

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 2452

By: Seikel of the House

and

Cain of the Senate

COMMITTEE SUBSTITUTE

[children - Child Welfare System Reform Review
Committee - effective date -

emergency]

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

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

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

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

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

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

1. One member who is the Chair of the Human Services Committee of the Oklahoma House of Representatives;

2. One member who is the Chair of the Human Resources Committee of the Oklahoma State Senate;

3. Three members who are judges having juvenile docket responsibilities, appointed by the Juvenile Justice Oversight Committee of the ~~Oklahoma~~ Supreme Court;

4. Two members who are district attorneys having knowledge and experience in actions concerning deprived children, appointed by the District Attorneys Council;

5. One member who serves on a post-adjudication review board, appointed by the State Post-Adjudication Review Advisory Board;

6. One member who serves as a foster parent and who has a current contract with the Department of Human Services to provide foster care services, appointed by the Foster Care Association of Oklahoma;

7. One member who serves as a Court-Appointed Special Advocate, appointed by the Oklahoma CASA Association;

8. Three members appointed by the Speaker of the House of Representatives of whom:

a. one member represents a child-placing agency that has a current contract with the Department of Human Services to provide foster care services,

b. one person is a child advocate having current knowledge and experience concerning Oklahoma's child welfare system, and

c. one person represents a local unit on aging interested in grandparents' concerns;

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

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

10. Three members appointed by the Governor of whom:

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

11. Ex officio members of the Child Welfare System Reform

Review Committee shall also include the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. To consolidate similar statutes;
2. To repeal or modify obsolete or duplicate statutes or any statutes which shall have been declared unconstitutional by court decision;
3. To recommend changes in Title 10 and Title 63 of the Oklahoma Statutes concerning the child welfare system;
4. To clarify and update any existing statutory language;
5. To recodify those sections of law which relate to child welfare reform when ~~the move~~ such recodification will improve the location, use, application and appropriateness of those sections of law; and
6. To perform any other acts necessary to complete the purposes of the Committee, including, but not limited to:
 - a. ~~the feasibility of videotaping or audiotaping a child alleged to be severely physically or sexually abused at the investigatory stage,~~

- ~~b. the feasibility of removing the right of a jury trial at the adjudicatory court hearing for determining deprived status or at the termination of parental rights hearing or both,~~
- ~~c. reviewing the statutory provisions in the Oklahoma Children's Code requiring a deprived child to testify in a criminal proceeding under penalty of imprisonment,~~
- ~~d. studying whether parents or custodians of a child should be given a Miranda-type warning during a child abuse investigation,~~
- ~~e. examining the fair and impartial hearing procedure for foster parents provided by the Department of Human Services and the Department of Juvenile Justice,~~
- f. b. examining sibling visitation rights,
- g. c. examining ~~how~~ to improve representation of abused and neglected children in the court system,
- ~~h. prohibiting homosexuals from adopting children, and~~
- ~~i. recognizing rights of relatives, including grandparents or other relatives who have physical custody of children related to them within the third degree of consanguinity or affinity in deprived or nondeprived cases~~
- d. involving the following entities in the establishment of a professional foster parent curriculum for use in a community college or vo-tech setting:
 - (1) higher education,
 - (2) vo-tech,
 - (3) State Department of Education,
 - (4) a trainer and a foster parent from the Division of Family and Children Services within the Department of Human Services,

- (5) a trainer and a therapeutic foster care parent,
and
 - (6) a behavioral health specialist with experience in
the area child abuse and neglect,
- e. determining the feasibility of abolishing the two
percent (2%) cap on enrollment for therapeutic foster
children in a school district,
- f. studying the feasibility of increasing foster care
provider rates,
- g. reviewing prevention programs and determining if
adequate funding exists to provide statewide services
and resources,
- h. determining the feasibility and impact of increasing
funding levels to the Child Abuse Training
Coordination Council to provide more educational
training to professionals involved in child abuse
prevention, investigation and prosecution,
- i. studying child abuse and neglect assessment and
investigation procedures to determine if certain
procedures need to be modified or refined,
- j. establishing a policy to encourage district attorneys'
offices to assign an experienced attorney to a
deprived child proceeding and to allow an assistant
district attorney and a public defender assigned to a
deprived child proceeding to receive equal pay
commensurate with experience,
- k. determining methods for improving the quality of legal
representation available to children adjudicated
deprived including, but not limited to, a requirement
that an attorney who is involved in a deprived child
proceeding shall annually attend at least six (6)
hours of related training, to be made available at a

nominal and reasonable cost, in order to be eligible to receive compensation from the local court,

