

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2999

By: Winchester

AS INTRODUCED

An Act relating to children; amending 10 O.S. 2001, Sections 600, 601.1, 601.3, 601.4, as amended by Section 1, Chapter 421, O.S.L. 2004 and 601.12, as amended by Section 3, Chapter 421, O.S.L. 2004 (10 O.S. Supp. 2005, Sections 601.4 and 601.12), which relate to services to children and youth; modifying scope of certain definitions; adding definitions; modifying membership of Oklahoma Commission on Children and Youth; modifying scope of authority; authorizing use of contractual agreements with certain agencies; providing duties for Office of Community-based Youth Services; authorizing establishment of certain youth services programs; authorizing use of financial agreements with certain entities; authorizing establishment of certain programs, shelters and centers; providing functions of community intervention centers; directing use of funds; establishing criteria for the designation of certain agencies; authorizing termination of designation under certain circumstances; providing procedures for contracts; authorizing use of cooperative agreements; directing establishment of program planning and monitoring process; directing Commission to define and monitor services and programs; providing standards for design of programs and services; providing for review of programs and services; providing requirements for certain report; providing for implementation of network-wide management information systems; directing transmittance of district plan to certain entity; amending 10 O.S. 2001, Section 7001-1.3, as last amended by Section 3, Chapter 422, O.S.L. 2004 (10 O.S. Supp. 2005, Section 7001-1.3), which relates to the Oklahoma Children's Code; expanding scope of certain definition; adding definitions; amending 10 O.S. Sections 7301-1.3, 7302-2.2, 7302-3.1, 7302-5.1, which relate to the Oklahoma Juvenile Code; adding definitions; modifying scope of certain definitions; providing statutory references; expanding duties of Department of Juvenile Justice; modifying scope of responsibilities; deleting certain programs and authority to develop programs; deleting duties of coordinator for delinquency prevention services; deleting certain division within Office of Juvenile Justice; directing implementation of reintegration and transitional services for juveniles; providing guidelines; authorizing use of sanction services; defining terms; repealing 10 O.S. 2001, Sections 7302-3.3, 7302-3.4, 7302-3.5, 7302-3.7, 7302-3.8, 7302-3.9, 7302-3.10 and 7302-3.11, and Section 4, Chapter 4, O.S.L. 2002 (10 O.S. Supp. 2005, Section 7302-3.6a), which relate to the Department of

Juvenile Justice; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 600, is amended to read as follows:

Section 600. As used in Sections 601.1 through 601.12 of this title:

1. "Children and youth service system" means health, mental health, social, rehabilitative assistance, juvenile justice delinquency prevention, and educational services provided to children and youth by and through the courts and public and private agencies;

2. "Client" means a child or a family member of a child who is receiving services through the children and youth service system;

3. "Commission" means the Oklahoma Commission on Children and Youth;

4. "Community-based youth services" means that part of the children and youth service system that provides community-based services as defined in Section 7001-1.3 of this title through designated youth services agencies;

5. "Community partnership board" means the local district planning and coordinating body for services to children and youth established pursuant to Section 601.11 of this title;

~~5.~~ 6. "Community partnership district" means the local planning and coordinating areas within the state established pursuant to Section 601.11 of this title;

~~6.~~ 7. "State and state-supported services to children and youth" means services to children and youth, offered or provided by a public or private agency or organization, that are supported in whole or in part through state funds or federal funds administered by the state; ~~and~~

~~7.~~ 8. "State Plan for Services to Children and Youth" means the planning document required by Section 601.9 of this title; and

9. "Youth services agencies" means those agencies designated by the Commission pursuant to Section 9 of this act to provide community-based youth services to children and youth.

SECTION 2. AMENDATORY 10 O.S. 2001, Section 601.1, is amended to read as follows:

Section 601.1 A. There is hereby created the Oklahoma Commission on Children and Youth which shall be composed of ~~nineteen~~ ~~(19)~~ eleven (11) members. The membership shall include:

~~1. The Director of the Department of Human Services, the State Commissioner of Health, the Commissioner of the Department of Mental Health and Substance Abuse Services, the State Superintendent of Public Instruction, the Administrator of the Oklahoma Health Care Authority, the Director of the State Department of Rehabilitation Services, and the Chair of the SJR 13 Oversight Committee;~~

~~2. The Executive Director of the Office of Juvenile Affairs;~~

~~3.~~ Five members who shall be appointed by the Governor from a list submitted by the governing board of each of the following organizations:

- a. the Oklahoma Children's Agencies and Residential Enterprises,
- b. one statewide association of youth services,
- c. the Oklahoma Bar Association,
- d. the Oklahoma District Attorney's Association, and
- e. a statewide court-appointed Special Advocate Association;

~~4.~~ 2. One member appointed by the Governor who shall represent one of the metropolitan juvenile bureaus;

~~5.~~ 3. One member representing business or industry, appointed by the Governor;

~~6.~~ 4. One member who is the parent of a child with special needs, appointed by the Speaker of the House of Representatives;

~~7.~~ 5. One member with a demonstrated interest in improving children's services who is not employed by a state agency or a private organization that receives state funds, appointed by the President Pro Tempore of the Senate;

~~8.~~ 6. One member who represents a community partnership board to be elected pursuant to the guidelines established by the Oklahoma Commission on Children and Youth; and

~~9.~~ 7. One member who shall be appointed by the Governor from a list of three names submitted by the Post Adjudication Review Board. The appointed members shall have had active experience in services to children and youth and may serve two terms of two (2) years each.

B. The Oklahoma Commission on Children and Youth shall provide a monthly report on commission member attendance to the appointing authorities.

