

CS for SB 428

THE STATE SENATE
Wednesday, February 17, 1999

Committee Substitute for
Senate Bill No. 428

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 428 - By: STIPE of the Senate and MASS of the House.

An Act relating to children; amending 10 O.S. 1991, Sections 402, as last amended by Section 15, Chapter 414, O.S.L. 1998, 404.1, as last amended by Section 16, Chapter 414, O.S.L. 1998, Section 25, Chapter 353, O.S.L. 1996, as amended by Section 29, Chapter 421, O.S.L. 1998, Section 3, Chapter 353, O.S.L. 1996, as amended by Section 3, Chapter 414, O.S.L. 1998, Section 9, Chapter 353, O.S.L. 1996, as last amended by Section 10, Chapter 414, O.S.L. 1998, and Section 12, Chapter 353, O.S.L. 1996, as last amended by Section 12, Chapter 414, O.S.L. 1998 (10 O.S. Supp. 1998, Sections 402, 404.1, 7004-1.5, 7203, 7209 and 7212), which relate to the Oklahoma Child Care Facilities Licensing Act and the Oklahoma Foster Care and Out-of-Home Placement Act; modifying terms; requiring the Department of Human Services and other entities to complete certain search prior to contracting action; providing for exceptions; clarifying language and grammar; deleting obsolete language relating to certain study; requiring completion of fingerprint records search for certain persons; requiring primary foster parent to undergo certain training; allowing grace period for spouse of primary foster parent to undergo required training; prohibiting untrained spouse from serving as primary care provider prior to completion of training; modifying terms relating to contents of training; requiring foster parents and kinship foster parents to participate in certain training; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 402, as last amended by Section 15, Chapter 414, O.S.L. 1998 (10 O.S. Supp. 1998, Section 402), is amended to read as follows:

1 Section 402. As used in the Oklahoma Child Care Facilities
2 Licensing Act:

3 1. "Child" or "minor" means any person who has not attained the
4 age of eighteen (18) years;

5 2. "Child care facility" means any public or private
6 residential facility, child placing agency, foster family home,
7 group home, day care center, part-day child care program, or family
8 day care home, providing either full-time or part-time care for
9 children away from their own homes, and which is owned or controlled
10 by a political subdivision, a corporation, an unincorporated
11 organization or association, or individual;

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

19 4. "Full-time care" means continuous care given to a child
20 beyond a minimum period of twenty-four (24) hours;

21 5. "Foster family home" means the private residence of a family
22 ~~home,~~ other than the ~~home~~ residence of a parent, ~~stepparent,~~
23 ~~grandparent, brother, sister, uncle, or aunt,~~ which provides

1 ~~full-time~~ that has been certified by the Department of Human
2 Services to provide foster care services for five or fewer children.
3 The term "foster family home" shall include a specialized foster
4 home, a therapeutic foster home, or a kinship foster care home;

5 6. "Foster parent eligibility assessment" includes ~~a~~ an
6 Oklahoma criminal background investigation, ~~including, but not~~
7 ~~limited to, a national criminal history records search based upon~~
8 ~~the submission of fingerprints, a home assessments~~ assessment, and
9 any other assessment required by the Department of Human Services,
10 the Department of Juvenile Justice, or any child-placing agency
11 pursuant to the provisions of the Oklahoma Foster Care and Out-of-
12 Home Placement Act. A foster parent eligibility assessment shall ~~be~~
13 ~~similar to the~~ utilize procedures similar to those used by the
14 ~~Oklahoma~~ Department of Public Safety for determining suitability of
15 an individual for employment as a highway patrol officer;

16 7. "Group ~~homes~~ home" means ~~homes~~ a home providing full-time
17 care and community-based services for more than five ~~children~~ but
18 ~~less~~ fewer than thirteen children;

19 8. "Day care" means the provision of care to and supervision of
20 a child who resides in its own home or with relatives but is in the
21 care of another person, for part of the day, who is ~~conducting~~
22 operating a family day care home or persons ~~conducting~~ who are
23 operating a day care center;

1 9. "Family day care home" means a licensed or approved family
2 home which provides care and protection for seven or fewer children
3 for part of the twenty-four-hour day. The term "family day care
4 home" shall not include informal arrangements which parents make
5 independently with neighbors, friends, and others, or caretakers in
6 the child's own home;