1. studying, in conjunction with the Juvenile Justice Oversight Committee of the Supreme Court, the feasibility of:

(1) establishing uniform court rules and procedures for use in deprived proceedings, and

(2) drafting a statute to deem a parent an "interested" or "necessary" party in a deprived child proceeding when that parent is not accused of causing the deprivation of the child,

m. evaluating and making recommendations regarding the use of the term "dependence" in Section 7001-1.3 of this title and "chemically dependent" in Section 7103 of this title, and

n. reviewing statutes related to mandatory reporting of child abuse.

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

2. The Committee shall prepare a final draft of recommended changes, and shall submit ~~the recommended changes~~ its recommendations to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Governor by ~~February 15, 2000~~ February 15, 2001.

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

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

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

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

- a. has willfully left the infant alone or in the possession 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~~ Failure to contribute to the support of the mother during her term of pregnancy pursuant to the provisions of this subdivision, shall not in and of itself be grounds for termination of the parental rights of the father or putative father, or

(3) ~~(a)~~ if an 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~~ Failure to contribute to the support of the mother during her term of pregnancy pursuant to the provisions of this subdivision, shall not in and of itself be grounds for termination of the parental rights of the father or putative father.

In any case where a father, or a putative father of an infant born out of wedlock, claims that prior to the receipt of notice of the hearing provided for in Section 7006-1.2 of this title he had been specifically denied knowledge of the infant or denied

the opportunity to exercise parental rights or duties with regard to the infant, such father or putative father shall prove to the satisfaction of the court that he made sufficient attempts to discover if he had fathered a child or made sufficient attempt to exercise parental rights or duties with regard to the infant prior to the receipt of notice, or

- e. has not had significant or meaningful contact with the infant during the six (6) months prior to out-of-home placement or the six (6) months after out-of-home placement, and has not made meaningful efforts to gain or regain custody of or to have regular visitation with the infant, despite being given the opportunity to do so. Incidental or token visits, communications or contributions shall not be construed or considered in establishing the proper exercise of parental rights or duties with regard to the infant;

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

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

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

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

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

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

7. "Child-placing agency" means a private agency licensed to place children in foster family homes, group homes, adoptive homes, transitional or independent living programs, or family child care homes or other out-of-home placements; and which approves and monitors such placements and facilities in accordance with the licensing requirements established by the Oklahoma Child Care Facilities Licensing Act;

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

9. "Community-based services" or "community-based programs" means services or programs which maintain community participation or supervision in their planning, operation, and evaluation. Community-based services and programs may include, but are not limited to, emergency shelter, crisis intervention, group work, case supervision, job placement, recruitment and training of volunteers, consultation, medical, educational, home-based services, vocational, social, preventive and psychological guidance, training, counseling, early intervention and diversionary substance abuse treatment,

sexual abuse treatment, transitional living, independent living, and other related services and programs;

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

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

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

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

14. "Deprived child" means a child:

- a. who is for any reason destitute, homeless, or abandoned,
- b. who does not have the proper parental care or guardianship or whose home is an unfit place for the child by reason of neglect, abuse, cruelty, or

depravity on the part of the child's parents, legal guardian, or other person responsible for the child's health or welfare,

- c. who is a child in need of special care and treatment because of the child's physical or mental condition ~~including, but not limited to, a child born in a condition of dependence on a controlled dangerous substance,~~ and the child's parents, legal guardian, or other custodian is unable or willfully fails to provide such special care and treatment. As used in this paragraph, a child in need of such special care and treatment includes, but is not limited to, a child who at birth tests positive for fetal alcohol syndrome or a controlled dangerous substance and who, pursuant to an assessment, is determined to be at-risk for future exposure to such substances,
- d. who is a child with a disability deprived of the nutrition necessary to sustain life or of the medical treatment necessary to remedy or relieve a life-threatening medical condition in order to cause or allow the death of the child if such nutrition or medical treatment is generally provided to similarly situated children without a disability or children with disabilities; provided that no medical treatment shall be necessary if, in the reasonable medical judgment of the attending physician, such treatment would be futile in saving the life of the child,
- e. who is, due to improper parental care and guardianship, absent from school as specified in Section 10-106 of Title 70 of the Oklahoma Statutes, if the child is subject to compulsory school attendance, or

f. whose parent or legal custodian for good cause desires to be relieved of custody.

