STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 1577 By: Cain

COMMITTEE SUBSTITUTE

An Act relating to children; amending 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), which relates to protective custody; expanding conditions under which a child may be taken into protective custody prior to filing of petition; providing for nonprosecution of certain parent for specified crimes; requiring certain entities to accept or take possession of a child and to provide for the physical health or safety of the child; defining term; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 1107, as last amended by Section 10, Chapter 352, O.S.L. 1995, and as renumbered by Sections 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;

2. By an order of the district court issued upon the application of the office of the district attorney. The application presented by the district attorney may be supported by a sworn affidavit which may be based upon information and belief. The application shall state facts sufficient to demonstrate to the court that there is reasonable suspicion to believe the child is in need

of protection due to abandonment, abuse or neglect, or is in surroundings that are such as to endanger the welfare of the child. The application may be verbal, which shall be supported by facts sufficient to demonstrate to the court that there is reasonable suspicion to believe that the child is in need of protection due to abandonment, abuse or neglect or is in surroundings that are such as to endanger the welfare of the child. If verbal, a written application shall be submitted to the district court no later than the close of the next day that the court is open for business; ~~and~~

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

4. Pursuant to the provisions of Section 2 of this act.

B. Whenever a child is taken into protective custody:

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

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

3. Such child may be taken directly to or retained in a health care facility for medical treatment, when it reasonably appears to the peace officer or court employee that the child is in need of

immediate medical treatment to preserve the child's health, or as otherwise directed by the court; or

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

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

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

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

2. Authorize the release of a child from protective custody in accord with such criteria as the court specifies or the placement of a child with such responsible persons as the court may designate and who are willing to provide care for the child pending further proceedings; and

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

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7115.1 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. A parent subject to the provisions of this act shall not be prosecuted for any crime including, but not limited to, those crimes listed in Section 7115 of Title 10 of the Oklahoma Statutes, Sections 851, 852, 853, 858.1 and 858.3 of Title 21 of the Oklahoma Statutes, and any other section of law defining a crime wherein one element of the crime is leaving a child in the care of others without providing for the food, shelter and clothing needs of the child.

B. The following entities shall, without a court order, take possession of a child who is thirty (30) days old or younger if the child is voluntarily delivered to the entity by the parent of the child and the parent did not express an intent to return for the child:

1. A medical services provider licensed pursuant to the provisions of Title 59 of the Oklahoma Statutes; or

2. A child placing agency licensed pursuant to the provisions of Title 10 of the Oklahoma Statutes.

C. 1. Any entity identified in subsection B of this section that takes possession of a child pursuant to the provisions of this section, shall perform or provide for the performance of any act necessary to protect the physical health or safety of the child.

2. The entity shall immediately notify the local office of the Department of Human Services that a parent of a child thirty (30) days old or younger has abandoned such child and that the entity has taken possession of the child.

3. For purposes of this section, "medical services provider" means a person authorized to practice the healing arts, a licensed social worker, a licensed marital and family therapist, a psychologist, a registered or practical nurse, or a nurse aide.

SECTION 3. 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.

47-2-2947 CJ 6/11/2015 8:28:33 PM