

1 STATE OF OKLAHOMA

2 1st Session of the 48th Legislature (2001)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE FOR ENGROSSED
5 HOUSE BILL HB1185

By: Greenwood, Vaughn,
Pettigrew, Liotta, Coleman
and Dank of the House

6 and

7 Coffee of the Senate

8
9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to marriage, family and children;
12 amending 43 O.S. 1991, Section 112.2, which relates
13 to domestic abuse and visitation; requiring reporting
14 of child abuse by the court; requiring certain
15 investigation and reports; providing procedures;
16 making certain false reports unlawful; providing
17 penalties; providing civil liability; making false
18 reports consideration for custody or change of
19 custody; amending 10 O.S. 1991, Sections 1101, as
20 renumbered by Section 199, Chapter 352, O.S.L. 1995,
21 and as last amended by Section 5, Chapter 374, O.S.L.
22 2000 and 1102.1, as renumbered by Section 199,
23 Chapter 352, O.S.L. 1995, and as last amended by
24 Section 6, Chapter 374, O.S.L. 2000 (10 O.S. Supp.
25 2000, Sections 7001-1.3 and 7002-1.2), which relate
26 to the Oklahoma Children's Code; modifying certain
27 definitions; authorizing certain court orders
28 requiring certain information in orders; granting
29 certain authority to the district courts regarding
30 custody of certain mothers and certain unborn
31 children; requiring certain notice; authorizing
32 expedited process; authorizing termination of
parental rights upon certain conditions; modifying
procedures for certain child custody actions
involving child abuse reports; providing for
codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 43 O.S. 1991, Section 112.2, is
amended to read as follows:

Section 112.2 A. In every case involving the custody of,
guardianship of or visitation with a child, the court shall consider
evidence of ongoing domestic abuse which is properly brought before

1 it. If the occurrence of ongoing domestic abuse is established by
2 clear and convincing evidence, there shall be a rebuttable
3 presumption that it is not in the best interests of the child to
4 have custody, guardianship or unsupervised visitation granted to the
5 abusive person.

6 B. 1. In any action for divorce, separate maintenance,
7 guardianship, paternity, custody or visitation, including
8 modifications or enforcements of any prior court order where the
9 interests of a minor child is involved and evidence is presented
10 which indicates that a child may be or may have been abused, the
11 court shall notify the appropriate county office of the Department
12 of Human Services that evidence has been submitted to the court that
13 indicates the child may be a victim of abuse.

14 2. Upon notification by the court, the Department shall conduct
15 an assessment or investigation concerning the child abuse allegation
16 in accordance with priority guidelines established by the Department
17 pursuant to the Oklahoma Child Abuse Reporting and Prevention Act.

18 3. The Department shall send a copy of the report of its
19 findings to the referring court within thirty (30) days of the
20 notification of the court that the child may be a victim of abuse.
21 The court shall notify the parties to the proceeding of the
22 submission of the report to the court. In addition, the Department
23 shall submit a copy of its report regarding the assessment or
24 investigation to the office of the district attorney if required
25 pursuant to Section 7106 of Title 10 of the Oklahoma Statutes.

26 4. If the report of child abuse is confirmed, the district
27 attorney shall advise the referring court within three (3) business
28 days of the receipt of the Department's findings whether a deprived
29 petition will be filed by that office. If no deprived petition is
30 filed, the court may take appropriate action regarding the custody
31 of the child, appointment of a guardian for the child or visitation
32 of the child.

1 C. Nothing in this section shall preclude the referring court
2 from entering an order to have the child taken into emergency
3 custody if evidence presented to the referring court indicates a
4 child is in surroundings that are such as to endanger the health,
5 safety or welfare of the child. If a child is taken into emergency
6 custody by such an order, the provisions of Article III of the
7 Oklahoma Children's Code shall apply.

8 D. 1. Any person in an action for divorce, separate
9 maintenance, guardianship, paternity, custody or visitation
10 including modifications or enforcements of a prior court order where
11 the interests of a minor child is involved, who knowingly and
12 willfully makes a false child abuse report pursuant to the
13 provisions of subsection B of this section or a child abuse report
14 that the person knows, or should know, lacks factual foundation,
15 upon conviction thereof, shall be guilty of a misdemeanor.

16 2. Any person subject to the provisions of this subsection, who
17 has been previously convicted of making a false report pursuant to
18 this section or pursuant to the provisions of the Oklahoma Child
19 Abuse Reporting and Prevention Act, upon conviction thereof, shall
20 be guilty of a felony.

