STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 727 By: Robinson

COMMITTEE SUBSTITUTE

[children - Children's Code -

effective date]

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 40.4, as amended by Section 3, Chapter 30, O.S.L. 1994 (10 O.S. Supp. 1998, Section 40.4), is amended to read as follows:

Section 40.4 In all Indian child custody proceedings of the Oklahoma Indian Child Welfare Act, including voluntary court proceedings and review hearings, the court shall ensure that the district attorney or other person initiating the proceeding shall send notice to the parents or to the Indian custodians, if any, and to the tribe that is or may be the tribe of the Indian child, and when the identity or location of the parents, Indian custodians, or tribe cannot be determined, to the appropriate Bureau of Indian Affairs area office, by registered mail return receipt requested, except that notice, once given, may be continued from date to date, as ordered by the court. The notice shall be written in clear and understandable language and include the following information:

1. The name and tribal affiliation of the Indian child;

2. A copy of the petition by which the proceeding was initiated;

3. A statement of the rights of the biological parents or Indian custodians, and the Indian tribe:

a. to intervene in the proceeding,

b. to petition the court to transfer the proceeding to the tribal court of the Indian child, and

c. to request an additional twenty (20) days from receipt of notice to prepare for the proceeding; further extensions of time may be granted with court approval;

4. A statement of the potential legal consequences of an adjudication on the future custodial rights of the parents or Indian custodians;

5. A statement that if the parents or Indian custodians are unable to afford counsel, counsel will be appointed to represent them; and

6. A statement that tribal officials should keep confidential the information contained in the notice.

SECTION 2. 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. 1998, 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~~

~~c.~~ 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. “Abandonment” includes, but is not limited to, when a child whose parent:

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

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

c. has failed 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 deprive petition or a petition to terminate 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. For purposes of abandonment, “infant” means a child who is twenty-four (24) months of age or younger;

3. "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.~~ 4. "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~~ An 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.~~ 5. "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.~~ 6. "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.~~ 7. "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.~~ 8. "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.~~ 9. "Chronic abuse or chronic neglect of a child" means a pattern of physical or sexual abuse or neglect which is repeated or continuing;

~~9.~~ 10. "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.~~ 11. "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.~~ 12. "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.~~ 13. "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.~~ 14. "Department" means the Department of Human Services;

~~14.~~ 15. "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, 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.~~ 16. "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.~~ 17. "Emergency custody" means the custody of a child prior to adjudication of the child, and includes custody of a child taken by a peace officer or employee of the court without a court order 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~~. Whenever the term "protective custody" is used in this title, it shall be deemed to mean emergency custody;

~~17.~~ 18. "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.~~ 19. "Foster care" or "foster care services" means continuous twenty-four-hour temporary 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.~~ 20. "Foster child" means a child placed in foster placement;

~~20.~~ 21. "Foster family" means all persons living in a foster family home, other than a foster child;

~~21.~~ 22. "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.~~ 23. "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.~~ 24. "Foster placement" means a child-placing agency or foster family home providing foster care services;

~~24.~~ 25. "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.~~ 26. "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.~~ 27. "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.~~ 28. "Institution" means a residential facility offering care and treatment for more than twenty residents;

~~28.~~ 29. "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.~~ 30. "Kinship care" means full-time care of a child by a kinship relation;

~~30.~~ 31. "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.~~ 32. "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.~~ 33. “Least restrictive placement” means an out-of-home placement made in the least restrictive or most home-like setting that will meet the child’s individual needs and provide for the

child's safety. The least restrictive to the most restrictive placements shall be:

a. a foster family home, including the home of a kinship relation or other foster family home, but excluding a therapeutic foster home,

b. a therapeutic foster home,

c. a group home or residential child care facility, and

d. a residential psychiatric facility;

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

~~33.~~ 35. "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.~~ 36. "Near death" means a child is in serious or critical condition, as certified by a physician, as a result of abuse or neglect;

~~35.~~ 37. "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.~~ 38. "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.~~ 39. "Permanent custody" means a court-ordered custody of an adjudicated deprived child whose parent's parental rights have been terminated;

~~38.~~ 40. "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~~ 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 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~~ <u>are determined</u> by the court, <u>and</u> 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~~ factors related to 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 3. 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. 1998, 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 a protective order or 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~~ an assessment or investigation concerning such report in accordance with priority guidelines established by the Department of Human Services. The requirement to conduct such assessment or investigation shall not be utilized as, nor construed as requiring, a home study to be performed by the Department on family members of

the alleged victim in order for the court to determine a suitable custodian for the child in such proceeding.

3. The Department shall submit all findings regarding the ~~preliminary inquiry~~ assessment 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~~ Section 7003-2.4 of ~~the Oklahoma Children's Code~~ this title 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 4. 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. 1998, 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 of the Department for custody ~~or guardianship~~.

B. The Department shall provide for the care of such children pursuant to ~~Article IV~~ the provisions of Section 7004-1.1 of this ~~Code~~ title.

SECTION 5. AMENDATORY 10 O.S. 1991, Section 1405, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 5, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1998, Section 7002-3.1), is amended to read as follows:

Section 7002-3.1 ~~A.~~ The Attorney General, the district attorney of the appropriate district and any other law enforcement official having jurisdiction shall have the authority to bring civil actions against any person, officer or department, board, commission or other entity, to enforce the provisions of the Oklahoma Children's Code, or to enforce any of the laws of this state protecting or applying in any way to a child removed from the custody of the lawful parent of the child by a disposition order of the court.

~~B. 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 15 of this act.~~

~~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 15 of this act.~~

SECTION 6. AMENDATORY Section 9, Chapter 352, O.S.L. 1995, as amended by Section 6, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1998, 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 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 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 child's health or welfare. If the alleged perpetrator is determined

to be a parent of a child or is otherwise a person responsible for any child's health 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 notice is received from the law enforcement agency as provided by subsection C of this section or the alleged perpetrator is a person responsible for any child's health or welfare.

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 welfare of the child or the failure on the part of a person responsible for the child's health 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 day that the Department is open for business.

SECTION 7. 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. 1998, Section 7003-2.1), is amended to read as follows:

Section 7003-2.1 A. A child may be taken into ~~protective~~ emergency 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~~ 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 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, consent or authorization for such emergency medical treatment or mental health treatment it deems necessary.

B. Whenever a child is taken into ~~protective~~ emergency custody:

1. Such child may be taken to a children's shelter located within the county where ~~protective~~ emergency 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~~ emergency custody. The ~~child~~ court may ~~be placed~~ place the child 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~~ emergency custody is assumed shall be immediately notified, verbally or in writing, that the child has been taken into ~~protective~~ emergency 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~~ emergency custody and notification of the ~~protective~~ emergency 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~~ emergency 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~~ emergency custody and the disposition of children taken into ~~protective~~ emergency custody as the court may direct.

D. No child taken into ~~protective~~ emergency custody pursuant to this section shall be confined in any jail, adult lockup, ~~or~~ adult or juvenile detention facility, or any other facility which relies on locked rooms or buildings, fences or physical restraints in order to control behavior of its residents, except for a hospital or inpatient psychiatric treatment facility. No child shall be transported or detained in a secure facility in association with delinquent, criminal, vicious, or dissolute persons.