7 10. "Day care center" means a licensed or approved facility
8 which provides care and supervision for eight or more children and
9 which operates for more than thirty (30) hours per week. The term
10 "day care center" shall not include informal arrangements which
11 parents make independently with neighbors, friends, ~~and~~ others, or
12 with caretakers in the child's own home;

13 11. "Part-day child care program" means a licensed facility
14 which provides care and supervision for eight or more children, and
15 which operates for more than fifteen (15) but less than thirty (30)
16 hours per week;

17 12. "Department" means the Department of Human Services;

18 13. "Commission" means the Commission for Human Services, the
19 policy-making and general supervisory body of the Department; and

20 14. "Division" means the division of the Department of Human
21 Services of the State of Oklahoma assigned responsibilities pursuant
22 to the provisions of the Oklahoma Child Care Facilities Licensing
23 Act.

1 SECTION 2. AMENDATORY 10 O.S. 1991, Section 404.1, as
2 last amended by Section 16, Chapter 414, O.S.L. 1998 (10 O.S. Supp.
3 1998, Section 404.1), is amended to read as follows:

4 Section 404.1 A. 1. Except as otherwise provided by
5 subsection B of this section, the Department of Human Services shall
6 require a criminal history investigation, conducted by the Oklahoma
7 State Bureau of Investigation, for any person making application to
8 establish or operate a child care facility prior to the issuance of
9 a license to operate such facility.

10 2. a. Every child care facility shall arrange, prior to
11 employment, for a criminal history investigation to be
12 conducted by the Oklahoma State Bureau of
13 Investigation for any person to be employed by the
14 child care facility.

15 b. In addition, any child care facility, licensed or
16 approved pursuant to the Oklahoma Child Care
17 Facilities Licensing Act, and located in a private
18 residence, shall arrange for a criminal ~~background~~
19 history investigation for any adult residing in the
20 child care facility. A criminal history investigation
21 conducted by the Oklahoma State Bureau of
22 Investigation shall also be completed for any adult
23 who subsequently moves into the private residence.

1 3. If the adult has lived in Oklahoma for less than one (1)
2 year, a criminal history investigation shall also be obtained from
3 the previous state of residence. If the applicant planning to
4 establish or operate a child care facility, or an employee or
5 contract employee of the child care facility, or the contractor of
6 the child care facility has resided in Oklahoma for less than one
7 (1) year, the criminal history investigation shall also be obtained
8 from such person's previous state of residence.

9 B. 1. a. On and after September 1, 1998:

10 (1) any child-placing agency contracting with a
11 person for foster family home services or in any
12 manner for services for the care and supervision
13 of children shall also, prior to executing a
14 contract, ~~arrange for~~ complete:

15 (a) a foster parent eligibility assessment for
16 the foster care provider, and

17 ~~(2) any child-placing agency contracting with a~~
18 ~~person for foster family home services shall~~
19 ~~arrange for~~

20 (b) a national criminal history records search
21 based upon submission of fingerprints for
22 any adult residing in the foster family home
23 through the Department of Human Services

1 pursuant to the provisions of the Oklahoma
2 Foster Care and Out-of-Home Placement Act if
3 such adult has resided in this state for
4 less than five (5) years.

5 (2) The Department may place a child pending
6 completion of the national criminal history
7 records search if such foster family home
8 contractor has resided in this state for five (5)
9 years or longer,

10 (3) A national criminal history records search based
11 upon submission of fingerprints to the Oklahoma
12 State Bureau of Investigation shall also be
13 completed for any adult who subsequently moves
14 into the residence,

15 (4) Provided, however, the Director of Human Services
16 may authorize an exception to this requirement
17 for a person who has a physical condition which
18 precludes such person's being fingerprinted, and

19 ~~(3)~~ (5) any child care facility contracting with
20 any person for foster family home services shall
21 request the Office of Juvenile Justice to conduct
22 a juvenile justice information system review,
23 pursuant to the provisions of Sections 7302-9.6

1 and 7302-3.8 of this title, for any child over
2 the age of thirteen (13) years residing in the
3 foster family home, other than a foster child, or
4 who subsequently moves into the private
5 residence. As a condition of contract, the child
6 care facility shall obtain the consent of the
7 parent or legal guardian of the child for such
8 review.