SECTION 3. AMENDATORY 10 O.S. 2001, Section 601.3, is amended to read as follows:

Section 601.3 The Oklahoma Commission on Children and Youth is hereby authorized and directed to:

1. Establish and maintain the Office of Planning and Coordination for Services to Children and Youth;

2. Establish and maintain the Office of Juvenile System Oversight; ~~and~~

3. Establish and maintain the Office of Community-based Youth Services;

4. Designate community partnership districts for services to children and youth and, within the limitations of available funds, whether appropriated or otherwise available, provide staff, technical assistance and other assistance as necessary and appropriate to the district boards; and

5. Designate and terminate the designation of Youth Services Agencies.

SECTION 4. AMENDATORY 10 O.S. 2001, Section 601.4, as amended by Section 1, Chapter 421, O.S.L. 2004 (10 O.S. Supp. 2005, Section 601.4), is amended to read as follows:

Section 601.4 The Oklahoma Commission on Children and Youth is further authorized to:

1. Facilitate joint planning and service coordination among public and private agencies that provide services to children and youth;

2. Prepare and publish reports;

3. Review the programs, policies and services for children and youth provided by public and private agencies for compliance with established state policies and progress towards goals identified in planning documents relating to children and youth services and to make reports regarding such compliance and progress;

4. Accept appropriations, gifts, loans and grants from the state and federal government and from other sources, public or private;

5. Enter into agreements or contracts for the development of test models or demonstration programs and projects and for programs of practical research for effective services to children and youth; provided that the administration of contract for such model programs and projects shall, within five (5) years of their inception, be transferred to an appropriate agency or the program or project shall be discontinued;

6. Enter into contracts with Youth Service Agencies or a statewide association of Youth Service Agencies for the provision of community-based youth services;

7. Secure necessary statistical, technical, administrative, operational and staff services by interagency agreement or contract;

~~7.~~ 8. Examine all records, plans, budgets and budget documents pertaining to the children and youth service system;

~~8.~~ 9. Exercise all incidental powers as necessary and proper for the performance of the duties and responsibilities of the Commission;

~~9.~~ 10. Promulgate rules as necessary to carry out the duties and responsibilities assigned to the Oklahoma Commission on Children and Youth; and

~~10.~~ 11. Recommend that a facility providing services to children and youth be closed or that its contract with the state be terminated.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 601.6c of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 2006, the Commission, through its Office of Community-based Youth Services shall:

1. Be the state planning and coordinating agency for statewide juvenile justice and delinquency prevention services;

2. Collect and disseminate information and engage in juvenile justice or delinquency prevention activities relating to the provisions of the Oklahoma Juvenile Code; and

3. Review and recommend approval to the Commission of the comprehensive state plan for the prevention of child abuse and neglect as provided in Section 1-227.3 of Title 63 of the Oklahoma Statutes.

B. Effective July 1, 2006, the following programs are established within the Office of Community-based Youth Services:

1. Programs for community intervention and diversion projects to prevent juvenile delinquency;

2. State programs for children who are potentially delinquent and/or who are adjudicated delinquent;

3. The Delinquency and Youth Gang Intervention and Deterrence Act; and

4. Such other programs prescribed by the Director or by law.

C. Beginning July 1, 2006, the Office of Community-based Youth Services, in cooperation with the courts, shall develop programs which can be used to divert juveniles at risk of becoming delinquent from the formal court process. Such programs shall include, but not be limited to:

1. Alternative diversion programs for first-time offenders as defined by Section 7303-4.6 of Title 10 of the Oklahoma Statutes;

2. Teen court programs, subject to the requirements and procedures provided in Section 7303-4.6 of Title 10 of the Oklahoma Statutes; and

3. Teen substance abuse schools. A teen substance abuse school shall include any program approved by the court that provides educational, motivational and behavior modification instruction for juveniles who have chemical dependency problems.

D. Beginning July 1, 2006, the Commission, in its role as coordinator for delinquency prevention services, shall:

1. In cooperation with local communities, establish guidelines for juvenile delinquency prevention and diversion programs for use in local communities, including but not limited to:

- a. counseling programs,
- b. recreational programs,
- c. job skills workshops,
- d. community public improvement projects,
- e. mediation programs,
- f. programs to improve relationships between juveniles and law enforcement personnel,
- g. diagnostic evaluation services,
- h. substance abuse prevention programs, and

- i. independent living skills and self-sufficiency planning programs; and

2. Provide that personnel shall be available in each county of the state to assist local communities in developing and implementing community programs to prevent delinquency and to divert juveniles who have committed delinquent acts from committing further delinquent or criminal acts. The Commission shall provide this service in each county either directly or by contract.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 601.6d of Title 10, unless there is created a duplication in numbering, reads as follows:

The Commission, through its Office of Community-based Youth Services, as planner and coordinator for the children and youth service system, is hereby authorized to and shall enter into agreements for the establishment and maintenance of community-based prevention and diversionary youth services programs which may include, but are not limited to: Emergency shelter, diagnosis, crisis intervention, counseling, group work, case supervision, job placement, alternative diversion programs for first-time offenders and for youth alleged or adjudicated to be in need of supervision, recruitment and training of volunteers, consultation, brokerage of services, agency coordination with emphasis on keeping youth with a high potential for delinquency out of the traditional juvenile justice process and community intervention centers. The Commission shall enter into agreements based on need as indicated in the State Plan for Services to Children and Youth.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 601.6e of Title 10, unless there is created a duplication in numbering, reads as follows:

The Commission, through its Office of Community-based Youth Services, as planner and coordinator for the children and youth service system, is hereby authorized to enter into financial

agreements with federal, state and local agencies or entities of government, or with any private agency, for juvenile delinquency prevention programs and juvenile treatment programs.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 601.6f of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Commission, through its Office of Community-based Youth Services, is authorized to enter into agreements to establish or maintain community-based youth service programs, shelters and community intervention centers out of local, state and federal monies.