SECTION 8. AMENDATORY Section 11, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1998, Section 7003-2.2), is amended to read as follows:

Section 7003-2.2 A. If ~~the~~ a child ~~who~~ is taken into ~~protective~~ emergency custody without a court order due to the need of immediate emergency medical treatment or mental health care to protect the child's health or welfare, the court may issue an emergency ex parte order authorizing 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 treatment or care to protect the child's health 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, 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 9. AMENDATORY Section 12, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1998, Section 7003-2.3), is amended to read as follows:

Section 7003-2.3 A. ~~Except as otherwise provided by law, whenever~~ Whenever a child ~~in protective~~ who has been taken into emergency custody appears to be in need of medical treatment or mental health treatment, a peace officer, employee of the court, or ~~any other legal custodian of the child~~ the Department of Human Services if the child has been placed in the Department's emergency

custody shall ~~exercise due diligence~~ make reasonable efforts to ~~locate~~ notify a parent, guardian, or other person legally competent to authorize such treatment~~.~~

~~B. The~~ for the purpose of obtaining consent for such treatment; provided, however, consent of a parent, guardian, or other person legally competent to authorize medical treatment or mental health evaluations or treatment for a child shall not be required and the peace officer, employee of the court, or ~~other legal custodian~~ the Department, if the child has been placed in the Department's emergency custody, may authorize such treatment or evaluation~~:~~

~~1. When~~ when a child ~~in protective~~ who has been taken into emergency custody requires:

a. emergency surgery or other medical treatment or mental health treatment if such treatment, as determined by a competent medical or mental health authority, as the case may be, cannot be delayed~~;~~, or

~~2. For~~ b. any routine care or treatment, any physical examination, or any routine diagnostic proceeding or evaluation necessary, as determined by competent medical authority, to preserve the child's health or to determine the medical or mental condition of the child for the protection of the child and others with whom the child may come in contact while in custody.

~~C.~~ B. 1. a. ~~If~~ Except in cases of an emergency as set forth in subsecton A of this section, prior to the filing of a deprived petition, the consent of the parent, guardian or other person legally competent to authorize medical treatment shall be required if the medical treatment recommended for the child includes major surgery, as defined by the medical provider, or the administration of general anesthetic; provided, however, if the parent, guardian, or other person

legally competent to authorize ~~medical~~ such treatment for the child is unavailable to consent to such treatment, and reasonable efforts have been made to notify such persons, a hearing shall be held by the court, upon application of the district attorney of the county in which the child is located, shall conduct a hearing not later than five (5) days after ~~filing of~~ the application is filed.

b. If the parent, guardian, or other person legally competent to authorize medical treatment for the child is unwilling to consent to such treatment, a hearing shall be held by the court, upon application of the district attorney of the county in which the child is located or upon application of a parent or guardian, ~~shall conduct a hearing~~ not later than five (5) days after ~~filing of~~ the application is filed.

2. Notice of the hearing and a copy of the application shall be served upon the parent, guardian, or other person legally competent to consent to medical treatment for the child, if available, and upon the district attorney and ~~upon~~ the person or agency having ~~protective~~ emergency custody of the child.

3. After ~~any~~ a hearing held pursuant to this subsection, the court may grant any order or require such medical treatment, including any recommended follow up treatment, as ~~is~~ may be deemed necessary to protect or maintain the health or welfare of the child.

D. The parent, guardian, or person having legal custody of the child shall be responsible for such medical expenses as ordered by the court.

SECTION 10. AMENDATORY Section 13, Chapter 352, O.S.L. 1995, as amended by Section 7, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1998, 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 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 legal 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.~~ b. (1) continue the child in ~~or place the child into~~ emergency custody, and

(2) obtain information from the parent, guardian or legal custodian necessary to identify and locate kinship 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 emergency custody; provided, however, such time period shall ~~not apply~~ be extended 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~~, not to exceed fifteen (15) calendar days ~~of the child's being taken into~~ from the date of the assumption of emergency custody of the child.

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 from the date of the assumption of emergency custody of the child, 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 from the date of assumption of emergency custody of the child 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 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~~ An emergency custody 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 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 of this act; 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 11. AMENDATORY Section 14, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1998, 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 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 12. AMENDATORY 10 O.S. 1991, Section 1103, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 8, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1998, Section 7003-3.1), is amended to read as follows:

Section 7003-3.1 A. 1. A petition in a deprived child proceeding may be filed by the district attorney to determine if further action is necessary. The proceeding shall be entitled "In the matter of _____, an alleged deprived child".

2. The petition shall be verified and may be upon information and belief. The petition shall set forth:

a. with particularity, facts which bring the child within the purview of this article,

b. the name, age and residence of the child,

c. the names and residences of the child's parents,

d. the name and residence of the child's legal guardian, if there is one,

e. the name and residence of the person or persons having custody or control of the child,

f. the name and residence of the nearest known relative, if no parent, legal guardian or custodian of the child can be found, and

g. the relief requested and an endorsement of witnesses intended to be called by the petitioner.

3. If ~~a termination of parental rights is desired, it must be stated in the petition and summons, and if an order for the payment of funds for the care and maintenance of the child is desired, it must be stated in the petition and summons~~ the petition seeks termination of parental rights pursuant to one or more provisions of Section 7006-1.1 of this title, such relief shall be requested in the petition and summons. The factual basis and statutory provisions which support a request for termination of parental rights shall be specifically set forth in the petition. In cases where a parent will be provided an opportunity to correct conditions if a child is adjudicated deprived, a petition may request that a child be adjudicated deprived and made a ward of the court, that a hearing be set three (3) months from the time of disposition, and that parental rights be terminated at such hearing if the parent has not corrected the conditions upon which the child was found deprived. If an order for the payment of funds for the care and maintenance of the child is desired, it shall be so stated in the petition and summons.

4. If any of the facts herein required are not known by the petitioner, the petition shall so state, along with the reasons why such facts are not known to petitioner.

B. ~~1. A petition for termination of parental rights may be filed by the district attorney or the child's attorney.~~

~~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 15 of this act.~~

~~3. If the 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 15 of this act.~~

~~C.~~ A petition alleging a child to be a child in need of treatment shall be filed by a district attorney pursuant to the Inpatient Mental Health Treatment of Children Act.

~~D.~~ C. A copy of the petition in a deprived child proceeding shall be attached to and delivered with the summons.

~~E.~~ D. 1. Any petition filed by the district attorney shall be signed by the district attorney or authorized assistant.

2. A petition for termination of parental rights filed by the child's attorney shall be signed by the child's attorney and the district attorney if joined as a party to the petition pursuant to the provisions of ~~subsection B~~ Section 7003-4.7 of this ~~section~~ title.

SECTION 13. AMENDATORY 10 O.S. 1991, Section 1103.1, as amended by Section 17, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1998, Section 7003-3.3), is amended to read as follows:

Section 7003-3.3 A. No pleading subsequent to the petition for a deprived child proceeding is required, and the filing of any motion or pleading shall not delay the holding of ~~the~~ an adjudicatory or termination of parental rights hearing, absent approval of the court.

B. A petition may be amended by order of the court at any time before ~~an order of adjudication~~ the hearing on such petition has ~~been made~~ commenced, provided that the court shall grant the parties such additional time to prepare as may be required to insure a full and fair hearing. A petition shall be deemed to have been amended to conform to the proof where the proof does not change the

substance of the act, omission or circumstance alleged or the relief requested. ~~However, the court shall not amend the adjudicatory category prayed for in the petition.~~

SECTION 14. AMENDATORY 10 O.S. 1991, Section 1104, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 9, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1998, Section 7003-3.4), is amended to read as follows:

Section 7003-3.4 A. 1. After a petition for a deprived child proceeding has been filed, unless the parties provided for in this section voluntarily appear, a summons shall be issued.