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

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

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

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

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

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

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

supervision, guidance, and rearing of a foster child by the foster parent;

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

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

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

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

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

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

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

26. "Independent living program" means a program specifically designed to assist a child to enhance those skills and abilities necessary for successful adult living. An independent living program may include, but shall not be limited to, such features as minimal direct staff supervision, and the provision of supportive services to assist children with activities necessary for finding an appropriate place of residence, completing an education or

vocational training, obtaining employment, or obtaining other similar services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. born out of wedlock, or

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

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

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

42. "Relative" means a grandparent, great-grandparent, brother or sister of whole or half blood, aunt, uncle or any other person related to the child within the fourth degree of consanguinity;

43. "Residential child care center" means a twenty-four-hours-a-day residential group care facility at which a specified number of children, normally unrelated, reside with adults other than their parents;

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

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

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

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

46. "Responsible adult" for purposes of the release of a child from protective custody, means a stepparent, foster parent, person related to the juvenile in any manner who is eighteen (18) years of age or older, or any person having an obligation and authority to care for or safeguard the juvenile in another person's absence who is eighteen (18) years of age or older;

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

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

- a. substantial risk of death,
- b. extreme physical pain,

- c. protracted and obvious disfigurement, or
- d. protracted loss or impairment of the function of a bodily member, organ or mental faculty;

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

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

51. "Specialized foster care" means foster care provided to a child in a specialized foster home or agency-contracted home which:

- a. has been certified by the Developmental Disabilities Services Division of the Department of Human Services,
- b. is monitored by the Division, and
- c. is funded through the Home- and Community-Based Waiver Services Program administered by the Division;

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

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

54. "Torture" means to inflict:

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

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

56. "Transitional living program" means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting children to develop the skills and

abilities necessary for successful adult living. Said program may include, but shall not be limited to, reduced staff supervision, vocational training, educational services, employment and employment training, and other appropriate independent living skills training as a part of the transitional living program;

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

- a. a description of the type of home or facility in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the judicial determination made with respect to the child, and
- b. a plan for assuring that the child receives proper care and that services are provided to the parents, child, and placement providers in order to improve the conditions in the parents' home, facilitate return of the child to the child's own home or to an alternate permanent placement, and address the needs of the child while in out-of-home care, including a discussion of the appropriateness of the services that have been provided to the child under the plan; and

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

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

SECTION 6. 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. 1999, 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~~ the Oklahoma Children's Code,
- 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. a. If ~~a~~ the petition seeks termination of parental rights ~~is desired, it must be stated~~ pursuant to one or more provisions of Section 7006-1.1 of this title, such relief shall be requested in the petition and summons, ~~and if.~~ The factual basis and statutory provisions which support such request shall be specifically set forth in the petition.

b. In cases where termination of parental rights is sought pursuant to paragraph 5 of subsection A of Section 7006-1.1 of this title, the petitioner may request:

- (1) that a child be adjudicated deprived and made a ward of the court,
- (2) that a parent will be provided notice and an opportunity to correct conditions,
- (3) that a hearing be set three (3) months from the time of disposition, and
- (4) that parental rights be terminated at such hearing if the parent has failed to correct the conditions upon which the child was adjudicated deprived.

c. 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; provided, the failure to include a request for such payment shall not by itself remove any duty related to the care and maintenance of the child pursuant to Section 7003-8.7 of this title.

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 the 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 ~~45~~ 7003-4.7 of this ~~act~~ title.

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~~ 7003-4.7 of this ~~act~~ title.

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

E. 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 7. AMENDATORY 10 O.S. 1991, Section 1109, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 12, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7003-3.7), is amended to read as follows:

Section 7003-3.7 A. 1. a. If the parents, legal guardian or custodian of the child requests an attorney and is found to be without sufficient financial means, counsel shall be appointed by the court if a petition has been filed alleging that the child is a deprived child or if termination of parental rights is a possible remedy; provided that the court may appoint counsel without such request, if it deems representation by counsel necessary to protect the interest of the parents, legal guardian or custodian.