21 3. If a court determines that an accusation of child abuse made
22 during a proceeding specified by this subsection is false and the
23 person making the accusation knew, or should have known, it to be
24 false at the time the accusation was made, the court may impose a
25 fine for contempt of court, not to exceed Ten Thousand Dollars
26 (\$10,000.00).

27 4. The court shall consider false allegations of child abuse in
28 determining custody of the child.

29 5. Any person who is determined to have willfully and knowingly
30 filed a false child abuse report may be civilly liable to the child,
31 the Department and/or to the victim for any damages suffered,
32

1 including reasonable attorney fees and costs incurred as a result of
2 the filing of the false child abuse report.

3 6. The remedies provided by this subsection are in addition to
4 any other remedy provided by law.

5 SECTION 2. AMENDATORY 10 O.S. 1991, Section 1101, as
6 renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last
7 amended by Section 5, Chapter 374, O.S.L. 2000 (10 O.S. Supp. 2000,
8 Section 7001-1.3), is amended to read as follows:

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

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

13 a. has willfully left the infant alone or in the care of
14 another who is not the parent of the infant without
15 identifying the infant or furnishing any means or
16 methods of identification,

17 b. has willfully left the infant alone or in the care of
18 another who is not the parent of the infant and
19 expressed a willful intent by words, actions, or
20 omissions not to return for the infant,

21 c. has knowingly placed or knowingly allowed the infant
22 be placed in or remain in conditions or surroundings
23 that posed or constituted a serious danger to the
24 health and safety of the infant thereby demonstrating
25 wanton disregard for the child's well-being,

26 d. is a father, or a putative father if the infant was
27 born out of wedlock, and:

28 (1) if an infant is less than ninety (90) days of
29 age, who fails to show that he has exercised
30 proper parental rights or duties with regard to
31 the infant, including, but not limited to,
32 contributing to the support of the mother of the

1 infant to the extent of his financial ability
2 during her term of pregnancy,

3 (2) (a) if an infant is older than ninety (90) days
4 but less than fourteen (14) months of age,
5 who fails to show that he has exercised
6 proper parental rights or duties with regard
7 to the infant, including, but not limited
8 to, contributing to the support of the
9 infant to the extent of his financial
10 ability, which may include contributing to
11 the support of the mother of the infant to
12 the extent of his financial ability during
13 her term of pregnancy.

14 (b) Failure to contribute to the support of the
15 mother during her term of pregnancy,
16 pursuant to this subdivision, shall not in
17 and of itself be grounds for termination of
18 the parental rights of the father or
19 putative father, or

20 (3) (a) if the infant is fourteen (14) months of age
21 or older, who fails to show that he has
22 exercised proper parental rights or duties
23 with regard to the infant, including, but
24 not limited to, contributing to the support
25 of the infant to the extent of his financial
26 ability.

27 (b) Pursuant to this subdivision, failure to
28 contribute to the support of the mother
29 during her term of pregnancy shall not in
30 and of itself be grounds for termination of
31 the parental rights of the father or
32 putative father.

1 In any case where a father, or a putative father of an
2 infant born out of wedlock, claims that prior to the
3 receipt of notice of the hearing provided for in
4 Section 7006-1.2 of this title he had been
5 specifically denied knowledge of the infant or denied
6 the opportunity to exercise parental rights or duties
7 with regard to the infant, such father or putative
8 father shall prove to the satisfaction of the court
9 that he made sufficient attempts to discover if he had
10 fathered a child or made sufficient attempt to
11 exercise parental rights or duties with regard to the
12 infant prior to the receipt of notice,

13 e. has not had significant or meaningful contact with the
14 infant during the six (6) months immediately prior to
15 out-of-home placement or the six (6) continuous months
16 while in out-of-home placement, and has not made
17 meaningful efforts to gain or regain custody of or to
18 have regular visitation with the infant, despite being
19 given the opportunity to do so.