2. The summons shall recite briefly the nature of the proceeding with the phrase "as described more fully in the attached petition" and ~~shall~~ the summons may require the person or persons who have the custody or control of the child to appear personally and bring the child before the court at a time and place stated.

3. The summons shall state the relief requested, and shall set forth the right of the child, parents and other interested parties to have an attorney present at the hearing on the petition.

4. The summons shall also contain, in type at least as large as the balance of the document, the following or substantially similar language: "FAILURE TO RESPOND TO THIS SUMMONS OR TO APPEAR AT THIS HEARING ~~CONSTITUTES CONSENT TO~~ WILL RESULT IN THE ADJUDICATION OF THIS CHILD (OR THESE CHILDREN) AS DEPRIVED CHILDREN AND ~~MAY ULTIMATELY~~ COULD RESULT IN LOSS OF CUSTODY OF THIS CHILD OR THE TERMINATION OF PARENTAL RIGHTS TO THIS CHILD."

B. 1. The summons shall be served on ~~the person who has legal custody~~ each parent, legal guardian or legal custodian of the child. ~~If the child has reached the age of twelve (12) years, a copy shall be served on the child.~~

2. ~~If the person who has legal custody of the child is other than a parent, legal guardian or custodian of the child, a copy of the summons shall be served on the parent, legal guardian or~~

~~custodian, or all, as hereinafter provided. A copy of the summons shall be served on a custodial parent, guardian or next friend.~~ If no parent ~~or~~, legal guardian or legal custodian can be found, a summons shall be issued and served on such other person or persons as the court shall designate.

C. ~~Summons may be issued requiring the appearance of any other person whose presence is necessary.~~

~~D.~~ If it subsequently appears that a person who should have been served was not served and has not entered an appearance, the court shall immediately order the issuance of a summons which shall be served on such person.

~~E.~~ D. If after a petition has been filed, it appears that the child is in such condition or in such surroundings that the child's welfare requires that custody of the child be immediately assumed by the court, the judge may immediately issue an order authorizing the taking of the child into emergency custody.

SECTION 15. AMENDATORY 10 O.S. 1991, Section 1105, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 10, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1998, Section 7003-3.5), is amended to read as follows:

Section 7003-3.5 A. 1. Service of summons shall be made as provided for service in civil actions, or service may be made by certified mail to such person's last-known address, requesting a return receipt from the addressee only.

2. If the address of the person to be summoned is not known, or if the mailed summons is returned, the court may order that notice of the hearing be published once in a newspaper of general circulation in the county, and a copy of the summons shall be mailed by regular first-class mail to the last-known address of the parent, legal guardian or custodian.

B. 1. The court shall not hold the hearing until at least forty-eight (48) hours after the service of the summons, except with the consent of the parent, legal guardian or custodian.

2. If the parent is not served within the state, the court shall not hold the hearing until at least five (5) days after the date of mailing the summons, except with the consent of the parent, legal guardian or custodian.

C. 1. If notice is published, the court shall not hold the hearing until at least ~~ten (10)~~ fifteen (15) days after the date of publication.

2. If one or more persons must be served by publication, the court may delay the date of the hearing, with reasonable notice to the other persons who have been served or are properly and legally notified, to any date that the court determines to be reasonable and may proceed with the action.

3. An order determining that a child is deprived shall not become final until thirty (30) days after the date of the publication of the notice.

4. When notice is given by publication pursuant to the provisions of this section, the order determining that a child is deprived shall contain language in compliance with the requirements of Rule 16 of the Oklahoma District Court.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7003-3.5a of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The putative father of a child who, after being duly served with a summons, fails to prove to the satisfaction of the court that he has exercised parental rights in and to such child shall be deemed to have no parental rights. In determining whether the putative father has exercised parental rights, the court shall consider factors that include, but are not limited to:

1. The amount of monetary support that the putative father contributed to the mother of the child during her pregnancy with the child;

2. The amount of monetary support the putative father has contributed to the child since the birth of the child;

3. The amount of visitation exercised by the putative father with the child and the regularity of contact between the putative father and the child; and

4. Affirmative efforts made by the putative father to publicly acknowledge paternity, including, but not limited to, steps taken to obtain a judicial determination of paternity, to register on a paternity registry, or to be listed on the birth certificate of the child.

B. If the putative father of a child requests an attorney and is found to be without sufficient financial means, the court shall appoint such counsel.

C. If the putative father of a child claims that prior to receipt of the summons for hearing he had been specifically denied knowledge of the child or denied the opportunity to exercise parental rights or duties with regard to the child, such putative father shall prove to the satisfaction of the court that he made sufficient attempts to discover if he had fathered a child or that he made sufficient attempts to exercise parental rights or duties with regard to the child prior to the receipt of the summons.

D. If the court finds that the putative father has exercised parental rights in and to the child, the court shall enter an order that the putative father has exercised parental rights in and to the child, and shall order the putative father joined as a part to the deprived proceeding; provided, however, if the court finds that the putative father has failed to exercise parental rights in and to the child without good cause, the court shall enter an order that the putative father has failed to exercise parental rights in and to the

child and that the putative father has no parental rights in and to the child, including the right to further notice of any hearings.

E. A summons for the hearing provided for by this section shall be served on the putative father in the same manner as provided for in Section 7003-5.5 of this title. The summons shall apprise the putative father of his right to appear for a hearing and to present evidence regarding the exercise of parental rights and his right to counsel. Further, the summons shall include a statement that failure to appear at the hearing shall constitute a denial of interest in the child and will result in a finding that the putative father has failed to exercise parental rights to the child and has no rights in and to the child.

1. If the whereabouts of the putative father are unknown or if his identify is unknown, the court shall inquire of the mother of the child, under oath, regarding the identity of the putative father and his possible whereabouts, including his last known address; provided further, that the court shall advise the mother prior to taking her sworn testimony that the willful and deliberate falsification of such sworn testimony is perjury and shall, upon conviction, be punishable as otherwise provided by law.

2. If the whereabouts of the putative father are unknown and the court determines that his whereabouts cannot be ascertained with due diligence, the court shall order that notice be given by publication and that a copy of the notice be mailed to the last known address of the putative father. The notice shall be published once pursuant to the laws relating to the service of notice by publication in the county in which the deprived proceeding is brought, and the hearing shall not be held for at least fifteen (15) calendar days after the date of publication of the notice. When notice is given by publication, an order determining the putative father's exercise of parental rights shall not become final for a period of fifteen (15) days from the date of the order.

3. If the identify of the putative father is unknown to the mother of the child and the mother signs a sworn statement before the court that the identify of the putative father of the child is unknown and the court determines that his identity cannot be ascertained with due diligence, the court may waive notice to the unknown putative father. Provided, the mother of the child shall be advised that the willful and deliberate falsification of such sworn statement shall be perjury and shall, upon conviction, be punishable as provided by law. The waiver of notice to an unknown putative father provided for by this section shall not constitute grounds to challenge the adoption of the child.

F. A putative father may waive his right to notice pursuant to this section. The waiver executed by the putative father shall include a statement affirming that the putative father understands that the waiver shall constitute grounds for a judicial determination that he has failed to exercise parental rights in and to the child and that he has no parental right in and to the child, including the right to notice of any further hearings.

SECTION 17. AMENDATORY 10 O.S. 1991, Section 1106, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 11, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1998, Section 7003-3.6), is amended to read as follows:

Section 7003-3.6 A. Failure of a person summoned as provided in this part to respond or appear without reasonable ~~cause constitutes the person's consent to~~ shall result in a deprived child adjudication.

B. If any person summoned as provided in this part fails to respond or appear without reasonable cause, such person may be held in contempt of court.