B. The Commission, through its Office of Community-based Youth Services, shall take all necessary steps to develop and implement a diversity of community services and twenty-four-hour emergency youth shelters and shelter homes, as needed to provide for adequate and appropriate community-based care, treatment and rehabilitation of children in its care and supervision and in the custody and supervision of the Office of Juvenile Affairs and the Department of Human Services. Such community services shall be consistent with the treatment needs of the child and the protection of the public.

1. The Commission, through its Office of Community-based Youth Services shall, to the extent reasonable and practicable, provide community services and community intervention centers to children in the custody of the Office of Juvenile Affairs through financial agreements, as authorized in Sections 6 and 7 of this act.

2. The Commission, through its Office of Community-based Youth Services shall establish procedures for the letting of grants or contracts, and the conditions and requirements for the receipt of such grants or contracts, for community-based services, community residential care and community intervention centers. A copy of such procedures shall be made available to any member of the general public upon request.

C. Any state agency letting grants or contracts for the establishment of community residential care or treatment facilities for children shall require, as a condition for receipt of such grants or contracts, documented assurance from the agency or organization establishing such facility that appropriate arrangements have been made for providing the educational services to which residents of the facility are entitled pursuant to state and federal law.

D. 1. The Commission, through its Office of Community-based Youth Services shall establish and maintain continued operation of community intervention centers. The centers shall be established pursuant to interlocal agreements between one or more municipalities, a service provider and the Commission pursuant to rules promulgated by the Commission. If the municipality chooses not to operate the community intervention center, the Commission shall enter into a contract with a local youth services agency to operate a community intervention center. The service provider, whether a municipality or youth services agency, must have access to the management information system provided for in Section 7302-3.8 of Title 10 of the Oklahoma Statutes and must employ qualified staff, as determined by the Commission.

2. The community intervention center shall serve as a short-term reception facility to receive and hold juveniles who have been taken into custody by law enforcement agencies for the alleged violation of a municipal ordinance or state law and for whom detention is inappropriate or unavailable. The community intervention center may be a secure facility. Juveniles held in the community intervention facility shall not be isolated from common areas other than for short-term protective holding for combative or self-destructive behavior, as defined by the Office of Juvenile Affairs.

3. Juveniles shall not be held in a community intervention center for more than twenty-four (24) hours.

4. The community intervention center shall perform the following functions:

- a. enter demographic information into the management information system provided for in Section 7302-3.8 Title 10 of the Oklahoma Statutes,
- b. immediately notify the parents or parent, guardian, or other person legally responsible for the juvenile's care, or if such legally responsible person is unavailable the adult with whom the juvenile resides, that the juvenile has been taken into custody and to pick up the juvenile,
- c. hold juveniles until they can be released to a parent, guardian, or other responsible adult or until a temporary placement can be secured, but in no event for longer than twenty-four (24) hours,
- d. gather information to determine if the juvenile is in need of immediate medical attention, and
- e. conduct an initial assessment pursuant to rules promulgated by the Commission. Such initial assessment may be given without parental consent if the juvenile agrees to participate in the assessment. The on-site assessment shall be used to develop recommendations to address the behavior of the juvenile and to divert the progression of the juvenile into the juvenile justice system in a municipal or district court, to determine if the juvenile is in need of nonemergency medical treatment, and to determine if the juvenile is the victim of violence. Information derived from the initial on-site assessment shall not be used in any phase of

prosecution but may be used by the court following adjudication for the dispositional order and may be used for referrals to social services.

5. A juvenile alleged to have committed an offense which would be a felony if committed by an adult may be fingerprinted at a community intervention center. No other juveniles shall be fingerprinted at community intervention centers.

6. Community intervention centers shall be certified pursuant to standards established by the Office of Community-based Youth Services and rules promulgated by the Commission.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 601.6g of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Funds specifically appropriated to the Commission for designated Youth Services Agency programs for children and youth entitled to receive services from the Commission, the Office of Juvenile Affairs or the Department of Human Services shall be made available through contracts negotiated by the Office of Community-based Youth Services to organizations designated by the Commission as "Youth Services Agencies". Designations shall be granted based on need, as indicated in the State Plan for Services to Children and Youth, and in accordance with criteria approved by the Commission after full consideration of any recommendations of the Department of Human Services, the Office of Juvenile Affairs, and the Oklahoma Association of Youth Services. Until the criteria is established by the Commission, the criteria established by the Office of Juvenile Affairs shall remain in effect. The criteria for designation of Youth Services Agencies shall include but shall not be limited to:

1. Capability to deliver all or part of the compensable services enumerated in Section 7 of this act, if the Youth Services Agency is to provide such services;

2. Capability to deliver all or part of the compensable children's services that the Commission, the Department of Human Services, or the Office of Juvenile Affairs is authorized to provide for by contract with a private agency, if the Youth Services Agency is to provide such services;

3. Adequate and qualified staff who are available as needed, within a reasonable time after being contacted for services in each county served by the agency;

4. Adequate services in each county served by the agency;

5. Financial viability; and

6. A documented need for the local services to be offered.

B. The Commission may also consider whether the agency has successfully completed the standard and programs audit review process by the Oklahoma Association of Youth Services and such other criteria as it determines appropriate. For purposes of this section, financial viability means the reasonably foreseeable ability to deliver the services contracted for during the period of the contract when payment for the services is anticipated to be received within sixty (60) days of the date a claim for payment is made.