20 Incidental or token visits, communications or contributions shall
21 not be construed or considered in establishing the proper exercise
22 of parental rights or duties with regard to the infant;

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

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

- a. an evaluation of the child's safety, and
- b. a determination regarding the family's need for 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. For purposes of determining whether a child is deprived as such term is described by subparagraph g of paragraph 14 of this subsection, the term "child" shall also include an unborn viable child;

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

1 limited to, emergency shelter, crisis intervention, group work, case
2 supervision, job placement, recruitment and training of volunteers,
3 consultation, medical, educational, home-based services, vocational,
4 social, preventive and psychological guidance, training, counseling,
5 early intervention and diversionary substance abuse treatment,
6 sexual abuse treatment, transitional living, independent living, and
7 other related services and programs;

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

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

26 12. "Day treatment" means a nonresidential program which
27 provides intensive services to a child who resides in the child's
28 own home, the home of a relative, group home, a foster home or
29 residential child care facility. Day treatment programs include,
30 but are not limited to, educational services;

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

32 14. "Deprived child" means a child:

- 1 a. who is for any reason destitute, homeless, or
2 abandoned,
- 3 b. who does not have the proper parental care or
4 guardianship or whose home is an unfit place for the
5 child by reason of neglect, abuse, cruelty, or
6 depravity on the part of the child's parents, legal
7 guardian, or other person responsible for the child's
8 health or welfare,
- 9 c. who is a child in need of special care and treatment
10 because of the child's physical or mental condition,
11 and the child's parents, legal guardian, or other
12 custodian is unable or willfully fails to provide such
13 special care and treatment. As used in this
14 paragraph, a child in need of special care and
15 treatment includes, but is not limited to, a child who
16 at birth tests positive for alcohol or a controlled
17 dangerous substance and who, pursuant to a drug or
18 alcohol screen of the child and an assessment of the
19 parent, is determined to be at risk for future
20 exposure to such substances,
- 21 d. who is a child with a disability deprived of the
22 nutrition necessary to sustain life or of the medical
23 treatment necessary to remedy or relieve a life-
24 threatening medical condition in order to cause or
25 allow the death of the child if such nutrition or
26 medical treatment is generally provided to similarly
27 situated children without a disability or children
28 with disabilities; provided that no medical treatment
29 shall be necessary if, in the reasonable medical
30 judgment of the attending physician, such treatment
31 would be futile in saving the life of the child,
32

- 1 e. who is, due to improper parental care and
2 guardianship, absent from school as specified in
3 Section 10-106 of Title 70 of the Oklahoma Statutes,
4 if the child is subject to compulsory school
5 attendance, ~~or~~
- 6 f. whose parent, legal guardian or custodian for good
7 cause desires to be relieved of custody, or
- 8 g. who is an unborn viable child whose health or life is
9 determined to be at risk due to the mother's use of or
10 exposure to alcohol or to a controlled dangerous
11 substance.

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

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

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

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

28 16. "Emergency custody" means the custody of a child prior to
29 adjudication of the child following issuance of an order of the
30 district court pursuant to Section 7003-2.1 of this title or
31 following issuance of an order of the district court pursuant to an
32

1 emergency custody hearing, as specified by Section 7003-2.4 of this
2 title;

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

7 18. "Foster care" or "foster care services" means continuous
8 twenty-four-hour care and supportive services provided for a child
9 in foster placement including, but not limited to, the care,
10 supervision, guidance, and rearing of a foster child by the foster
11 parent;

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

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

15 21. "Foster family home" means the private residence of a
16 foster family which provides foster care services to a child. Such
17 term shall include a nonkinship foster family home, a specialized
18 foster home, a therapeutic foster family home, or the home of a
19 relative or other kinship care home;

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

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

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

30 25. "Group home" means a residential facility housing no more
31 than twelve children with a program which emphasizes family-style
32 living in a homelike environment. Such group home may also offer a

1 program within the community to meet the specialized treatment needs
2 of its residents;

3 26. "Independent living program" means a program specifically
4 designed to assist a child to enhance those skills and abilities
5 necessary for successful adult living. An independent living
6 program may include, but shall not be limited to, such features as
7 minimal direct staff supervision, and the provision of supportive
8 services to assist children with activities necessary for finding an
9 appropriate place of residence, completing an education or
10 vocational training, obtaining employment, or obtaining other
11 similar services;

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

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

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

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

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

31 31. "Kinship relation" or "kinship relationship" means
32 relatives, stepparents, or other responsible adults who have a bond

1 or tie with a child and/or to whom has been ascribed a family
2 relationship role with the child's parents or the child;

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

5 33. "Multidisciplinary child abuse team" means any team
6 established pursuant to Section 7110 of this title of three or more
7 persons who are trained in the prevention, identification,
8 investigation, prosecution and treatment of physical and sexual
9 child abuse and who are qualified to facilitate a broad range of
10 prevention and intervention-related services and services related to
11 child abuse;

