

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

HOUSE BILL HB1108

By: Gilbert

AS INTRODUCED

An Act relating to the Department of Human Services; amending Section 32, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 2000, Section 7214), which relates to voluntary foster care placement; authorizing extended time period for voluntary placement of certain children; prohibiting seeking of state custody of certain children; providing exceptions; requiring evaluations; providing for responsibilities and duties; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 32, Chapter 421, O.S.L. 1998 (10 O.S. Supp. 2000, Section 7214), is amended to read as follows:

Section 7214. A. The Department of Human Services, including, but not limited to, the Developmental Disabilities Services Division, may accept a child into voluntary foster care placement when requested by the parent having legal custody of the child or when requested by a child residing in foster care who reaches eighteen (18) years of age and wishes to continue to reside in the foster care home pursuant to the provisions of subsection B of this section.

B. 1. Any child may be accepted into voluntary foster care placement with the Department.

2. The Department shall inform a parent considering voluntary foster care placement of a child, or the child residing in foster

care who attains eighteen (18) years of age and wishes to continue to reside in the foster care home, of the following as applicable:

- a. a parent who enters a voluntary foster care placement agreement may at any time request that the agency return the child,
- b. evidence gathered during the time the child is voluntarily placed in foster care may be used at a later time as the basis for a petition alleging that the child is deprived, or as the basis for a petition seeking termination of parental rights,
- c. the timelines and procedures for voluntary foster care placements.

3. Upon acceptance of a child into voluntary foster care placement, the Department shall prepare a notice of placement signed by the parent or the child residing in foster care who reaches eighteen (18) years of age and wishes to continue to reside in the foster care home.

4. A period of voluntary foster care placement pursuant to the provisions of this section shall not exceed ninety (90) days except as otherwise provided by the Commission for Human Services by rule. The voluntary foster care placement of a child with a severe mental illness, emotional disturbance, a behavior disorder or developmental disorder may be extended an additional ninety (90) days if such additional time is recommended by the treatment plan for the child and prepared pursuant to the provisions of this section, provided that such additional time will more appropriately meet the needs of the child, the family and the community.

5. Except as otherwise provided by this section or Section 7006-1.1 of Title 10 of the Oklahoma Statutes, voluntary foster care placement pursuant to the conditions and restrictions of this subsection shall not constitute abandonment, or abuse or neglect as defined in the Oklahoma Children's Code. Except as otherwise

provided by this section or Section 7218 of this title, the Department shall not seek legal custody of any child with mental illness, emotional disturbance, a behavior disorder or developmental disorder if the child is voluntarily placed in foster care with and accepted by the Department for the purpose of placing the child in an out-of-home placement pursuant to this section, or in intensive outpatient service, including, but not limited to, residential treatment programs, therapeutic foster care programs and extended day treatment programs.

6. The Commission shall promulgate rules for the purpose of assessing parents for the full or partial cost of voluntary foster care placement.

C. 1. A child accepted for voluntary foster care placement by the Department shall be evaluated for placement. The evaluation for voluntary foster care placement shall include an assessment of the child's physical and mental health, developmental status, family and social history, and educational status. A treatment plan shall be developed for the child which contains, at a minimum, the goals to be achieved by the placement, the services which are to be provided, their intensity, duration, provider of the services, and the recommended duration of the placement.

2. If a change in legal custody is recommended, the evaluation for placement shall include other alternatives which have been explored and the reason for their rejection. The evaluation for placement shall also contain an explanation of any particular placements which were considered and not chosen and the reason for their rejection.

D. The Department may:

1. Participate in federal programs relating to deprived children and services for such children; and

2. Apply for, receive, use and administer federal funds for such purposes.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10 of Title 7215, unless there is created a duplication in numbering, reads as follows:

A. The Department of Human Services may provide for the care of a child who is in the voluntary foster care custody of the Department pursuant to Section 7214 of Title 10 of the Oklahoma Statutes:

1. In the home of the child, the home of a relative of the child, a foster home, a group home, a transitional living program, an independent living program or in any other community-based child care facility under the jurisdiction or licensure of the Department appropriate for the care of the child and shall provide for the outpatient care and treatment of the child; or

2. The Department may place the child in a public or private mental health facility. The Department may place such child with the Department of Mental Health and Substance Abuse Services upon the consent of the Commissioner of Mental Health and Substance Abuse Services or his designee. The Department shall establish a system for the regular review by a qualified mental health professional, at intervals of not more than thirty (30) days, of the case of each child in need of treatment in the voluntary custody of the Department and receiving inpatient care and treatment to determine whether or not continued inpatient treatment is required and appropriate for the child. When such child no longer requires inpatient care and treatment in a mental health treatment facility, the Department shall place the child as provided in paragraph 1 of this subsection.

B. In providing for the outpatient care and the treatment of children in its voluntary custody pursuant to Section 7214 of Title 10 of the Oklahoma Statutes, the Department of Human Services shall utilize to the maximum extent possible and appropriate the services available through:

1. The guidance centers operated by the State Department of Health;

2. The Department of Mental Health and Substance Abuse Services; and

3. Community-based private nonprofit agencies and organizations.

C. The Department of Human Services and the Department of Mental Health and Substance Abuse Services, no later than January 1, 2002, shall jointly establish procedures which shall ensure that children voluntarily placed in the custody of the Department of Human Services shall have adequate and appropriate access to the services, including but not limited to inpatient services, emergency services, group homes, and day treatment services, provided through the Oklahoma Youth Center and to other appropriate facilities and programs operated by or available through the Department of Mental Health and Substance Abuse Services.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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