9 b. The provisions of this paragraph shall not apply to
10 foster care providers having a contract or contracting
11 with a child-placing agency, the Department of Human
12 Services or the Department of Juvenile Justice prior
13 to September 1, 1998. Such existing foster care
14 providers shall comply with the provisions of 10 O.S.
15 Supp. 1997, Section 404.1, until otherwise provided by
16 rules of the Commission for Human Services or by law.

17 2. a. (1) On and after September 1, 1998, except as
18 hereinafter provided, prior to contracting with a
19 foster family home for placement of any child who
20 is in the custody of the Department of Human
21 Services, the Department shall ~~arrange for~~
22 complete a foster parent eligibility assessment,
23 pursuant to the provisions of the Oklahoma Child

1 Care Facilities Licensing Act, for such foster
2 family applicant and shall complete a national
3 criminal history records search based upon
4 submission of fingerprints for any adult residing
5 in such foster family home if such adult has
6 resided in this state for less than five (5)
7 years.

8 (2) Provided, however, the Department may place a
9 child pending completion of the national criminal
10 history records search if such foster family
11 applicant has resided in this state for (5) years
12 or longer.

13 (3) A national criminal history records search based
14 upon submission of fingerprints conducted by the
15 Oklahoma State Bureau of Investigation shall also
16 be completed for any adult who subsequently moves
17 into the residence.

18 (4) The Director of Human Services may authorize an
19 exception to this requirement for a person who
20 has a physical condition which precludes such
21 person's being fingerprinted.

22 b. The provisions of this paragraph shall not apply to
23 foster care providers having a contract or contracting

1 with a child-placing agency, the Department of Human
2 Services or the Department of Juvenile Justice prior
3 to September 1, 1998. Such existing foster care
4 providers shall comply with the provisions of 10 O.S.
5 Supp. 1997, Section 404.1, until otherwise provided by
6 rules of the Commission for Human Services or by law.

7 3. The Department shall provide for a juvenile justice
8 information system review pursuant to Section 7302-3.8 of this title
9 for any child over the age of thirteen (13) years residing in a
10 foster family home, other than the foster child, or who subsequently
11 moves into the private residence.

12 C. The Commission for Human Services shall promulgate rules to
13 identify circumstances when a criminal history investigation or
14 foster parent eligibility assessment for an applicant or contractor,
15 or any person over the age of thirteen (13) years residing in a
16 private residence in which a child care facility is located, shall
17 be expanded beyond the investigation conducted by the Oklahoma State
18 Bureau of Investigation or as otherwise provided pursuant to this
19 section.

20 D. 1. The following persons shall not be required to obtain a
21 criminal history investigation or a national criminal history
22 records search based upon submission of fingerprints to the Federal
23 Bureau of Investigation pursuant to this section:

- 1 a. a parent volunteer who transports children on an
2 irregular basis, and
- 3 b. a child of a child care center or family child care
4 home operator who became an adult during continuous
5 residence at the licensed or approved facility.

6 2. These exemptions shall not preclude the Department from
7 requesting a criminal history investigation or requesting a national
8 criminal history records search based upon submission of
9 fingerprints or investigating criminal, abusive or harmful behavior
10 of such persons, if warranted.

11 E. Except as otherwise provided by the Oklahoma Children's Code
12 and subsection G of this section, a conviction for a crime shall not
13 be an absolute bar to employment, but shall be considered in
14 relation to specific employment duties and responsibilities.

15 F. 1. Information received pursuant to this section by an
16 owner or administrator of a child care facility shall be maintained
17 in a confidential manner in a file that is separate from employment
18 records. The information may be transmitted to the Department for
19 child care facility licensing purposes.

20 2. Whenever an applicant is subsequently employed by or
21 contracts with a child care facility, the information received
22 pursuant to a criminal history investigation, foster parent
23 eligibility assessment, or a national criminal history records

1 search based upon submission of fingerprints shall not be made a
2 part of that individual's personnel or contract records but shall be
3 maintained pursuant to this subsection. The information, along with
4 any other information relevant to the individual's ability to
5 perform tasks that require direct contact with children, may be
6 released to another child care facility in response to a request
7 from the child care facility that is considering employing or
8 contracting with the individual.

9 3. Requirements for confidentiality and record keeping with
10 regard to the information shall be the same for the child care
11 facility receiving the information in response to a request as those
12 provided for in paragraph 1 of this subsection for the child care
13 facility releasing such information.