C. Each Youth Services Agency receiving, by grant or contract from the Office of Juvenile Affairs on June 30, 2006, state funds specifically appropriated for community-based youth services programs, is hereby automatically designated a "Youth Services Agency".

D. The Commission may terminate the designation of a Youth Services Agency that:

1. Is seriously deficient in the administration of its program;

2. Loses financial viability; or

3. Fails to successfully complete the peer review process by the Oklahoma Association of Youth Services.

Any applicant organization denied designation as a Youth Services Agency, or any Youth Services Agency whose designation as a Youth Services Agency is being terminated is entitled to an individual proceeding as provided in Article II of the Administrative Procedures Act.

E. The Commission, through its Office of Community-based Youth Services, shall be the sole administrator of Youth Services Agency contracts. Any contracting procedure shall include a procedure structuring all contracts in a manner that will allow for the receipt of all properly available federal funds without negatively affecting the services to children and youth.

F. In any dispute between the Commission and a Youth Services Agency involving the payment or nonpayment of a claim in excess of Two Thousand Five Hundred Dollars (\$2,500.00) the Youth Services Agency shall be entitled to an individual proceeding as provided in Article II of the Administrative Procedures Act of Section 308 et seq. of Title 75 of the Oklahoma Statutes.

G. The Commission is authorized to contract with the Oklahoma Association of Youth Services for evaluation, peer review, training and materials, and for statewide office support, including rental of office space and general technical assistance for Youth Services Agencies with which the Commission has contracts.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 601.6h of Title 10, unless there is created a duplication in numbering, reads as follows:

The Commission, through its Office of Community-based Youth Services, the Department of Human Services and the Office of Juvenile Affairs are hereby authorized to, and shall, enter into cooperative agreements for the use by each Department of existing community-based programs, management information and client tracking systems, facility certification systems, community intervention

centers and other shared resources as deemed necessary or appropriate by each Department.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 601.6i of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Commission, through its Office of Community-based Youth Services, shall establish a planning process that provides for collaborative ongoing planning for the development of goals and priorities for community services to children and youth. Said planning process shall be developed with the assistance of the Office of Planning and Coordination for Services to Children and Youth, other state agencies and agencies with whom the Commission contracts to provide services to children and youth, including Youth Service Agencies, and shall provide for identification and assessment of community needs, establishment of goals and priorities, and program implementation and monitoring.

B. Through its planning process, the Commission shall develop a three-year State Plan for Community-based Youth Services which shall be included in the State Plan for Services to Children and Youth required by Section 601.6b of Title 10 of the Oklahoma Statutes. The plan should be regularly reviewed and modified as necessary.

C. The agency budget recommendations of the Commission for services to children and youth shall be based upon documented needs, and the development of budget recommendations and priorities shall be closely integrated with agency and interagency program planning and management.

D. As a part of the program planning and monitoring processes of the Commission, it shall examine its programs and services to children and youth to ensure that the practices within them do not operate to the detriment of minority children and youth.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 601.6j of Title 10, unless there is created a duplication in numbering, reads as follows:

The Commission, through its Office of Community-based Youth Services, shall carefully define and monitor the services and programs of the Commission as to their purpose, the population served and performance expectations. In order to maintain a stable network of services to children and youth, new programs and services and major modifications to existing programs and services shall be made only after evaluation of their effect on other existing programs and services and communication and coordination with other existing public and private children and youth service providers in order to assure successful and cost-effective implementation of the program. An evaluation component that includes monitoring and evaluation of client outcomes shall be incorporated into all of the Commission's programs and services to children and youth, whether provided directly by the agency or through a contract.

1. All programs and services shall be designed to ensure the accessibility of the program to the persons served. Provision for transportation, child care and similar services necessary in order to assist persons to access the services shall be made. If the service is provided in an office setting, the service shall be available at times that will minimize disruption with school or work activities.

2. Programs and services shall be targeted to the areas of the state having the greatest need for them. The programs and services shall be designed to meet the needs of the area in which they are located. Programs and services intended for statewide implementation shall be implemented first in those areas that have the greatest need for them.

3. Requests for proposals developed by the Commission shall be based upon documented service needs and identified priorities. The

request for proposals shall clearly identify the program or service requirements, the population to be served, and performance expectations. The agency shall adopt clear, written guidelines to ensure uniformity in the management, monitoring and enforcement of contracts for services. If in-state private providers are unable or unwilling to respond to the proposal, then out-of-state providers should be encouraged to respond.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 601.6k of Title 10, unless there is created a duplication in numbering, reads as follows:

The Commission shall from time to time, but not less often than annually, review its Community-based Youth Services programs and services and submit a report to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Supreme Court of the State of Oklahoma, the Board of Juvenile Affairs, and the Human Services Commission. Such report shall include, but not be limited to:

1. An analysis and evaluation of programs and services continued, established and discontinued during the period covered by the report;
2. A description of programs and services which should be implemented; and
3. Relevant information concerning the demographics of the children comprising the population served by the Office of Community-based Youth Services during the period covered by the report.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 601.6l of Title 10, unless there is created a duplication in numbering, reads as follows:

A. On or before October 1, 2006, the Commission, after consultation with the Department of Human Services, the Office of Juvenile Affairs and the Oklahoma Association of Youth Services

shall implement a community-based youth services network-wide management information system related to children, youth and families.

B. The management information system shall:

1. Provide for the security of and limited access to the information;

2. Include case-specific information, including outcomes, and have the ability to monitor the status of children and youth receiving services through the Youth Services Agencies; and

3. Be capable of providing management and analytical reports and outcome-based data regarding the various children and youth programs of the youth services agencies, and of providing aggregate information necessary for planning, monitoring and evaluation of said programs and services.