C. In case the summons cannot be served, or the parties served fail to obey the same, or in any case when it shall be made to appear to the judge that the service will be ineffectual or that the

health, safety or welfare of the child requires that the child should be brought into the custody of the court, a warrant may be issued against the parent, legal guardian or custodian of the child, or against the child.

SECTION 18. 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. 1998, 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~~ All deprived proceedings shall be ~~private unless specifically ordered by the judge to be conducted in~~ closed to the public, but persons having a direct interest in the case shall be admitted.

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 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~~ in open court 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 19. AMENDATORY 10 O.S. 1991, Section 1113, as amended by Section 26, Chapter 352, O.S.L. 1995, and as renumbered

by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1998, Section 7003-4.4), is amended to read as follows:

Section 7003-4.4 If the court finds that the allegations of the petition are not supported by the evidence, the court shall order the petition dismissed and shall order the child discharged from any emergency custody order. The child's parents, legal guardian or other legal custodian shall also be discharged from any restriction or other previous temporary order.

SECTION 20. AMENDATORY 10 O.S. 1991, Section 1114, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 13, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1998, Section 7003-4.5), is amended to read as follows:

Section 7003-4.5 A. If the court finds that the allegations of a petition alleging a child to be deprived are supported by the evidence, and finds that it is in the best interests of the child and the public that the child be made a ward of the court, the court shall sustain the petition, and shall make an order of adjudication finding the child to be deprived and shall adjudge the child as a ward of the court.

B. ~~The order of adjudication shall include a statement that advises the parent that failure to comply with any requirements of the court may ultimately result in the loss of custody of the child or the termination of parental rights to the child.~~

~~C.~~ When a child has been adjudicated deprived, the court shall enter a dispositional order pursuant to the provisions of Section 7003.5-5 of this title.

SECTION 21. AMENDATORY Section 14, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1998, 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, at the conclusion of the adjudicatory hearing, or at any hearing thereafter, the court determines based upon competent evidence that:

1. 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;

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,

c. has been returned to the custody of the parent from whom the child had originally been taken, and

d. has been removed from the custody of the parents 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 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 of the child has been convicted of voluntary manslaughter of another child of the parent or aided or abetted, attempted, conspired in or solicited the commission of voluntary manslaughter of another child of the parent 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 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 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 has been convicted of a Schedule S-1, S-2, S-3 or S-4 felony; or

13. The parent of the child has a history of extensive, abusive and chronic use of controlled dangerous substances, 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 of this act. 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 of this act, the district attorney, the child's attorney, or both may file a petition for termination of parental rights.~~

SECTION 22. AMENDATORY 10 O.S. 1991, Section 1120, as last amended by Section 29, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1998, Section 7003-5.2), is amended to read as follows:

Section 7003-5.2 A. After a petition under the provisions of this part has been filed, the court may order the child to be examined and evaluated by a physician or other appropriate professional to aid the court in making the proper disposition concerning the child. The court may order a mental health evaluation of a child as provided by the Inpatient Mental Health Treatment of Children Act.

B. Whenever a child ~~concerning whom~~ who is the subject of a petition ~~has been filed~~ appears to be in need of nursing, medical or surgical care, the court may order the parent or other person responsible for the care and support of the child ~~to provide such~~

~~care in a hospital or otherwise. If the parent or other person fails to provide such care, the court may, after due notice, enter an order therefor, and the expense thereof, when approved by the court, shall be a charge upon the county, but the court may adjudge that the person having the duty under the law to support the child pay part or all of the expenses of such care. In an emergency the court may, when health or condition of the child may require it, cause the child to be placed in a public hospital or institution for treatment or special care, or in a private hospital or institution which will receive the child for like purpose, and consent to emergency treatment or surgery~~.

C. After adjudication and at the request of a judge in any juvenile proceeding, the Department shall investigate the home conditions and environment of the child and the financial ability, occupation and earning capacity of the parent, legal guardian or custodian of the child. Upon request by the court of another state, the Department may conduct a similar investigation.

SECTION 23. AMENDATORY Section 22, Chapter 353, O.S.L. 1996, as amended by Section 4, Chapter 389, O.S.L. 1997 (10 O.S. Supp. 1998, Section 7003-5.4a), is amended to read as follows:

Section 7003-5.4a A. 1. The Department of Human Services shall notify the court having jurisdiction, the appropriate 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.~~ The Department shall inform the court and the child's attorney ~~regarding~~ of the location of the child~~ unless~~. A foster parent shall be notified by the Department prior to movement of the child pursuant to the provisions of Section 7208 of this title.

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

a. requested by ~~a person having actual physical custody~~ the placement provider 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 treatment,

c. for substantial noncompliance by the placement provider with applicable standards and agreements, or

d. due to a pending investigation of allegations of abuse or neglect of a child by the placement provider or other person residing in the home of the placement provider.

B. 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. However, the Department may move any child due to an emergency, 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. 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 24. 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. 1998, 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.~~

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.~~ ~~The~~ Upon the written consent of the parents of the child, 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 as deemed necessary for the protection, health and safety ~~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~~ Code, unless the Department has previously conducted a home study on the prospective custodian. Otherwise, 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 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 shall remain inactive.

~~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 protection, health and safety 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 or other kinship relation may file a petition with the court to be appointed as kinship guardian for a child.

c. The petition for 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 prospective kinship ~~foster parent~~ guardian and there exists a loving and emotional tie between the child and the prospective kinship ~~foster parent~~ guardian, and

(6) it would be in the best interests of the child for the petition to be granted.

~~c.~~ d. Notice of the petition and a copy of the petition shall be served upon the parties, the Department, the current placement provider of the child, if other than the prospective kinship guardian, and the guardian ad litem of the child, if any.

e. Prior to the entry of an order appointing a kinship guardian, the court shall receive an investigation and report regarding the background and home of the prospective kinship guardian. Such investigation and report shall be made pursuant to the requirements of the Oklahoma Adoption Code, unless the Department has previously conducted a home study of the prospective kinship guardian. Otherwise, the Department of Human Services shall not be required by the court to make the home study and report as specified by this paragraph.

f. If all parties, including the Department or other person or agency having custody of the child, consent to the kinship guardianship, the court may grant the petition regardless of the length of time the child has been placed in the legal custody of the Department, provided all other requirements of subparagraphs c and e of this section have been met.

~~d.~~ g. 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.~~ h. 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.~~ i. If the Department's Title ~~4E~~ IV-E 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.~~ j. 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.~~ k. An order appointing a kinship guardian shall:

(1) 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) 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 case shall remain inactive.

~~i.~~ l. 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 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.

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 25. AMENDATORY Section 5, Chapter 416, O.S.L. 1998 (10 O.S. Supp. 1998, Section 7003-5.5a), is amended to read as follows:

Section 7003-5.5a Once any child of a family has been returned to a person named in a petition, a period of supervision by the court of not less than ~~twelve (12)~~ six (6) months shall occur prior to dismissal by the court~~, subject to the availability of funds~~. Supervision by the Department of Human Services during this period shall be in accordance with rules promulgated by the Commission for Human Services.

SECTION 26. 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. 1998, 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, an order providing for the transfer of the permanent care and custody of the child has been entered, 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 Department to the present 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 action~~ deprived proceedings.