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

15 35. "Neglect" means neglect as such term is defined by the
16 Oklahoma Child Abuse Reporting and Prevention Act;

17 36. "Out-of-home placement" means a placement, other than a
18 placement in the home of the parent, legal guardian or custodian
19 from whose custody the court has removed the child;

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

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

27 39. "Person responsible for a child's health, safety or
28 welfare" includes a parent; a legal guardian; custodian; a foster
29 parent; a person eighteen (18) years of age or older with whom the
30 child's parent cohabitates or any other adult residing in the home
31 of the child; an agent or employee of a public or private
32 residential home, institution, facility or day treatment program as

1 defined in Section 175.20 of this title; or an owner, operator, or
2 employee of a child care facility as defined by Section 402 of this
3 title;

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

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

7 a. born out of wedlock, or

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

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

13 (1) a man who has acknowledged or claims paternity of
14 the child,

15 (2) a man named as the father by the mother of the
16 child, or

17 (3) any man alleged to have engaged in sexual
18 intercourse with the mother during a possible
19 time of conception;

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

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

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

30 a. refer to, arrange for, or develop reasonable

31 supportive and rehabilitative services for the family
32 of such child that are required both to prevent

1 unnecessary placement of the child outside of the
2 child's home and to foster, whenever appropriate, the
3 safe reunification of such child with the child's
4 family, or

5 b. place a child who cannot be returned home into a
6 permanent placement;

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

10 (1) after transfer of legal custody of the child,
11 other than adoption, or

12 (2) when a guardianship or kinship guardianship is
13 established for the child.

14 b. Residual parental rights and responsibilities may be
15 limited or restricted as determined by the court, and
16 include, but are not limited to:

17 (1) the right of visitation,

18 (2) the right to consent to adoption,

19 (3) the responsibility for support of and costs of
20 medical care for the child, and

21 (4) the right to determine the religious faith of the
22 child;

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

29 47. "Secure facility" means a facility which is designed and
30 operated to ensure that all entrances and exits from the facility
31 are subject to the exclusive control of the staff of the facility,
32 whether or not the juvenile being detained has freedom of movement

1 within the perimeter of the facility, or a facility which relies on
2 locked rooms and buildings, fences, or physical restraint in order
3 to control behavior of its residents;

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

- 6 a. substantial risk of death,
- 7 b. extreme physical pain,
- 8 c. protracted and obvious disfigurement, or
- 9 d. protracted loss or impairment of the function of a
10 bodily member, organ or mental faculty;

11 49. "Serious danger to the health and safety" means that
12 without the intervention of another person or agency, a child would
13 likely or in all probability sustain severe or permanent disability
14 or injury, illness, or death;

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

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

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

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

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

31 54. "Torture" means to inflict:
32

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

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

8 56. "Transitional living program" means a residential program
9 that may be attached to an existing facility or operated solely for
10 the purpose of assisting children to develop the skills and
11 abilities necessary for successful adult living. The program may
12 include, but shall not be limited to, reduced staff supervision,
13 vocational training, educational services, employment and employment
14 training, and other appropriate independent living skills training
15 as a part of the transitional living program;

16 57. "Treatment and service plan" means a document written
17 pursuant to Section 7003-5.3 of this title; and

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

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

27 SECTION 3. NEW LAW A new section of law to be codified
28 in the Oklahoma Statutes as Section 7003-2.6 of Title 10, unless
29 there is created a duplication in numbering, reads as follows:

30 A. Pursuant to the Oklahoma Children's Code, the district court
31 may issue any order relating to an unborn viable child whose health
32 or life is determined to be at risk due to the mother's use of or

1 exposure to alcohol or to a controlled dangerous substance. Any
2 such order shall state the specific reasons supporting the
3 determination that the unborn viable child's health or life is at
4 risk due to the mother's use of or exposure to alcohol or to a
5 controlled dangerous substance.

6 B. At any hearing held pursuant to the Oklahoma Children's Code
7 prior to an adjudication of a child as deprived on the issue of the
8 custody of an unborn viable child whose health or life has been
9 determined to be at risk due to the mother's use of or exposure to
10 alcohol or to a controlled dangerous substance, the court:

11 1. May require the mother, as caretaker of the unborn viable
12 child, to complete a substance abuse assessment and/or a program of
13 substance abuse treatment as determined by the court;

14 2. May require the mother, as caretaker of the unborn viable
15 child, to take such other actions as may be determined necessary by
16 the court pursuant to the provisions of the Oklahoma Children's
17 Code.