14 G. 1. A criminal history investigation or national criminal
15 history records search based upon submission of fingerprints
16 conducted by the Oklahoma State Bureau of Investigation shall
17 include a search of Department of Corrections' files maintained
18 pursuant to the Sex Offenders Registration Act.

19 2. a. It shall be unlawful for any person who is required to
20 register pursuant to the Sex Offenders Registration
21 Act to work with or provide services to children or to
22 reside in a child care facility and for any employer
23 who offers or provides services to children to

1 knowingly and willfully employ or contract with, or
2 allow continued employment of or contracting with any
3 person who is required to register pursuant to the Sex
4 Offenders Registration Act. Any person required to
5 register pursuant to the Sex Offenders Registration
6 Act who violates any provision of this act shall, upon
7 conviction, be guilty of a felony punishable by
8 incarceration in a correctional facility for a period
9 of not more than five (5) years and a fine of not more
10 than Five Thousand Dollars (\$5,000.00) or both such
11 fine and imprisonment.

12 b. Upon a determination by the Department of any
13 violation of the provisions of this section, the
14 violator shall be subject to and the Department may
15 pursue:

- 16 (1) an emergency order,
- 17 (2) license revocation, denial or nonrenewal,
- 18 (3) injunctive proceedings,
- 19 (4) an administrative penalty not to exceed Ten
20 Thousand Dollars (\$10,000.00), and
- 21 (5) referral for criminal proceedings.

22 c. In addition to the penalties specified by this
23 section, the violator may be liable for civil damages.

1 ~~H. 1. In order to protect the health and safety of a child in~~
2 ~~out-of-home placement, the Department of Human Services shall study~~
3 ~~the feasibility of implementing a statewide program for a national~~
4 ~~criminal history records search based upon fingerprints submitted to~~
5 ~~the Oklahoma State Bureau of Investigation for a foster parent who~~
6 ~~is currently caring for a child in the custody of the Department of~~
7 ~~Human Services and the Department of Juvenile Justice on the~~
8 ~~effective date of this act.~~

9 ~~2. The study shall include, but not be limited to, assessing~~
10 ~~the costs associated with requiring national fingerprint checks on~~
11 ~~such foster parent, recommending time frames for implementation for~~
12 ~~such program, and any other consideration for the efficient and~~
13 ~~effective implementation of such a program.~~

14 ~~3. The Department shall issue a report on its findings and any~~
15 ~~other recommendations to the Governor and the Legislature not later~~
16 ~~than January 15, 1999.~~

17 SECTION 3. AMENDATORY Section 25, Chapter 353, O.S.L.
18 1996, as amended by Section 29, Chapter 421, O.S.L. 1998 (10 O.S.
19 Supp. 1998, Section 7004-1.5), is amended to read as follows:

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

22 B. 1. When a child has been removed from the child's home and
23 is in the care and custody of the Department, the Department shall

1 attempt to place the child with a person determined by the
2 Department to have a kinship relationship with the child if such
3 placement is in the best interests of the child. A child's health,
4 safety and welfare shall be of paramount concern in any placement.

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

8 C. 1. A person shall be eligible to become a kinship foster
9 parent only upon the completion of an investigation to ascertain if
10 there is ~~a state or federal~~ an Oklahoma record of criminal history
11 for the prospective kinship foster parent or any other adult
12 residing in the prospective kinship foster parent's home.

13 2. ~~The following placement, the~~ Oklahoma State Bureau of
14 Investigation shall ~~conduct the investigation~~ complete a national
15 criminal history records search based upon submission of
16 fingerprints for any kinship foster parent and any adult residing in
17 the home of such parent, and shall make the results of the
18 ~~investigation~~ search available to the Department pursuant to the
19 provisions of the Oklahoma Child Care Facilities Licensing Act. The
20 Director of Human Services may authorize an exception to this
21 requirement for an adult residing in the kinship foster care home
22 who has a physical condition which precludes such person's being
23 fingerprinted.

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

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

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

10 D. A person related by blood, marriage, adoption and by
11 emotional tie or bond to a child may be eligible for approval as a
12 kinship foster care parent.