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

2. a. ~~If the child is not otherwise represented by counsel,~~
~~whenever~~ Whenever a petition is filed pursuant to the provisions of this part, the court shall appoint a separate attorney, who shall not be a district attorney, regardless of any attempted waiver by the parent, legal guardian or custodian of the child of the right of the child to be represented by counsel. The parent, legal guardian or custodian shall not select the child's attorney. If financially capable, the parent, legal guardian or custodian shall reimburse the Court Fund for the services of a court-appointed attorney for the child.
- b. The attorney appointed for the child shall make arrangements to meet with the child as soon as possible after receiving notification of the appointment. Except for good cause shown, the attorney shall meet with the child not less than twenty-four (24) hours prior to any hearing in such proceeding. The attorney may speak with the child over the telephone if a personal visit is not possible due to exigent circumstances. If a meaningful attorney-client relationship between the child and the attorney is prohibited due to age or disability of the child, the attorney shall contact the custodian or caretaker of the child prior to the hearing.
- c. The attorney shall be given access to all reports, records and other information relevant to the case and to any reports of examination of the child's parents, legal guardian or custodian made pursuant to this section. The attorney shall represent the child and any expressed interests of the child. The attorney shall make such further inquiry as the attorney deems

necessary to ascertain the facts, to interview witnesses, examine and cross-examine witnesses, make recommendations to the court and participate further in the proceedings to the degree appropriate for adequately representing the ~~legal~~ interests of the child.

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

B. 1. Whenever a petition is filed alleging that a child is a deprived child, the court may appoint a guardian ad litem for the child at any time subsequent to the filing of the petition or for any other action related to the child.

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

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

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

- a. review documents, reports, records and other information relevant to the case, meet with and observe the child in appropriate settings, and interview parents, foster parents, health care

- providers, child protective services workers and any other person with knowledge relevant to the case,
- b. advocate for the child's best interests by participating in the case, attending any hearings in the matter and advocating for appropriate services for the child when necessary,
 - c. maintain the confidentiality of information related to a case as required by Article 7 of the Oklahoma Children's Code,
 - d. monitor the child's best interests throughout any judicial proceeding, and
 - e. present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

5. The guardian ad litem shall be given access to the court files and agency files and access to all documents, reports, records and other information relevant to the case and to any records and reports of examination of the child's parent or other custodian, made pursuant to the laws relating to child abuse and neglect including reports generated by service providers.

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

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

3. For purposes of the Oklahoma Children's Code, the ~~term~~ terms "court-appointed special advocate" and "guardian ad litem" shall have the same ~~meaning as "guardian ad litem"~~ function. In like manner, a court-appointed special advocate, except as specifically

otherwise provided by law or by the court, shall have the same power, duties and responsibilities as assigned to a guardian ad litem by law and shall have such other qualifications, duties and responsibilities as may be prescribed by rule by the ~~Oklahoma~~ Supreme Court.

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

D. 1. Any person participating in a judicial proceeding as a court-appointed special advocate shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any civil liability that otherwise might be incurred or imposed.

2. Any person serving in ~~positions of~~ a management position of a court-appointed special advocate organization, including ~~members a~~ member of the Board of Directors acting in good faith, shall be immune from any civil liability or any vicarious liability for the negligence of any court-appointed special advocate organization advocates, managers, or directors.

E. The provisions of this section shall not apply to adoption proceedings and actions to terminate parental rights which do not involve a petition for deprived status of the child. Such proceedings and actions shall be governed by the Oklahoma Adoption Code.

SECTION 8. AMENDATORY 10 O.S. 1991, Section 1110, as last amended by Section 22, Chapter 352, O.S.L. 1995, and as renumbered by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1999, Section 7003-3.8), is amended to read as follows:

Section 7003-3.8 ~~In adjudicatory hearings to determine if a~~ termination of parental rights proceeding initiated pursuant to the provisions of the Oklahoma Children's Code, the parent of a child is deprived, any person entitled to service of summons whose parental rights to the child are sought to be terminated, the child, or the state shall have the right to demand a trial by jury, which shall be

granted as in other cases, unless waived, ~~or~~. In addition, the judge ~~on his own motion~~ may call a jury to try any such case. ~~Such~~ In such cases, the jury shall consist of six ~~(6)~~ persons.

SECTION 9. AMENDATORY 10 O.S. 1991, Section 1116.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 19, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7003-5.6), is amended to read as follows:

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

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

2. The parental rights of the parent are terminated and a final adoption decreed, 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 legal 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, legal guardian or custodian of the child after the child has been returned to that home.