18 3. May make further custody and placement arrangements for the
19 unborn viable child and the mother, as the court deems necessary for
20 the health or life of the unborn viable child; and

21 4. Shall inform the mother, in writing, that failure to
22 complete a substance abuse assessment and/or a program of substance
23 abuse treatment that has been offered and provided to her may result
24 in the termination of her parental rights to her child pursuant to
25 Section 7006-1.1 of Title 10 of the Oklahoma Statutes based upon the
26 expedited process provided in Section 7003-4.6 of Title 10 of the
27 Oklahoma Statutes.

28 C. If a child or unborn viable child has been adjudicated
29 deprived pursuant to subparagraph g of paragraph 14 of subsection A
30 of Section 7001-1.3 of Title 10 of the Oklahoma Statutes, and the
31 mother has failed to complete the substance abuse assessment and/or
32 substance abuse treatment program required by the court that has

1 | been offered and provided to her, the court may determine that
2 | reasonable efforts to provide for the return of the child to the
3 | child's home or preserve the family of the child shall not be
4 | required pursuant to Section 7003-4.6 of Title 10 of the Oklahoma
5 | Statutes and may terminate her parental rights to the child pursuant
6 | to Section 7006-1.1 of Title 10 of the Oklahoma Statutes.

7 | SECTION 4. AMENDATORY 10 O.S. 1991, Section 1102.1, as
8 | renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last
9 | amended by Section 6, Chapter 374, O.S.L. 2000 (10 O.S. Supp. 2000,
10 | Section 7002-1.2), is amended to read as follows:

11 | Section 7002-1.2 A. 1. ~~If the evidence in a juvenile action,~~
12 | ~~or an action for a divorce, for alimony without a divorce, for an~~
13 | ~~annulment, for custody of a child, for the appointment of a guardian~~
14 | ~~of the person of a child, for habeas corpus, or in subsequent~~
15 | ~~proceedings in such actions, indicates that a child is or may be~~
16 | ~~deprived, the referring court shall notify~~ In any for action habeas
17 | corpus divorce, separate maintenance, guardianship, paternity,
18 | custody or visitation, including modifications or enforcements of
19 | any prior court order where the interests of a minor child is
20 | involved and evidence is presented which indicates that child may be
21 | or may have been abused or deprived, the court shall notify the
22 | appropriate county office of the Department of Human Services that
23 | the child may be a victim of abuse or neglect.

24 | 2. The county office shall conduct an assessment or
25 | investigation concerning such report in accordance with priority
26 | guidelines established by the Department ~~of Human Services~~.

27 | 3. The Department shall submit all reports regarding the
28 | assessment or investigation to the office of the district attorney
29 | ~~and~~ as required pursuant to Section 7106 of this title. In
30 | addition, the Department shall send a copy of its ~~reports~~ report to
31 | such the court requesting the investigation or assessment within
32 | thirty (30) days of ~~such notice, and~~ the notification to the

1 Department that the child may be a victim of abuse or neglect. The
2 court shall notify the parties to the proceeding of the submission
3 of the report to the court.

4 4. ~~The~~ If the report of child abuse or neglect is confirmed,
5 the district attorney shall advise the court within three (3) days
6 of the receipt of the Department's findings whether a deprived
7 petition will be filed by that office. If no deprived petition is
8 filed, the court may take appropriate action regarding the custody
9 of the child, ~~or~~ appointment of a guardian for the child or
10 visitation.

11 B. Nothing in this section shall preclude the referring court
12 from entering an order to have the child taken into emergency
13 custody if evidence presented to the referring court indicates a
14 child is in surroundings that are such as to endanger the welfare of
15 the child. If a child is taken into emergency custody by such an
16 order, the provisions of Article III of the Oklahoma Children's Code
17 shall apply.

18 C. If, in any proceeding listed in subsection A of this
19 section, the evidence indicates that a child has been subject to
20 abuse or neglect, the court shall appoint an attorney to represent
21 the child for that proceeding and any related proceedings and, as
22 provided by Section 7003-3.7 of this title, the court shall appoint
23 a guardian ad litem for the child.

24 SECTION 5. It being immediately necessary for the preservation
25 of the public peace, health and safety, an emergency is hereby
26 declared to exist, by reason whereof this act shall take effect and
27 be in full force from and after its passage and approval.

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29 48-1-7283 KSM 6/12/15
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