SECTION 15. AMENDATORY 10 O.S. 2001, Section 601.12, as amended by Section 3, Chapter 421, O.S.L. 2004 (10 O.S. Supp. 2005, Section 601.12), is amended to read as follows:

Section 601.12 A. Each community partnership board shall, with the assistance of the Office of Planning and Coordination for Services to Children and Youth, prepare and implement a district plan for children and youth services and for the development and coordination of such services within its district. The district plans shall be transmitted to the Office of Planning and Coordination for Services to Children and Youth and the Oklahoma Commission on Children and Youth, for such entities' review and use in the preparation of the State Plan for Services to Children and Youth and the State Plan for Community-based Youth Services.

B. Each community partnership board shall develop a written statement clearly identifying its operating procedures, purpose, overall responsibilities and method of meeting those responsibilities.

C. The district plan shall address the needs of children, youth and families as they relate to education, health, mental health, economic security, safety and human services issues, and shall contain:

1. Identified goals, intended outcomes, and priorities for serving children and families;

2. A description of specific needs to be addressed by the plan, as well as services and other support available through public, private, and community-based organizations;

3. A description of the amount of all federal, state and local government, and private funds needed to implement the local plan;

4. A plan for sharing data among agencies and across levels of government in accordance with state and federal law;

5. Recommendations for proposed policy or program changes and alternative funding strategies for meeting identified needs;

6. An implementation strategy and time line; and

7. A description of the resources, types of assistance or training needed to implement the plan.

SECTION 16. AMENDATORY 10 O.S. 2001, Section 7001-1.3, as last amended by Section 3, Chapter 422, O.S.L. 2004 (10 O.S. Supp. 2005, 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 care of another who is not the parent of the infant without identifying the infant or furnishing any means or methods of identification,

b. has willfully left the infant alone or in the care 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 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 that he has exercised proper parental rights and responsibilities 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 and responsibilities 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) failure to contribute to the support of the mother during her term of pregnancy, pursuant to 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 the infant is fourteen (14) months of age or older, who fails to show that he has exercised proper parental rights and responsibilities with regard to the infant, including, but not limited to, contributing to the support of the infant to the extent of his financial ability.

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

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

e. has not established and/or maintained substantial and positive relationship with the infant during the six (6) months immediately prior to out-of-home placement or the six (6) continuous months while in out-of-home

placement, and has not made meaningful efforts to gain or regain custody of the infant, despite being given the opportunity to do so. For purposes of this section, "establish and/or maintain substantial and positive relationship" includes but is not limited to:

- (1) frequent and regular contact with the infant through frequent and regular visitation or frequent and regular communication to or with the infant, and
- (2) the exercise of parental rights and responsibilities.

Incidental or token visits, communications or contributions shall not be sufficient to establish and/or maintain a substantial and positive relationship with 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, safety or welfare. The assessment includes, 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" or "juvenile" 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 excluded by the provisions of Section 7301-1.3 of this title;

5. "Minor in need of treatment" means a child in need of mental health or substance abuse treatment as defined by the Inpatient Mental Health and Substance Abuse Treatment of Minors 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. "Children and youth service system" means health, mental health, social, rehabilitative assistance, juvenile justice delinquency prevention, and educational services provided to children and youth by and through the courts and public and private agencies;

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

~~9.~~ 10. "Community-at-Risk Services" means a community-based program provided to juveniles as an early intervention service and to reintegrate juveniles returning from placements. The program shall include, but not be limited to: treatment plan development, counseling, diagnostic and evaluation services, mentoring, tutoring and supervision of youth in independent living. The program shall be provided by agencies designated as Youth Services Agencies by the

Commission on Children and Youth pursuant to a contract with the Commission on Children and Youth;

11. "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.~~ 12. "Community-based Youth Services" means that part of the children and youth service system that provides community-based services as defined in paragraph 11 of this section through designated youth services agencies;

13. "Community Intervention Center" means a facility which serves as a reception center for children who are taken into custody for an alleged violation of a municipal ordinance or state law, as provided for in subsection D of Section 8 of this act;

14. "Court-appointed special advocate" or "CASA" means a responsible adult who 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.~~ 15. "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.~~ 16. "Day treatment" means a nonresidential program which provides intensive services to a child who resides in the child's own home, the home of a relative, group home, a foster home or residential child care facility. Day treatment programs include, but are not limited to, educational services;

~~13.~~ 17. "Department" means the Department of Human Services;

~~14.~~ 18. "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, 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 special care and treatment includes, but is not limited to, a child who at birth tests positive for alcohol or a controlled dangerous substance and who, pursuant to a drug or alcohol screen of the child and an assessment of the

parent, 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, legal guardian or 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.~~ 19. "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.~~ 20. "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.~~ 21. "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.~~ 22. "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.~~ 23. "Foster child" means a child placed in foster placement;

~~20.~~ 24. "Foster family" means all persons living in a foster family home, other than a foster child;

~~21.~~ 25. "Foster family home" means the private residence of a foster family which provides foster care services to a child. Such term shall include a nonkinship foster family home, a specialized foster home, a therapeutic foster family home, or the home of a relative or other kinship care home;

~~22.~~ 26. "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.~~ 27. "Foster placement" means a child-placing agency or foster family home providing foster care services;

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

~~25.~~ 29. "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.~~ 30. "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.~~ 31. "Institution" means a residential facility offering care and treatment for more than twenty residents;

~~28.~~ 32. "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 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 or neglect occurred, and

c. a determination regarding the family's need for prevention and intervention-related services;