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

D. In addition to the parties, adequate prior written notice of review hearings as determined by the Department pursuant to rules promulgated by the Commission for Human Services, shall be provided by the Department and an opportunity to be heard at such hearings shall be provided by the court to the present foster parent of a child, the child's guardian ad litem, and to any preadoptive parent

or relative providing care for the child; ~~provided, however, if the name and address of the current foster parent is not available to the court when such notice is to be mailed, then the Department shall provide adequate prior notice to the foster parent of the child.~~ Such notice and opportunity to be heard shall not be construed as requiring any foster parent, preadoptive parent or relative to be made a party to such action.

E. At each review hearing, the court shall:

1. Determine whether:

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

- (1) have complied with, performed, and completed ~~each and every term and condition~~ the terms and conditions of the individual treatment and service plan which ~~was previously court ordered~~ are essential and fundamental to the health, safety and welfare of the child as determined by the court,
- (2) have corrected ~~the~~ those conditions which caused the child to be adjudicated which the court determines to be essential and fundamental to the health, safety and welfare of the child,
- (3) have made marked progress towards reunification with the child, and
- (4) have maintained a close and positive relationship with the child.

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

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

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

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

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

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

2. Make a determination:

a. as to whether reasonable efforts have been made to provide for the safe return of the child to the child's own home. In determining reasonable efforts, the child's health and safety 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 individual treatment and service plan as the court determines to be in the best interests of the child and necessary for the correction of the conditions that ~~lead~~ led to the adjudication of the child.

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

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

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

2. A child shall be considered to have entered out-of-home placement on the earlier of:

- a. the adjudication date, or
- b. the date that is sixty (60) days after the date on which the child is removed from the home.

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

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~~ Department of Human Services to the present foster parents of a child, the child's guardian ad litem, and to any preadoptive parent or relative providing care for the child. Such notice and opportunity to be heard shall not be construed as requiring any foster parent, preadoptive parent or relative to be made a party to such action.

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

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

2. The child should ~~continue in out-of-home placement for a specified period~~ be returned to the child's parents, legal guardian or custodian. If returning home remains the plan for the child, the court must find that:

- a. the parent, legal guardian or custodian has made marked progress towards reunification with the child,
- b. the parties have complied with, performed, and completed ~~each and every term and condition~~ the terms

and conditions of the court-ordered individual treatment and service plan which was previously court ordered, which are essential and fundamental to the health, safety and welfare of the child, as determined by the court, and have corrected the conditions which caused the child to be adjudicated,

- c. the parent, legal guardian or custodian has maintained a close and positive relationship with the child, and
- d. the child is likely to return home within the near future pursuant to the provisions of subsection E of this section;

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

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

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

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

- 1. Return the child to the child's home ~~and set;~~
- 2. Set a specific date for the return of the child;

~~2. Continue and continue~~ placement of the child for an additional period of time not to exceed three (3) months, at which time the court shall hold a hearing to consider modification of its permanency order; provided, however, an order entered under this paragraph shall enumerate the specific factors, conditions, or expected behavioral changes which ~~comprise the basis for the determination that the need for removal of the child from the~~

~~child's home will no longer exist at the end of~~ must occur within
the additional three-month period before the child may be returned
to the home. The reasons for any such extension shall be placed in
the record of the court;

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

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

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

SECTION 11. AMENDATORY Section 23, Chapter 421, O.S.L.
1998 (10 O.S. Supp. 1999, Section 7003-5.6f), is amended to read as
follows:

Section 7003-5.6f. A. If a child has resided with a birth
relative before being adopted, the adoptive parents and that birth
relative may enter into an agreement pursuant to the provisions of
this section regarding communication with 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,~~ shall be a
person who has reached eighteen (18) years of age and who is the
Indian child's grandparent, aunt or uncle, brother or sister,
brother-in-law or sister-in-law, niece, nephew, or first or second
~~cousins~~ cousin or stepparent, as provided in the Indian Child
Welfare Act, United States Code, Title 25, Section 1903.

C. 1. An agreement regarding communication with 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 filed.

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.

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.