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

15 1. Reviewing personal and professional references;

16 2. ~~Observation~~ Observing during a ~~home~~ visit ~~of~~ to the home of
17 the kinship foster care family; and

18 3. Interviewing the kinship foster care parent.

19 F. If the person is approved by the Department to provide
20 kinship foster care services, in accordance with rules promulgated
21 by the Commission for Human Services regarding foster care services,
22 and a placement with the kinship foster care family is made, the
23 kinship foster care family shall be eligible to receive payment for

1 the full foster care rate for the care of the child and any other
2 benefits that might be available to foster parents, whether monetary
3 or in services.

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

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

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

14 SECTION 4. AMENDATORY Section 3, Chapter 353, O.S.L.
15 1996, as amended by Section 3, Chapter 414, O.S.L. 1998 (10 O.S.
16 Supp. 1998, Section 7203), is amended to read as follows:

17 Section 7203. For purposes of the Oklahoma Foster Care and Out-
18 of-Home Placement Act:

19 1. "Child-placing agency" means a private agency licensed to
20 place children in foster family homes, group homes, adoptive homes,
21 transitional or independent living programs, or family child care
22 homes or other out-of-home placements; and which approves and
23 monitors such placements and facilities in accordance with the

1 licensing requirements established by the Oklahoma Child Care
2 Facilities Licensing Act;

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

8 3. "Foster child" means a child placed in foster placement;

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

11 5. "Foster family home" means the private residence of a family
12 ~~which provides, other than the residence of a parent, that has been~~
13 certified by the Department of Human Services to provide foster care
14 services to a child for five or fewer children. ~~Such~~ The term
15 "foster family home" shall include a ~~foster family home, a~~
16 ~~specialized foster home, a therapeutic foster family home, the home~~
17 ~~of relative,~~ or a kinship foster care home;

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

21 7. "Foster parent eligibility assessment" includes ~~a~~ an
22 Oklahoma criminal background investigation, ~~including, but not~~
23 ~~limited to, a national criminal history records search based upon~~

1 ~~the submission of fingerprints, a home assessments~~ assessment, and
2 any other assessment required by the Department of Human Services,
3 the Department of Juvenile Justice, or any child-placing agency
4 pursuant to the provisions of the Oklahoma Child Care Facilities
5 Licensing Act and the Oklahoma Foster Care and Out-of-Home Placement
6 Act. ~~Foster~~ A foster parent eligibility ~~assessments~~ assessment
7 shall ~~be~~ utilize procedures similar to ~~the procedures~~ those used by
8 the ~~Oklahoma~~ Department of Public Safety for determining suitability
9 of ~~individuals~~ an individual for ~~employees~~ employment as a highway
10 patrol ~~officers~~ officer;

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

13 9. "Independent living program" means a program specifically
14 designed to assist a child to enhance those skills and abilities
15 necessary for successful adult living. An independent living
16 program may include, but shall not be limited to, minimal direct
17 staff supervision, and supportive services to assist with activities
18 necessary for finding an appropriate place of residence, completing
19 an education or vocational training, obtaining employment, or
20 obtaining other similar services;

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

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

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

9 13. "Parental substitute authority" means the ability of a
10 foster parent to integrate the foster child into the family setting
11 and to care for the foster child as the foster parent would the
12 foster parent's own child. The term "parental substitute authority"
13 also includes, but is not limited to, the ability of the foster
14 parent to:

- 15 a. protect, advance and nurture the foster child's
- 16 physical, emotional and psychological well-being,
- 17 b. meet the foster child's needs and maintain the health
- 18 and personal hygiene of the foster child,
- 19 c. teach the foster child ways to prevent and solve
- 20 problems,
- 21 d. maintain and build the foster parent/foster child
- 22 relationship, and

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

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

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

8 a. has been certified by the Developmental Disabilities
9 Services Division of the Department of Human Services,

10 b. is monitored by the Division, and

11 c. is funded through the Home- and Community-Based Waiver
12 Services Program administered by the Division;

13 16. "State agency" means the Department of Human Services or
14 the Department of Juvenile Justice, as applicable; and

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

19 SECTION 5. AMENDATORY Section 9, Chapter 353, O.S.L.
20 1996, as last amended by Section 10, Chapter 414, O.S.L. 1998 (10
21 O.S. Supp. 1998, Section 7209), is amended to read as follows:

22 Section 7209. A. 1. Except as otherwise provided by law, the
23 Department of Human Services or the Department of Juvenile Justice

1 shall not place a child in out-of-home placement ~~unless~~ prior to
2 completion of a foster parent eligibility assessment ~~has been~~
3 ~~conducted~~ on the foster parent ~~prior to the first placement of a~~
4 ~~foster child in foster care,~~ applicant and completion of a national
5 criminal history records search based upon submission of
6 fingerprints for ~~such other persons~~ any adult residing in the home
7 ~~has been completed,~~ as required by the Oklahoma Child Care
8 Facilities Licensing Act and the Oklahoma Foster Care and Out-of-
9 Home Placement Act; provided, however, such agencies may place a
10 child in the home of a foster parent applicant, pending completion
11 of the national criminal history records search, if such applicant
12 has resided in this state for five (5) years or longer. The
13 director of such agency may authorize an exception to this
14 requirement for an adult residing in the home of such applicant who
15 has a physical condition which precludes such person's being
16 fingerprinted.

- 17 2. a. The Department of Human Services shall be the lead
18 agency for disseminating fingerprint cards for
19 obtaining and requesting a national criminal history
20 records search based upon submission of fingerprints
21 from the Oklahoma State Bureau of Investigation.
- 22 b. The Department of Juvenile Justice, courts and child-
23 placing agencies may request the Department of Human

1 Services to obtain from the Oklahoma State Bureau of
2 Investigation a national criminal history records
3 search based upon submission of fingerprints for
4 foster parents and other persons requiring such search
5 pursuant to the Oklahoma Child Care Facilities
6 Licensing Act and the Oklahoma Foster Care and Out-of-
7 Home Placement Act. Any fees charged by the Oklahoma
8 State Bureau of Investigation or the Federal Bureau of
9 Investigation for such searches shall be paid by the
10 requesting entity.

11 c. The Department of Human Services shall contract with
12 the Oklahoma State Bureau of Investigation to obtain
13 national criminal history records searches based upon
14 submission of fingerprints.

15 d. Upon request for a national criminal history records
16 search based upon submission of fingerprints, the
17 Oklahoma State Bureau of Investigation shall forward
18 one set of fingerprints to the Federal Bureau of
19 Investigation for the purpose of conducting such a
20 national criminal history records search.

21 3. The Department of Human Services, pursuant to Section 7003-
22 5.3 of this title, and the Department of Juvenile Justice, pursuant
23 to Section 7303-5.2 of this title, shall conduct an assessment of

1 each child in its custody which shall be designed to establish an
2 appropriate treatment and service plan for the child.

3 B. 1. A child-placing agency may place a child who is in the
4 custody of the agency in out-of-home placement; ~~provided, if~~ if a
5 foster parent eligibility assessment ~~or~~ and a national criminal
6 history records search based upon submission of fingerprints ~~has~~
7 have been completed for each individual residing in the home in
8 which the child will be placed, as required pursuant to the Oklahoma
9 Child Care Facilities Licensing Act or the Oklahoma Foster Care and
10 Out-of-Home Placement Act; provided, however, the child-placing
11 agency may place a child in a foster family home pending completion
12 of the national criminal history records search if adults residing
13 in the home have resided in this state for five (5) years or longer.
14 The child-placing agency may authorize an exception to this
15 requirement for any adult residing in such home who has a physical
16 condition which precludes such person's being fingerprinted.

17 2. In addition, a satisfactory assessment of the out-of-home
18 placement shall be conducted by the child-placing agency prior to
19 foster placement.

20 C. 1. Whenever a court awards custody of a child to an
21 individual or a child-placing agency other than the Department of
22 Human Services or the Department of Juvenile Justice, for placement
23 of the child, the court shall:

1 a. require that when custody is placed with an
2 individual, a foster family eligibility assessment be
3 conducted ~~of~~ for the foster parents prior to placement
4 of the child, and

5 b. require that if custody is awarded to a child-placing
6 agency, a foster family eligibility assessment be
7 conducted as required by the Oklahoma Child Care
8 Facilities Licensing Act.

9 2. A child-placing agency other than the Department of Human
10 Services or the Office of Juvenile Affairs shall, within thirty (30)
11 days of placement, provide for an assessment of the child for the
12 purpose of establishing an appropriate treatment and service plan
13 for the child. The court shall require the treatment and service
14 plan to be completed in substantially the same form and with the
15 same content as required by the Oklahoma Children's Code for a
16 deprived child or as required by the Juvenile Justice Code for a
17 delinquent child or a child in need of supervision.