E. All post dispositional review hearings shall be conducted informally and the rules of evidence shall not apply unless otherwise ordered by the court. 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. ~~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, or substantially complied with, performed and completed as determined by the court, each and every term and condition of the individual treatment and service plan which was previously court ordered,

(2) have corrected, or substantially corrected, as determined by the court, the conditions which caused the child to be adjudicated such that the child would not be placed at unreasonable risk of harm if returned to the child's parent,

(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 willing and suitable relatives, 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, 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 27. AMENDATORY Section 21, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1998, 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 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, or substantially complied with, performed and completed as determined by the court, each and every term and condition of the individual treatment and service plan which was previously court ordered, and have corrected, or substantially corrected as determined by the court, the conditions which caused the child to be adjudicated, such that the child would not be placed at unreasonable risk of harm if returned to the child's parent,

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~~ or 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~~ 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 28. AMENDATORY Section 23, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1998, 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 or contact between the child, adoptive parents and the birth relative.

B. For purposes of this section, "birth relative" means a parent, stepparent, 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, or first or second cousins, as provided in the Indian Child Welfare Act, United States Code, Title 25, Section 1903.

C. 1. An agreement regarding communication with 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 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 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 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; or

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 29. AMENDATORY 10 O.S. 1991, Section 1117, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 25, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1998, Section 7003-7.1), is amended to read as follows:

Section 7003-7.1 A. 1. Whenever the court transfers custody of a child as provided in this article, the person, institution, agency, or department receiving custody shall have the right to, and shall be responsible for, the care and control of the child, and shall have the duty and authority to provide food, clothing, shelter, medical care, education, and discipline for the child.

2. The court shall complete a form approved by the Oklahoma Supreme Court to verify information that has been considered prior to the custody transfer.

B. 1. Except for an emergency psychiatric admission pursuant to the Inpatient Mental Health Treatment of Children Act, such person, institution, agency or department may provide or arrange for the provision of an inpatient mental health evaluation or inpatient mental health treatment of such child only pursuant to a court order as provided by the Inpatient Mental Health Treatment of Children

Act. Nothing in this subsection shall be interpreted to prohibit or preclude the provision of outpatient mental health services, including an outpatient mental health examination, counseling, educational, rehabilitative or other similar services to such child, as necessary and appropriate, in the absence of a specific court order for such services.

2. The medical care, surgery and extraordinary care shall be charged to the appropriate agency where the child qualifies for the care under law, rule or administrative order or decision.

3. Nothing in this subsection shall be interpreted to:

a. relieve a parent of the obligation to provide for the support of the child as otherwise provided by law, or

b. limit the authority of the court to order a parent to make support payments or to make payments or reimbursements for medical care or treatment, including mental health care or treatment, to the person, institution, agency or department having custody of the child, or

c. abrogate the right of the child to any benefits provided through public funds for which the child is otherwise eligible.

4. No person, agency or institution shall be liable in a civil suit for damages ~~for~~ and shall be immune from criminal liability that might otherwise result from authorizing or not authorizing surgery or extraordinary medical care ~~in instances where an emergency exists,~~ as determined necessary by competent medical authority.

C. 1. If the child is placed in the custody of the Department of Human Services, whether in emergency, temporary or permanent custody, the Department shall determine the appropriate placement of the child. However, under no circumstances may the Department of Human Services return a child to a parent that contributed to the

child being deprived due to abuse or neglect, without prior approval of the court. Any change in the placement of a child adjudicated to be deprived shall be in accord with the provisions of subsection B of Section 7003-5.4a of this title.

2. The person, institution, agency, or Department having legal custody of a child pursuant to an order of the court shall receive notice of court proceedings regarding the child and shall be allowed to intervene upon application as a party to all court proceedings pertaining to the care and custody of the child including, but not limited to: adjudication, disposition, review of disposition, termination of parental rights and proceedings pursuant to the Inpatient Mental Health Treatment of Children Act.

SECTION 30. AMENDATORY 10 O.S. 1991, Section 1121, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 19, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1998, Section 7003-8.7), is amended to read as follows:

Section 7003-8.7 A. In any postadjudicatory hearing ~~concerning the status of a child~~, the court~~, if the court determines the parent is able to pay,~~ shall order the parents of any child found to be a deprived child to:

1. Pay for the care and maintenance of the child, including, but not limited to, all or some part ~~of placement services,~~ medical care and mental health services, as authorized by law<u>, unless an order for such payments already exists, in which case the court shall, upon reasonable advance notice to all affected parties, order the payments for the care and maintenance of the child to be paid directly to the person or agency having the legal custody of the child</u>;

2. <u>During any postadjudicatory hearing, the juvenile court shall have jurisdiction to modify an order for the care and maintenance of a child which has been entered by another district court or administrative court, upon reasonable advance notice to all</u>

affected parties and agencies involved in such other district court or administrative court action.

B. If the court determines any parent is able to pay, the court shall order such parent of any child found to be deprived to:

1. Reimburse the Department of Human Services, in whole or in part, for any costs and expenses incurred by the Department in providing any services or authorizing actions taken pursuant to the Oklahoma Children's Code for the child;

~~3.~~ 2. Reimburse any law enforcement agency, in whole or in part, for any costs or expenses incurred by the law enforcement agency for protective custody services or other authorized actions taken pursuant to the Oklahoma Children's Code; and

~~4.~~ 3. Reimburse the court fund, in whole or in part, for any disbursements made from the court fund in conjunction with the case, including, but not limited to, court-appointed attorney fees, expert witness fees, sheriff's fees, witness fees, transcripts and postage.

~~B.~~ C. 1. After a judicial determination that the parent of the child is able to pay, in whole or in part, the costs and reimbursements specified by this section, the court shall order payment of the costs and reimbursements. The court may order such payments and reimbursements to be paid in installments and shall set the amount and due date of each installment.

2. When any parent is financially able but has willfully failed to pay the costs and reimbursements as ordered by the court pursuant to this section, the parent may be held in contempt of court and, upon conviction, shall be punished pursuant to Section 566 of Title 21 of the Oklahoma Statutes.

3. Even though the court has previously found the parent indigent, if a parent is subsequently found to be financially able to pay costs and reimbursements, the court shall require payment of costs and reimbursements required by this section. The court may order such costs and reimbursements to be paid in installments.

~~C.~~ D. The court shall have all powers incident to such orders necessary for their enforcement, including the power and authority to require bond or other security for the payment of such order; and may resort to execution and the power of punishment for contempt for noncompliance with such order.

~~D.~~ E. The court shall have the right to increase, decrease, or otherwise modify its orders for care and maintenance, as the conditions or needs of the child or children may require and the ability of the person or persons held to pay may afford.

~~E. 1.~~ F. The court may order support payments to be made direct to the person, organization or institution having the care and custody of the child or children~~, or directly to the clerk of the court.~~

~~2. All such funds ordered and paid to the clerk shall be accounted for; provided, that when payments are made in advance for any child, and custody of the court is terminated before the end of the period, then the clerk may refund, by proper voucher, the unused or unaccrued portion of such payment; or the refund may be authorized and paid on claim properly verified and approved by the judge~~.

~~F.~~ G. 1. The Department may effectuate an order for payment of any costs and expenses authorized pursuant to this section against any asset of the parent. Any assignment, attachment, garnishment, or lien against such assets shall be served upon the person in possession of the assets or shall be recorded in the office of the county clerk in the county in which the parent resides or in which the asset is located.

2. Pursuant to the provisions of Section 236 of Title 56 of the Oklahoma Statutes, the Department may contract on a contingency fee basis with private attorneys for the collection and enforcement of orders against such assets. Any such third-party payment shall be paid directly to the Department.