~~29.~~ 33. "Kinship care" means full-time care of a child by a kinship relation;

~~30.~~ 34. "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.~~ 35. "Kinship relation" or "kinship relationship" means relatives, stepparents, or other responsible adults who have a bond or tie with a child and/or to whom has been ascribed a family relationship role with the child's parents or the child;

~~32.~~ 36. "Mental health facility" means a mental health or substance abuse treatment facility as defined by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act;

~~33.~~ 37. "Multidisciplinary child abuse team" means any team established pursuant to Section 7110 of this title of three or more persons who are trained in the prevention, identification, investigation, prosecution and treatment of physical and sexual child abuse and who are qualified to facilitate a broad range of prevention and intervention-related services and services related to child abuse;

~~34.~~ 38. "Near death" means a child is in serious or critical condition, as certified by a physician, as a result of abuse or neglect;

~~35.~~ 39. "Neglect" means neglect as such term is defined by the Oklahoma Child Abuse Reporting and Prevention Act;

~~36.~~ 40. "Out-of-home placement" means a placement, other than a placement in the home of the parent, legal guardian or custodian from whose custody the court has removed the child;

~~37.~~ 41. "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;

~~38.~~ 42. "Permanent custody" means a court-ordered custody of an adjudicated deprived child whose parent's parental rights have been terminated;

~~39.~~ 43. "Person responsible for a child's health, safety 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;

~~40.~~ 44. "Protective custody" means custody of a child taken pursuant to Section 7003-2.1 of this title;

~~41.~~ 45. "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.~~ 46. "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 third degree of consanguinity;

~~43.~~ 47. "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.~~ 48. "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 the 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.~~ 49. a. "Residual parental rights and responsibilities" means those rights and responsibilities that remain with the parent:
- (1) after transfer of legal custody of the child, other than in connection with an action for termination of parental rights, a relinquishment of parental rights, a consent to termination of parental rights or an adoption, or
  - (2) when a guardianship or kinship guardianship is established for the child.

- b. Residual parental rights and responsibilities may be limited or restricted as determined by the court, and 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,
  - (4) the right to determine the religious faith of the child, and
  - (5) the right to consent to termination of parental rights and the right to permanently relinquish parental rights.

c. Residual parental rights and responsibilities shall not include the right to consent to the marriage of a minor pursuant to the provisions of Section 3 of Title 43 of the Oklahoma Statutes;

~~46.~~ 50. "Responsible adult" for purposes of the release of a child from protective custody, means a stepparent, foster parent, a relative of the child who is eighteen (18) years of age or older, or any person having an obligation and authority to care for or safeguard the child in another person's absence who is eighteen (18) years of age or older;

~~47.~~ 51. "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.~~ 52. "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.~~ 53. "Serious danger to the health and safety" means that without the intervention of another person or agency, a child would likely or in all probability sustain severe or permanent disability or injury, illness, or death;

~~50.~~ 54. "Sibling" means a biologically or legally related brother or sister of a child;

~~51.~~ 55. "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.~~ 56. "Temporary custody" means court-ordered custody of an adjudicated deprived child;

~~53.~~ 57. "Therapeutic foster family 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.~~ 58. "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.~~ 59. "Training school" means an institution maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of juvenile delinquents;

~~56.~~ 60. "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. The 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.~~ 61. "Treatment and service plan" means a document written pursuant to Section 7003-5.3 of this title; ~~and~~

~~58.~~ 62. "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; and

63. "Youth Services Agencies" means those agencies designated by the Oklahoma Commission on Children and Youth pursuant to Section 9 of this act to provide Community-based Youth Services to children and youth.

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 17. AMENDATORY 10 O.S. 2001, Section 7301-1.3, is amended to read as follows:

Section 7301-1.3 When used in the Oklahoma Juvenile Code, unless the context otherwise requires:

1. "Adjudicatory hearing" means a hearing to determine whether the allegations of a petition filed pursuant to the provisions of

Article III of the Oklahoma Juvenile Code are supported by the evidence and whether a juvenile should be adjudged to be a ward of the court;

2. "Alternatives to secure detention" means those services and facilities which are included in the State Plan for the Establishment of Juvenile Detention Services adopted by the Board of Juvenile Affairs and which are used for the temporary detention of juveniles in lieu of secure detention in a juvenile detention facility;

3. "Board" means the Board of Juvenile Affairs;

4. "Child" or "juvenile" means any person under eighteen (18) years of age, except for any person sixteen (16) or seventeen (17) years of age who is charged with any crime specified in subsection A of Section 7306-1.1 of this title, or any person thirteen (13), fourteen (14) or fifteen (15) years of age who is charged with murder in the first degree pursuant to subsection B of Section 7306-1.1 of this title or Section 7306-2.5 of this title, or any individual who has been certified as an adult pursuant to Section 7303-4.3 of this title, or any individual against whom the imposition of judgment and sentence has been deferred for any crime specified in subsection A or B of Section 7306-1.1 of this title, any individual against whom the imposition of judgment and sentence has been deferred after certification as an adult pursuant to Section 7303-4.3 of this title, or any person fifteen (15) years of age or older and charged or certified as a youthful offender pursuant to the Youthful Offender Act; provided that any person under eighteen (18) years of age who is not convicted after being charged with a crime pursuant to Section 7306-1.1 of this title, or any individual who is not convicted after certification as an adult pursuant to Section 7303-4.3 of this title, or any individual who is not convicted as a youthful offender pursuant to the Youthful

Offender Act, shall continue to be subject to the jurisdiction of the juvenile court;

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

6. "Child or juvenile in need of supervision" means a juvenile who:

- a. has repeatedly disobeyed reasonable and lawful commands or directives of the parent, legal guardian, or other custodian,
- b. is willfully and voluntarily absent from his home without the consent of the parent, legal guardian, or other custodian for a substantial length of time or without intent to return,
- c. is willfully and voluntarily absent from school, as specified in Section 10-106 of Title 70 of the Oklahoma Statutes, if the juvenile is subject to compulsory school attendance, or
- d. has been served with an ex parte or final protective order pursuant to the Protection from Domestic Abuse Act;

7. "Children and youth service system" means health, mental health, social, rehabilitative assistance, juvenile justice delinquency prevention, and educational services provided to children and youth by and through the courts and public and private agencies;

8. "Community-at-Risk Services" means a community-based program as defined in Section 7001-1.3 of this title;

9. "Community-based services" or community-based programs" means a facility, program or service, ~~or open group home or other suitable place located near the home or family of the juvenile, and programs of community supervision and service which maintain~~

~~community participation in their planning, operation, and evaluation. These programs may include but are not limited to medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, diversion programs for first-time offenders, transitional living, independent living and other rehabilitative services as defined in Section 7001-1.3 of this title;~~

~~8. 10. "Community intervention center" means a facility which serves as a short-term reception facility to receive and hold juveniles for an alleged violation of a municipal ordinance or state law, as provided for in subsection D of Section 7302-3.5 of this title as defined in Section 7001-1.3 of this title;~~

~~9. 11. "Community residential center" means a residential facility for no more than twenty juveniles which offers a range of services including personal and social services, and emphasizes normal group living, school attendance, securing employment, and general participation in the community;~~

~~10. 12. "Day treatment" means a program which provides intensive services to juveniles who reside in their own home, the home of a relative, or a foster home. Day treatment programs include educational services and may be operated as a part of a residential facility;~~

~~11. 13. "Delinquent child or juvenile" means a juvenile who:~~

- ~~a. has violated any federal or state law or municipal ordinance except a traffic statute or traffic ordinance or any provision of the Oklahoma Wildlife Conservation Code, the Oklahoma Vessel and Motor Regulation Act or the Oklahoma Boating Safety Regulation Act, or has violated any lawful order of the court made pursuant to the provisions of the Oklahoma Juvenile Code, or~~

b. has habitually violated traffic laws, traffic ordinances or boating safety laws or rules;

~~12.~~ 14. "Department" means the Department of Juvenile Justice;

~~13.~~ 15. "Deputy Director" means the Deputy Director of the Department of Juvenile Justice;

~~14.~~ 16. "Dispositional hearing" means a hearing to determine the order of disposition which should be made with respect to a juvenile adjudged to be a ward of the court;

~~15.~~ 17. "Executive Director" means the Executive Director of the Office of Juvenile Affairs;

~~16.~~ 18. "Facility" means a place, an institution, a building or part thereof, a set of buildings, or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles. A facility shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes;

~~17.~~ 19. "Graduated sanctions" means a calibrated system of sanctions designed to ensure that juvenile offenders face uniform, immediate, and consistent consequences that correspond to the seriousness of each offender's current offense, prior delinquent history, and compliance with prior interventions;

~~18.~~ 20. "Group home" means a residential facility housing no more than twelve juveniles with a program which emphasizes family-style living in a homelike environment. Said group home may also offer a program within the community to meet the specialized treatment needs of its residents. A group home shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes;

~~19.~~ 21. "Independent living program" means a program designed to assist a juvenile to enhance skills and abilities necessary for successful adult living and may include but shall not be limited to minimal direct staff supervision and supportive services in making

the arrangements necessary for an appropriate place of residence, completing an education, vocational training, obtaining employment or other similar services;

~~20.~~ 22. "Institution" means a residential facility offering care and treatment for more than twenty residents. An institution shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes. Said institution may:

- a. have a program which includes community participation and community-based services, or
- b. be a secure facility with a program exclusively designed for a particular category of resident;

~~21.~~ 23. "Juvenile detention facility" means a secure facility which meets the certification standards of the Department and which is entirely separate from any prison, jail, adult lockup, or other adult facility, for the temporary care of children. A juvenile detention facility shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes;

~~22.~~ 24. "Mental health facility" means a mental health facility as defined by the Inpatient Mental Health Treatment of Children Act;

~~23.~~ 25. "Municipal juvenile facility" means a facility other than a community intervention center that accepts a child under eighteen (18) years of age charged with violating a municipal ordinance and meets the requirements of Section 7303-1.2 of this title;

~~24.~~ 26. "Office" means the Office of Juvenile Affairs;

~~25.~~ 27. "Person responsible for a juvenile'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 juvenile'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 or facility, or an owner, operator, or employee of a child care facility as defined by Section 402 of this title;

~~26.~~ 28. "Preliminary inquiry" or "intake" means a mandatory, preadjudicatory interview of the juvenile and, if available, the parents, legal guardian, or other custodian of the juvenile, which is performed by a duly authorized individual to determine whether a juvenile comes within the purview of the Oklahoma Juvenile Code, whether nonadjudicatory alternatives are available and appropriate, and if the filing of a petition is necessary;

~~27.~~ 29. "Probation" means a legal status created by court order whereby a delinquent juvenile is permitted to remain outside a Department of Juvenile Justice facility directly or by contract under prescribed conditions and under supervision by the Department, subject to return to the court for violation of any of the conditions prescribed;

~~28.~~ 30. "Rehabilitative facility" means a facility maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of juveniles in need of supervision;

~~29.~~ 31. "Secure detention" means the temporary care of juveniles who require secure custody in physically restricting facilities:

- a. while under the continuing jurisdiction of the court pending court disposition, or
- b. pending placement by the Department of Juvenile Justice after adjudication;

~~30.~~ 32. "Training school" or "secure facility" means a facility, maintained by the state exclusively for the care, education, training, treatment, and rehabilitation of delinquent juveniles or youthful offenders which relies on locked rooms and buildings, and fences for physical restraint in order to control behavior of its residents. A training school or secure facility

shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes; ~~and~~

~~31.~~ 33. "Transitional living program" means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting juveniles 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; and

34. "Youth Services Agencies" means those agencies designated by the Oklahoma Commission on Children and Youth pursuant to Section 9 of this act to provide Community-based Youth Services to children and youth.