18 3. The child shall receive a complete medical examination
19 within thirty (30) days of initial placement unless a medical
20 examination was conducted on the child upon the removal of the child
21 and the court finds no need for an additional examination.

1 4. The child may receive such further diagnosis and evaluation
2 as necessary as determined by the court to preserve the physical and
3 mental well-being of the child.

4 D. 1. When the court awards custody of a child to an
5 individual or a child-placing agency as provided by this subsection,
6 the individual or child-placing agency shall be responsible for the
7 completion of and costs of the national criminal history records
8 search based upon submission of fingerprints, the foster parent
9 eligibility assessment, the preparation of a treatment and service
10 plan, and the medical examination required by this subsection.

11 2. The Department of Human Services and the Department of
12 Juvenile Justice shall be responsible for the completion of and
13 costs of the foster parent eligibility assessment and any national
14 criminal history records search based upon submission of
15 fingerprints, preparation of a treatment and service plan, and the
16 medical examination required by this subsection only for the
17 children placed in the custody of the state agency. The state
18 agency may provide for reimbursement of such expenses, costs and
19 charges so incurred pursuant to the Oklahoma Children's Code and the
20 Juvenile Justice Code, as applicable.

21 E. 1. Upon any voluntary out-of-home placement of a child by a
22 parent into foster care with a child-placing agency, the child-
23 placing agency shall conduct an assessment of the child in its

1 custody which shall be designed to establish an appropriate plan for
2 placement of the child. Following the assessment, the child-placing
3 agency shall establish an individual treatment and service plan for
4 the child. A copy of each plan shall be provided to the child if
5 the child is twelve (12) years of age or older and to the child's
6 parent or guardian. The plan shall at a minimum:

- 7 a. be specific,
- 8 b. be in writing,
- 9 c. be prepared by the agency in conference with the
10 child's parents,
- 11 d. state appropriate deadlines,
- 12 e. state specific goals for the treatment of the child,
- 13 f. describe the conditions or circumstances causing the
14 child to be placed in foster care,
- 15 g. describe the services that are necessary to remedy and
16 that have a reasonable expectation of remedying the
17 conditions or circumstances causing the child to be
18 placed in foster care,
- 19 h. state to whom the services will be delivered and who
20 will deliver the services, and
- 21 i. prescribe the time the services are expected to begin
22 and the time within which expected results can
23 reasonably be accomplished.

1 2. The child shall receive a complete medical examination
2 within thirty (30) days of placement in foster care.

3 F. The child may receive such further diagnosis and evaluation
4 as is necessary to preserve the physical and mental well-being of
5 the child.

6 G. Subsequent to initial placement, the child placed in foster
7 placement shall have a medical examination, at periodic intervals,
8 but not less than once each year.

9 H. Prior to any proposed counseling, testing or other treatment
10 services, the court or child-placing agency shall first determine
11 that the proposed services are necessary and appropriate.

12 I. 1. If the assessment and medical examination disclose no
13 physical, mental or emotional reasons for therapeutic foster care, a
14 child voluntarily placed with a child-placing agency shall be placed
15 in a regular foster family home. If therapeutic foster care is
16 required, the child may be placed only in foster homes that are
17 certified as therapeutic foster ~~care~~ homes pursuant to the Oklahoma
18 Child Care Facilities Licensing Act.

19 2. No child shall be eligible for any reimbursement through the
20 state Medicaid program for placement in therapeutic foster care
21 unless such placement has been reviewed and approved pursuant to
22 rules regarding medical necessity for therapeutic foster care
23 placement promulgated by the Oklahoma Health Care Authority Board.

1 SECTION 6. AMENDATORY Section 12, Chapter 353, O.S.L.
2 1996, as last amended by Section 12, Chapter 414, O.S.L. 1998 (10
3 O.S. Supp. 1998, Section 7212), is amended to read as follows:

4 Section 7212. A. 1. The Department of Human Services, the
5 Department of Juvenile Justice and each child-placing agency shall
6 develop:

- 7 a. a foster care education program to provide training
8 for persons intending to furnish foster care services,
9 and
10 b. continuing educational programs for foster parents.