SECTION 31. AMENDATORY 10 O.S. 1991, Section 1404, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 28, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1998, Section 7004-1.1), is amended to read as follows:

Section 7004-1.1 A. In addition to the other powers and duties prescribed by law, the Department of Human Services shall have the power and duty to:

1. Provide for the temporary care and treatment of children ~~taken into protective or emergency custody pursuant to the provisions of Article III of the Oklahoma Children's Code, and~~ placed in the Department's emergency custody by an order of the juvenile court.

In providing for the temporary care and treatment of an alleged deprived child placed in the Department's emergency custody, the Department shall:

a. place such children in a children's shelter, a foster home ~~or~~, a relative's home, a group home, or a licensed residential child care facility,

b. if ordered by the court, provide supervision of children alleged to be deprived who are placed by the court in the custody of a parent, relative or other responsible person. Such supervision shall, in accordance with standards established by rules promulgated by the Commission for Human Services, consist of periodic visitation with the child, the child's custodian, and such other persons as may be necessary to assess the safety of the child and to offer voluntary services. Such supervision shall not exceed the period allowed for the filing of a petition or, if a petition is filed, the period authorized by the court,

c. admit an alleged deprived child in the Department's emergency custody to a hospital or mental health facility as provided in Section 5-507 of Title 43A of the Oklahoma Statutes and shall, if such child is found by the court to be a child in need of mental health treatment, place the child, as provided in paragraph 2 of subsection D of Section 5-512 of Title 43A of the Oklahoma Statutes,

d. provide such outpatient mental health care and treatment as may be necessary to preserve the health and safety of an alleged deprived child in emergency custody and as prescribed by a qualified mental health professional. Each child placed in the Department's emergency custody shall receive, as soon as practicable, educational instruction through enrollment in a public school or an alternative program consistent with the needs and abilities of the child,

e. provide or prescribe treatment services for the family of an alleged deprived child placed in the Department's emergency custody if such services are voluntarily requested and the family is otherwise eligible under application law and rules promulgated by the Commission for the services offered, and

f. provide for each child placed in the Department's emergency custody to receive, as soon as practicable after the filing of the petition, an initial health screening to identify any health problems that require immediate treatment, to diagnose infections and communicable diseases and to evaluate injuries or other signs of neglect or abuse. The Department shall provide, and is authorized to consent to, such medical

care as is necessary to preserve the child's health ~~and~~ or to protect the health of others in contact with the child subject to the provisions of Section 7003-2.3 of this title;

2. Provide for the care and treatment of an adjudicated deprived child placed in the Department's custody by an order of the juvenile court. In providing for the care and treatment of an adjudicated deprived child placed in the Department's custody, the Department:

a. shall review and assess each deprived child placed in its custody to determine the type of placement and services consistent with the needs of the child in the nearest geographic proximity to the home of the child. Such review and assessment shall include an investigation of the personal and family history of the child and the child's environment, and any necessary physical or mental examination. In making such review, the Department may use any facilities, public or private, which offer to aid in the determination of the correct placement of the child,

b. shall develop and, upon approval by the court, implement an individual treatment and service plan for each deprived child placed in the Department's custody in accord with the requirements of Section 7003-5.1 et seq. of this title,

c. may place a deprived child in the home of the child with prior approval of the court pursuant to subsection ~~B~~ C of Section 7003-7.1 of this title, in the home of a relative of the child, in a foster home, in a public or private children's shelter, in a group home, in an independent living program, or in any licensed facility established for the care of deprived

children. No deprived child shall be placed in an institution operated by the Department, or in any facility which relies on locked rooms or buildings, fences or physical restraints in order to control the behavior of its residents, except for a hospital or inpatient psychiatric treatment facility,

d. may admit a deprived child in the Department's custody to a hospital or mental health facility as provided in Section 5-507 of Title 43A of the Oklahoma Statutes and shall, if such child is found by the court to be a child in need of mental health treatment, place the child as provided in paragraph 2 of subsection D of Section 5-512 of Title 43A of the Oklahoma Statutes,

e. may provide and consent to such medical care and treatment and outpatient mental health care and treatment as may be necessary to meet the medical or treatment needs of a deprived child in the Department's custody and as prescribed by a qualified mental health professional or medical authority, and

f. shall, if ordered by the court, provide supervision of children adjudicated deprived who are placed by the court in the custody of a parent, relative or other responsible person. Such supervision shall, in accordance with standards established in rules promulgated by the Commission, consist of periodic visitation with the child, the child's custodian, and such other persons as may be necessary to determine compliance with the court-approved individual treatment and service plan~~. Such supervision shall not exceed a period of six (6) months unless extended by the court for good cause shown~~;

3. Transfer any child in its custody from any authorized placement to another authorized placement if such transfer is consistent with the treatment needs of the child or as may be required in an emergency, subject to the provisions of Section 7003-5.4a of this title;

4. In providing for the outpatient mental health care and treatment of children in its custody, utilize, to the maximum extent possible and appropriate, the services available through:

a. the guidance centers operated by the State Department of Health,

b. the Department of Mental Health and Substance Abuse Services, and

c. community-based private nonprofit agencies and organizations; and

5. Provide, when voluntarily requested by a parent, legal guardian or custodian pursuant to rules promulgated by the Commission, family preservation or other services aimed at the prevention of child abuse or neglect.

B. The Department may participate in federal programs relating to deprived children and services for such children; and apply for, receive, use and administer federal funds for such purposes.

C. The Department shall receive interest earnings on the investment by the State Treasurer of monies, to be credited to an agency special account, for the benefit of and held in trust for persons placed in the custody of the Department or in residence at facilities maintained by the Department.

SECTION 32. 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. 1996 (10 O.S. Supp. 1998, 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~~ 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~~ of any person ~~committed to~~ 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 such child,

d. investigate grievances of foster parents related to the provision of foster care services pursuant to this section and Section ~~11~~ 7204 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 are or a relative home placement,

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 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.

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,~~ children receiving services in a day treatment program or residing outside their own homes, other than children in foster care or a relative home placement, 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, 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~~ by a foster parent regarding action taken by the Department or by a child-placing agency for ~~violations~~ a violation of any law ~~or~~, rules, or contract provisions by ~~the~~ such foster parent.

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 33. 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. 1998, 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 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 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~~ 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 federal official of the United States Department of Health and Human Services;

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

16. 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;

17. Employees of 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, legal custodian or any other adult member of the child's home who is responsible for the care of the child; and

18. Employees of state agencies of this or another state in the performance of their 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 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 34. AMENDATORY 10 O.S. 1991, Section 1125.2A, 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. 1998, 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 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~~ 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 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 legal 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 and 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 federal official of the United States Department of Health and Human Services;

19. The Oklahoma Health Care Authority;

20. 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. 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 such child; ~~and~~

22. 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, legal custodian or any other adult member of the child's home who is responsible for the care of the child; and

23. Employees of state agencies of this or another state in the performance of their 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 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 35. 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. 1998, 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 paramount consideration in proceedings concerning termination of parental rights shall be the health, safety and best interests of the child:

1. Upon a written consent of a parent, including a parent who is a minor, acknowledged as provided in paragraph 4 of subsection B

of Section 7503-2.1 of this title, who desires to terminate such parent's parental rights; provided that the court finds that such termination is in the best interests of the child;

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

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

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

3. A 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 payments, visits or communications 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 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 field by the District Attorney pursuant to the provisions of Section 7003-4.7 of this title.

