litem may be a court-appointed special advocate but 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 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~~, the court shall appoint a court-appointed special advocate to represent the best interests of 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 "court-appointed special advocate" shall have the same meaning as "guardian ad litem". In like manner, a~~ A court-appointed special advocate~~, except as specifically otherwise provided by law or by the court,~~ shall be entitled to 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~~ all access to information files and persons as authorized by subsection B of this section for guardian ad litems.

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 management of a court-appointed special advocate organization, including members of the Board of Directors acting in good faith, shall be immune from any civil liability or any vicarious liability for the negligence of any 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 5. 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<u>, the court-appointed special advocate</u> 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 visitation rights and obligations of the parent or parents 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, 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 a controlled dangerous substance has been removed from the home, the Department of Human Services, subject to court approval:

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

3. May require testing for substance abuse of the mother, father, legal guardian, 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, the court-appointed special advocate 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 6. 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 if it appears to the court that the conduct of such parent, legal guardian, custodian, stepparent or other adult person living in the home has contributed to such deprivation, the court may issue a written order specifying conduct to be followed by such parent, guardian, legal custodian, stepparent or other adult person living in the home with respect to such child. The conduct specified shall be such as would reasonably prevent the child from becoming or continuing to be deprived. Such order shall remain in effect for a period of not more than one (1) year, to be specified by the court, and the order may be extended or renewed by the court.

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

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

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

6. If the child has been placed outside the home, and it appears to the court that the parent, 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. The court may order a child's permanent care and custody transferred to another person, subject to residual parental rights and responsibilities, subject to order of the court and upon the written consent of the parents of the child.

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

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

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

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

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

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

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

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

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

(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.

9. a. When reunification of the family is not recommended or possible, the court may order a child's permanent care and custody transferred to a kinship guardian. 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. The petition shall allege that:

(1) a child is placed with the Department,

(2) more than twelve (12) months have passed since the date of the dispositional order placing such child with 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.

c. Notice of the petition and a copy of the petition shall be served upon the parties, the Department, the

court-appointed special advocate and the guardian ad litem of the child.

d. 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. 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. 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 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) 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.

h. An order appointing a kinship guardian shall:

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

(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.

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

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.

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 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, 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 7. 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 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 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 or safety of the child and in the best interests of the child.

D. In addition to the parties, notice of review hearings and an opportunity to be heard at such hearings shall be provided by the court to the present foster parent of a child, the child's court-appointed special advocate and the 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 action.

E. 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. If a return to the child's parent remains the plan for the child, the court must find that the parties:

(1) have complied with, performed, and completed each and every term and condition of the individual treatment and service plan which was previously court ordered,

(2) have corrected the conditions which caused the child to be adjudicated,

(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 returned to and safely maintained in the home or 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, guardianship, kinship guardianship or other 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 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 ~~14~~ 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 service plan as the court determines to be in the best interests of the child and necessary for the correction of the conditions that lead to the adjudication of the child.

SECTION 8. AMENDATORY Section 24, Chapter 353, O.S.L. 1996, as amended by Section 20, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7003-5.6a), is amended to read as follows:

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

B. Such report shall include, but not be limited to:

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

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

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

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

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

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

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

C. The attorney representing a child, the court-appointed special advocate and the guardian ad litem of a child, if any, whose case is being reviewed may submit a report to the court for presentation at the review hearing to assist the court in reviewing the placement or status of the child. The legal custodian shall not deny to a child the right of access to counsel and shall facilitate such access.

SECTION 9. 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 hearing, the court shall enter written

findings and make a determination which will best serve the child's individual interests at that time.

C. In addition to the parties, notice of a permanency hearing and an opportunity to be heard at such hearing shall be provided by the court to the present foster parents of a child, the child's court-appointed special advocate and the 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 of the child and in the best interests of the child, whether:

1. The child should be returned to the child's parents;

2. The child should continue in out-of-home placement for a specified period. 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 of the individual treatment and service plan which was previously court ordered, and have corrected the conditions which caused the child to be adjudicated,

c. the parent 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 a specific date for the return of the child;

2. 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 the additional three-month period. 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 10. AMENDATORY Section 8, Chapter 200, O.S.L. 1996, as amended by Section 24, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7003-6.2A), is amended to read as follows:

Section 7003-6.2A A. At any hearing pursuant to the provisions of the Oklahoma Children's Code for the purpose of determining that a child in state custody is to be released from state custody, the court shall provide an opportunity to a representative of the Department of Human Services, the present foster parent, the court-appointed special advocate, the guardian ad litem and the child, if of sufficient age as determined by the court, to present sworn testimony regarding the release of the child from state custody.

B. The court, the district attorney or the attorneys for the parties may cross examine the representative of the Department of Human Services, the child, if of sufficient age as determined by the court, the present foster parents, the court-appointed special advocate and the guardian ad litem.

C. The court shall issue written findings of fact and conclusions of law. All hearings concerning such cases shall be on the record. The failure of any court to provide an opportunity to a representative of the Department of Human Services or to the present foster parent, the court-appointed special advocate, the guardian ad litem and to the child, if of sufficient age as determined by the court, to present the sworn testimony pursuant to this section shall be subject to immediate mandamus to an appropriate court.

SECTION 11. 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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