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

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

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

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

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

B. In accordance with the rules adopted 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 13. AMENDATORY Section 3, Chapter 306, O.S.L. 1993, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as

last amended by Section 9, Chapter 416, O.S.L. 1998 (10 O.S. Supp. 1999, Section 7005-1.4), is amended to read as follows:

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

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

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

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

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

of Section 7005-1.2 of this title for use in the legal representation of the child;

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

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

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

8. The Office of Juvenile Affairs;

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

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

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

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

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

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

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

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

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

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

18. The Governor or to any person the Governor designates, in writing, and any 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~~ who are related to such child within the third degree of consanguinity; 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, legal guardian or custodian of an alleged or adjudicated deprived child or the legal guardian, custodian or any other adult member of the child's home who is responsible for the care of the child; and

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

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

C. Nothing in this section shall be construed as prohibiting the Department from disclosing such confidential information as may

be necessary to secure appropriate care, treatment, protection or supervision of a child alleged to be abused or neglected.

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

E. 1. In cases involving the death or near death of a child when a person responsible for the child has been charged by information or indictment with committing a crime resulting in the child's death or near death, there shall be a presumption that the best interest of the public will be served by public disclosure of certain information concerning the circumstances of the investigation of the death or near death of the child and any other investigations concerning that child, or other children living in the same household.

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

- a. a confirmation that a report has been made concerning the alleged victim or other children living in the same household and whether an investigation has begun,
- b. confirmation as to whether previous reports have been made and the dates thereof, a summary of those previous reports, the dates and outcome of any investigations or actions taken by the Department of Human Services in response to any report of child abuse or neglect, and any actions taken by the

district attorney after submission of any
investigative report, and

- c. the dates of any judicial proceedings prior to the child's death or near death, a summary of each participant's recommendations made at the judicial proceedings, and the rulings of the court.

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

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

SECTION 14. AMENDATORY 12 O.S. 1991, Section 591, is amended to read as follows:

Section 591. The trial by jury may be waived by the parties, in actions arising on contract, and with the assent of the court in other actions, in the following manner:

1. By the consent of the party appearing, when the other party fails to appear at the trial ~~by himself~~ in person or by attorney;

2. By written consent, in person or by attorney, filed with the clerk;

3. By oral consent, in open court, entered on the journal; or

4. For a termination of parental rights proceeding initiated pursuant to the Oklahoma Children's Code, when a parent of a child whose parental rights to the child are sought to be terminated does not make a request for a jury trial within thirty (30) days prior to the commencement of such proceeding.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7004.16 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Sections 1 through 5 of this act shall be known and may be cited as the "Independent Living Act".

B. The purposes of the act shall be:

1. To ensure that a child who "ages out" of the state foster care program receives the protection and support necessary to allow the child to become a self reliant and productive citizen through the provision requisite services that include, but are not limited to, housing, medical coverage and education; and

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

C. As used in this act, "aging out" means a foster child, who has been in the custody of the state due to abuse or neglect by his or her biological parents, who is approaching or has attained the age of eighteen (18) years, and whose parents have been or are unwilling or unable to provide for such child. Such term shall be deemed to signify a child for whom the state has entered into a substitute parent-child relationship and for whom the state has responsibility.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7004.17 of Title 10, unless there is created a duplication in numbering, reads as follows:

Individuals eligible for services under this act include any individual up to twenty-one (21) years of age who has been in the custody of the Department of Human Services for any nine (9) of the twenty-four (24) months after the individual's sixteenth birthday and before the individual's eighteenth birthday.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7004.18 of Title 10, unless there is created a duplication in numbering, reads as follows:

Individuals who are eligible for services under this act and who are between eighteen (18) and twenty-one (21) years of age shall be eligible for Medicaid coverage, provided such individuals were also in the custody of the Department of Human Services on the date they reached eighteen (18) years of age.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7004.19 of Title 10, unless there is created a duplication in numbering, reads as follows:

The Department of Human Services is authorized to provide temporary housing for individuals eligible for services under the Independent Living Act. Such temporary housing shall be available to eligible individuals, not to exceed 365 days, which need not be consecutive.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3230 of Title 70, unless there is created a duplication in numbering, reads as follows:

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

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

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

2. Be a resident of this state;

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

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

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

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

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

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

D. It is the intent of the Legislature that students in the twelfth grade for the 1999-2000 school year who are determined to be

eligible pursuant to this act shall be the first students eligible for the tuition waiver.

SECTION 20. This act shall become effective July 1, 2000.

SECTION 21. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

47-2-3120

CJ

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