SECTION 36. AMENDATORY 10 O.S. 1991, Section 1131, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 30, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1998, Section 7006-1.2), is amended to read as follows:

Section 7006-1.2 A. 1. ~~Prior to the hearing on the application to terminate the rights of a parent or putative father filed pursuant to Section 7006-1.1 of this title, notice of the hearing on the application and a copy of the application shall be served upon the parent or putative father who is the subject of the application in the same manner as summons is served in civil cases, not less than fifteen (15) calendar days prior to the hearing.~~

~~2. The notice shall contain the name of the parent, putative father, or, if the father is unknown, the name of the child, the date of birth of the child, the date of the hearing, and the ground or grounds for which application for termination of parental rights is sought. The notice shall apprise the parent or putative father of the parent's legal rights and shall include a clear statement that failure to appear at the hearing shall constitute a denial of interest in the child, which denial may result, without further notice of this proceeding or any subsequent proceeding, in the~~

~~granting of the application for the termination of the parent's or putative father's parental rights and in the child's adoption.~~

~~3. a. If the identity or whereabouts of a parent or putative father are unknown, the court must determine whether the parent or putative father can be identified or located. Following an inquiry pursuant to subsection B of this section, if the court finds that the identity or whereabouts of the parent or putative father cannot be ascertained, and this fact is attested to by affidavit of the other parent, legal guardian or custodian of the child, it shall order that notice be given by publication and, if the identity is known, that a copy be mailed to the last-known address of the parent or putative father.~~

~~b. (1) If, in an inquiry pursuant to this section, the woman who gave birth to the child fails to disclose the identity of a possible father or reveal his whereabouts, she must be advised that a subsequent proceeding for adoption may be delayed or subject to challenge if a possible father is not given notice of the proceeding and that the lack of information about the father's medical and genetic history may be detrimental to the child.~~

~~(2) In addition, the willful and deliberate falsification of the sworn affidavit by the parent shall be deemed perjury and shall, upon conviction thereof, be punishable as otherwise provided by law.~~

~~c. The notice shall be published once pursuant to the laws relating to the service of notice by publication in the county in which the action to terminate~~

~~parental rights is brought, and the hearing shall not be held for at least fifteen (15) calendar days after the date of publication of the notice. When notice is given by publication, an order terminating parental rights shall not become final for a period of fifteen (15) calendar days from the date of the order.~~

~~4. A parent or putative father may waive such person's right to notice pursuant to this section. The waiver, signed by the parent or putative father, shall include a statement affirming that the person signing the waiver understands that the waiver shall constitute grounds for the termination of the parental rights of the parent or putative father. A putative father may waive his right to notice.~~

~~B. 1. If, at any time in a proceeding for termination of a relationship of parent and child, the court finds that a parent, an unknown father or putative father of the child may not have received notice, the court shall determine whether he or she can be identified and his or her whereabouts ascertained. The determination must be based on evidence that includes inquiry of appropriate persons in an effort to determine the whereabouts of the parent or identity of an unknown father or putative father for the purpose of providing notice.~~

~~2. The inquiry required by this subsection must include whether:~~

~~a. the woman who gave birth to the child was married at the probable time of conception of the child, or at a later time,~~

~~b. the woman was cohabitating with a man at the probable time of conception of the child,~~

~~c. the woman has received payments or promises of support, other than from a governmental agency, with respect to the child or because of her pregnancy,~~

~~d. the woman has named any individual as the father on the birth certificate of the child or in connection with an application for or receipt of public assistance, and~~

~~e. any individual has formally or informally acknowledged or claimed paternity of the child in a jurisdiction in which the woman resided during or since her pregnancy, or in which the child has resided or resides, at the time of the inquiry.~~

~~3. If inquiry pursuant to the provisions of this subsection identifies as the father or putative father of the child an individual who has not received notice of the proceeding, the court shall require notice to be served upon him pursuant to the provisions of A of this section.~~

~~C.~~ A parent shall be given actual notice of any hearing to terminate such parent's parental rights. The notice shall indicate the relief requested, and the hearing shall not be held until at least fifteen (15) days after the receipt of such notice, except with the consent of the parent, if known.

2. If the court finds that the whereabouts of the parent cannot be ascertained after a diligent search, it may order that notice be given by publication and a copy mailed to the last-known address of the parent. The notice shall be published once in a newspaper of general circulation in the county where the action to terminate parental rights is brought, and the hearing shall not be held for at least fifteen (15) days after the date of publication of the notice. If a parent has not received actual notice of the hearing in which the parent is deprived of his or her parental rights, the order depriving the parent of those rights shall not become final for a period of fifteen (15) days after the hearing.

B. When notice is given by publication pursuant to the provisions of this section, the order terminating parental rights

shall contain language in compliance with the requirements of Oklahoma District Court Rule 16.

SECTION 37. 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. 1998, 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 38. AMENDATORY Section 6, Chapter 353, O.S.L. 1995, as last amended by Section 14, Chapter 416, O.S.L. 1998 (10 O.S. Supp. 1998, 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 as defined in Section 844 of Title 21 of the Oklahoma Statutes, the investigation or assessment will proceed no further. If such incident was the result of the reasonable exercise of parental discipline, 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 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 of the child;

7. Any service needs of the child and the parents or persons responsible for the care 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 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 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 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 or welfare has a history of mental illness. If a parent or person responsible for the child's health 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 or welfare is indigent, the court shall appoint an attorney to represent the parent or person responsible for the child's health or welfare at the hearing to obtain mental health records.

b. A parent or person responsible for the child's health 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. The county office shall make a complete written report of the investigation. The report, together with its recommendations, shall be submitted to the appropriate district attorney's office.

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~~ refuses 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 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7106.a of Title 10, unless there is created a duplication in numbering, reads as follows:

A. If the Department of Human Services determines after an investigation that child abuse has occurred and that the child would be protected in the child's home by removal of the alleged perpetrator of the abuse, the District Attorney shall file a motion for the removal of the alleged perpetrator from the residence of the child rather than attempt to remove the child from the residence. The court may conduct an ex parte hearing on the same day the motion is filed.

B. A court may issue a temporary order in a deprived action for the removal of an alleged perpetrator under subsection A of this section if the state's motion states facts sufficient to satisfy the court that:

1. There is an immediate danger to the physical health or safety of the child or the child has been a victim of sexual abuse;

2. There is no time, consistent with the physical health or safety of the child, for an adversary hearing;

3. The child is not in danger of abuse from a parent or other adult with whom the child will continue to reside in the residence of the child; and

4. The issuance of the order is in the best interests of the child.

C. The order shall be served on the alleged perpetrator and on the parent, legal guardian or other adult with whom the child will continue to reside.

D. The ex parte order shall be in effect until after the full hearing is conducted.

E. The ex parte order requiring the removal of an alleged perpetrator from the residence of a child shall require that the parent or other adult with whom the child will continue to reside in the child's home make a reasonable effort to monitor the residence and report to the Department and the appropriate law enforcement agency any attempt by the alleged perpetrator to return to the residence.

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7106.b of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Within fifteen (15) days of the filing of the motion provided for in Section 39 of this act, the court shall schedule a full hearing on the motion, regardless of whether an emergency ex parte order has been previously issued or denied. Such hearing may be continued to coincide with the adjudication proceedings held in the deprived action upon motion of any of the parties or upon the court's own motion.