11 2. The Department of Human Services shall develop:

- 12 a. a kinship foster care training program, and
13 b. continuing educational programs for foster parents
14 providing kinship foster care.

15 B. 1. In addition to any other conditions and requirements
16 specified by the state agency or child-placing agency, as
17 applicable, prior to placement of a child in foster placement other
18 than kinship care, ~~each~~ the primary foster parent shall have
19 completed the training approved by the Department of Human Services,
20 the Department of Juvenile Justice or the child-placing agency, as
21 appropriate. If the spouse of the primary foster parent has a job
22 which precludes such spouse's completing the required training prior
23 to certification, such spouse shall have up to three (3) months

1 following certification to complete all required training. The
2 untrained spouse shall not serve as the primary care provider for a
3 child in foster placement in the home prior to completion of such
4 training.

5 2. Approved training shall require a minimum of twelve (12)
6 hours of study related, but not limited, to physical care,
7 education, learning disabilities, procedures for referral to and
8 receipt of necessary professional services, behavioral assessment
9 and modification, independent-living skills, and procedures for
10 biological parent contact. Such training shall relate to the area
11 of parental substitute authority, behavioral management techniques
12 including, but not limited to, ~~restraining and holding techniques,~~
13 parent-child conflict resolution techniques, stress management, and
14 any other appropriate technique to teach the foster parent how to
15 ~~control potentially violent~~ manage the child's behavior in a manner
16 appropriate to the age and development of the foster child.

17 3. The foster parent or person intending to provide foster care
18 services may complete the training as part of an approved training
19 program offered by a public or private agency with expertise in the
20 provision of child foster care or in related subject areas.

21 4. Within three (3) months of certification, foster parents
22 must participate in training for behavioral management techniques
23 which shall include information regarding restraining and holding

1 techniques, and other techniques appropriate for controlling
2 potentially violent behavior in a manner appropriate to the age and
3 development of the foster child.

4 C. 1. A foster parent providing kinship foster care shall, if
5 possible, complete the training developed by the Department of Human
6 Services for kinship foster care prior to placement or at such other
7 times as required by the Department; provided, however, in no event
8 shall such training take place later than three (3) months after
9 placement of the child with such foster parent. Such training shall
10 relate to the area of parental substitute authority, behavioral
11 management techniques including, but not limited to, ~~restraining and~~
12 ~~holding techniques,~~ parent-child conflict resolution techniques,
13 stress management, and any other appropriate technique to ~~teach the~~
14 ~~foster parent how to control potentially violent~~ manage behavior in
15 a manner appropriate to the age and development of the foster child.

16 2. The Department shall complete a home study or other
17 evaluation required by the Department of Human Services for the
18 purpose of placing a child into kinship foster care as soon as is
19 feasible after the initial placement of a child.

20 3. In order to provide for the payment or reimbursement for the
21 providing of kinship foster care services until the certification
22 and training requirements have been completed, the Department shall
23 enter into a ~~ninety-day~~ one hundred twenty-day contract with the

1 foster parent during which time the Department and the foster
2 parents shall satisfy the certification and training requirements.

3 D. Foster parent training programs may include, but need not be
4 limited to, in-service training, workshops and seminars developed by
5 the state agency; seminars and courses offered through public or
6 private education agencies; and workshops, seminars and courses
7 pertaining to behavioral and developmental disabilities and to the
8 development of mutual support services for foster parents.

9 E. The Department of Human Services, the Department of Juvenile
10 Justice and each child-placing agency shall provide statewide
11 training, education, and continuing education programs for foster
12 parents.

13 F. The Department of Human Services, the Department of Juvenile
14 Justice or each child-placing agency shall notify a foster parent at
15 least ten (10) business days in advance of the statewide scheduling
16 of education, continuing education or foster parent training
17 occurring near the vicinity of the home of a foster parent.

18 G. The Department of Human Services may also provide additional
19 foster care training to a foster parent. A foster parent may
20 request in writing to the Department of Human Services that
21 additional foster parent training ~~is needed~~ be provided.

22 SECTION 7. It being immediately necessary for the preservation
23 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.
3 COMMITTEE REPORT BY: COMMITTEE ON HUMAN RESOURCES, dated 2-11-99 -
4 DO PASS, As Amended and Coauthored.