B. At the hearing, the court may issue a temporary restraining order if the court finds:

1. The presence of the alleged perpetrator in the child's residence constitutes a continuing danger to the physical health or safety of the child;

2. The child has been the victim of sexual abuse and there is a substantial risk that the child will be the victim of sexual abuse in the future if the alleged perpetrator remains in the residence;

3. The child is not in danger of abuse from a parent or other adult with whom the child will continue to reside in the residence of the child; and

4. The issuance of the ex parte order is in the best interests of the child.

C. In determining whether there is an immediate or continuing danger to the physical health or safety of a child, as set forth in paragraph 1 of subsection B of Section 39 of this act, the court may consider whether the child's household includes a person who has:

1. Abused or neglected another child in a manner that caused serious injury to or the death of the other child; or

2. Sexually abused another child.

D. A temporary restraining order requiring the removal of an alleged perpetrator from the residence of a child, pursuant to the provisions of this section, shall require that the parent or other adult with whom the child will continue to reside in the child's home make a reasonable effort to monitor the residence and report to the Department of Human Services and appropriate law enforcement agency, any attempt by the alleged perpetrator to return to the residence.

E. A temporary restraining order issued under the section shall expire not later than ninety (90) days after its date of issuance unless extended by the court.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7106.c of Title 10, unless there is created a duplication in numbering, reads as follows:

A. A person commits an offense if:

1. The person is a parent or other person with whom a child resides, the person is served with an ex parte order or temporary

restraining order, and the person fails to make a reasonable effort to monitor the residence of the child or to report to the Department of Human Services and the appropriate law enforcement agency, an attempt by the alleged perpetrator to return to the residence; or

2. After having been served with an ex parte order or restraining order removing such person from the child's residence, the person returns to the residence of the child.

B. An offense under this subsection is a misdemeanor.

SECTION 42. AMENDATORY Section 8, Chapter 353, O.S.L. 1995, as amended by Section 16, Chapter 416, O.S.L. 1998 (10 O.S. Supp. 1998, Section 7108), is amended to read as follows:

Section 7108. A. As soon as possible after initiating an investigation of a parent or other person having responsibility for the health or safety of the child pursuant to the Oklahoma Child Abuse Reporting and Prevention Act, the child protective services worker shall provide to the parent or person a brief and easily understood written description of the investigation process. Such notice shall include:

1. A statement that the investigation is being undertaken by the Department of Human Services pursuant to the requirements of the Oklahoma Child Abuse Reporting and Prevention Act in response to a report of child abuse or neglect;

2. A statement that the identity of the person who reported the incident of abuse is confidential and may not even be known to the Department since the report could have been made anonymously;

3. A statement that the investigation is required by law to be conducted in order to enable the Department of Human Services to identify incidents of abuse or neglect in order to provide protective or preventive social services to families who are in need of such services;

4. A statement that, upon completion of the investigation, the parent or other person will receive a letter from the Department which will inform such parent or other person~~:~~

~~a. that the Department has found insufficient evidence of abuse or neglect, or~~

~~b. that there appears to be probable cause to suspect the existence of child abuse or neglect in the judgment of the Department~~ of the findings;

5. An explanation of the procedures of the Department of Human Services for conducting an investigation of alleged child abuse or neglect, including:

a. a description of the circumstances under which the Department would seek to remove the child from the home through the judicial system, and

b. an explanation that the law requires the Department to refer all reports of alleged criminal child abuse or neglect to a law enforcement agency for a separate determination of whether a criminal violation occurred;

6. The procedures to follow if there is a complaint regarding the actions of the Department or to request a review of the findings made by the Department during or at the conclusion of the investigation;

7. The person's right to review all records filed with the court concerning the investigation, provided the review shall not include the name of the person who filed the report specified in Section 7103 of this title, and provided the review would not jeopardize an ongoing criminal investigation or adjudicatory hearing;

8. The person's right to seek legal counsel;

9. References to the statutory and regulatory provisions governing child abuse and neglect and how the person may obtain copies of those provisions; and

10. The process the person may use to acquire access to the child if the child is removed from the home.

B. If the Department determines that a family assessment may be needed, the Department shall, at the time of the initial contact, provide the parent of the child with the following information:

1. The purpose of the contact with the family;

2. The name of the child protective services worker responding and such person's office telephone number; and

3. The assessment process to be followed during the Department's intervention with the family including the possibility that the family may be referred for prevention or intervention-related services and that the family may be expected to participate in such services.

SECTION 43. AMENDATORY Section 3, Chapter 353, O.S.L. 1996, as amended by Section 3, Chapter 414, O.S.L. 1998 (10 O.S. Supp. 1998, 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 foster family home, a specialized foster home, a therapeutic foster family home, the home of relative, or a kinship care home;

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

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

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

12. "Least restrictive placement" means an out-of-home placement made in the least restrictive or most home-like setting that will meet the child's individual needs and provide for the child's safety. The least restrictive to the most restrictive placements are:

a. a foster family home, including the home of a kinship relation or other foster family home, but excluding a therapeutic foster home,

b. a therapeutic foster home,

c. a group home or residential child care facility, and

d. a residential psychiatric facility;

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

~~13.~~ 14. "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; provided, however, the ability to exercise parental substitute authority shall not be construed to authorize corporal punishment on the foster child by the foster parent. The term "parental substitute authority" also includes, but is not limited to, the ability of the foster parent to:

a. protect, advance and nurture the foster child's physical, emotional and psychological well-being,

b. meet the foster child's needs and maintain the health and personal hygiene of the foster child,

c. teach the foster child ways to prevent and solve problems,

d. maintain and build the foster parent/foster child relationship, and

e. teach self-control and responsibility to the foster child;

~~14.~~ 15. "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;

~~15.~~ 16. "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.~~ 17. "State agency" means the Department of Human Services or the Department of Juvenile Justice, as applicable; and

~~17.~~ 18. "Therapeutic foster home" means a foster family home which provides specific supportive services, pursuant to a therapeutic foster care contract, which are designed to remedy social and behavioral problems of a foster child residing in the home.

SECTION 44. AMENDATORY Section 7, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 1998, Section 7207), is amended to read as follows:

Section 7207. A. In determining placement of a deprived child in foster care:

1. The Department of Human Services or the court, if the court does not place the child with the Department of Human Services, and any child-placing agency shall be governed by the best interests of the child; ~~and~~

2. The placement for the child shall be the least restrictive placement that will ensure the health, safety and welfare of the child; and

3. Such child may express a preference as to placement. The Department of Human Services, the court, or the child-placing agency shall determine whether the best interests of the child will be served by the child's preference. The Department of Human Services, the court, or the child-placing agency shall not be bound by the child's preference and may consider other facts in determining the placement.

B. In determining placement of a delinquent child or a child in need of supervision in foster care:

1. The Department of Juvenile Justice or the court, if the court does not place custody of the child with the Department of Juvenile Justice, and a child-placing agency shall be governed by the best interests of the child consistent with the state's interest in the protection of the public; and

2. Such child may express a preference as to placement. The Department of Juvenile justice, the court, or the child-placing agency shall determine whether the best interests of the child, consistent with the state's interest in the protection of the public, will be served by the child's preference. The state agency, the court, or the child-placing agency shall not be bound by the child's preference and may consider other facts in determining the placement.

C. If a deprived child, a delinquent child or child in need of supervision expresses a preference, the preference may be given with or without the parents, foster parents, guardians, or any other parties being present.

SECTION 45. 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. 1998, 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) <u>calendar</u> 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) calendar days after receipt of the notice from the state agency or child-placing agency regarding removal of the child. The court shall provide for notice to other parties in the case.

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

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

b. 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~~

~~c. reunification with a parent that contributed to the child being deprived, with the prior approval of the court~~.

4. A foster parent's right to object to removal of a foster child from the foster home shall not apply if the stated reason for removal is reunification with a parent that contributed to the child being deprived, with the prior approval of the court.

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

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

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

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

SECTION 46. This act shall become effective November 1, 1999.

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