SECTION 18. AMENDATORY 10 O.S. 2001, Section 7302-2.2, is amended to read as follows:

Section 7302-2.2 A. ~~Effective July 1, 1994, there~~ There is hereby created the Office of Juvenile Affairs. Within the Office of Juvenile Affairs there is hereby created:

1. The Department of Juvenile Justice, which shall be responsible for court intake, probation, and parole programs and services for juveniles alleged or adjudicated to be delinquent or in need of supervision and for institutional services and other residential care options for juveniles placed in the custody or care of the Office of Juvenile Affairs. The Executive Director of the Office of Juvenile Affairs shall appoint a Deputy Director of the Department of Juvenile Justice to serve as the administrative head of the Department; and

2. Such other Departments specifically established by law.

B. Suitable office space shall be provided by the Department of Central Services to the Office of Juvenile Affairs, to the extent necessary for the Office to implement its jurisdictional duties

provided by the Oklahoma Juvenile Code, and the Office may incur necessary expenses for office rent.

C. Effective July 1, 1995, the Office of Juvenile Affairs shall be a Merit System agency and all employees of the Office of Juvenile Affairs shall be classified employees who are subject to the Oklahoma Personnel Act and the Merit System of Personnel Administration, except as otherwise provided by law.

D. Effective July 1, 1995, within its jurisdictional areas of responsibility, the Office of Juvenile Affairs, acting through the Executive Director, or persons authorized by law, rule or designated by the Executive Director to perform such acts, shall have the power and duty to:

1. Advise, consult, cooperate and enter into agreements with agencies of the state, municipalities and counties, other states and the federal government, and other persons;

2. Enter into agreements for, accept, administer and use, disburse and administer grants of money, personnel and property from the federal government or any department or agency thereof, or from any state or state agency, or from any other source, to promote and carry on in this state any program within its jurisdictional area of responsibility;

3. Require the establishment and maintenance of records and reports;

4. Establish a system of training for personnel in order to assure uniform statewide application of law and rules;

5. Enforce the provisions of the Oklahoma Juvenile Code and rules promulgated thereunder and orders issued pursuant thereto;

6. Charge and receive fees pursuant to fee schedules promulgated by the Board of Juvenile Affairs;

7. Conduct studies, research and planning of programs and functions, pursuant to the authority granted by the Oklahoma Juvenile Code;

8. Enter into interagency agreements;

9. Provide administrative and support services to the Board of Juvenile Affairs as necessary to assist the Board in the performance of their duties;

10. Establish and maintain such facilities and institutions as are necessary or convenient for the operation of programs for children under the jurisdiction of the Office of Juvenile Affairs;

11. Lease, from time to time, any real property which the Board of Juvenile Affairs shall determine advisable to more fully carry into effect the operation of the Office of Juvenile Affairs in accordance with applicable state statutes. All such leases for real property shall be subject to the provisions of Section 63 of Title 74 of the Oklahoma Statutes;

12. Purchase or lease any equipment, supplies or materials pursuant to the Oklahoma Central Purchasing Act;

13. Contract for professional services;

14. Acquire, construct, extend, and operate any and all facilities of all kinds which in the judgment of the Executive Director and the approval of the Legislature shall be necessary or convenient to carry out the duties of the Office of Juvenile Affairs, as authorized by law; and

15. Exercise all incidental powers which are necessary and proper to implement and administer the purposes of the Oklahoma Juvenile Code.

E. The Office of Juvenile Affairs shall maintain a fair, simple and expeditious system for resolution of grievances of all persons committed to the Office of Juvenile Affairs regarding the substance or application of any written or unwritten policy, rule of the Board of Juvenile Affairs or of an agent or contractor of the Office of Juvenile Affairs or any decision, behavior or action by an employee, agent or contractor or by any other person committed to the Office of Juvenile Affairs.

SECTION 19. AMENDATORY 10 O.S. 2001, Section 7302-3.1,  
is amended to read as follows:

Section 7302-3.1 A. Effective July 1, ~~1995~~ 2006, in addition to other responsibilities specified by law, the Department of Juvenile Justice shall:

~~1. Be the state planning and coordinating agency for statewide juvenile justice and delinquency prevention services;~~

~~2.~~ Provide court intake, probation and parole for delinquent children; and

~~3. Collect and disseminate information and engage in juvenile justice or delinquency prevention activities relating to the provisions of the Oklahoma Juvenile Code~~

2. Provide institutional services and other residential care options for delinquent children in the custody or care of the Office of Juvenile Affairs.

B. The Department of Juvenile Justice shall include the following divisions:

1. The Division of Advocate Defender;

~~2. The Division of the Parole Board which shall consist of the Parole Review and Hearing Board transferred to the Department of Juvenile Justice pursuant to subsection E of this section; and~~

3. Such other divisions prescribed by the Executive Director of the Office of Juvenile Affairs or by law.

C. 1. Effective July 1, 1995, the following programs are established within the Department of Juvenile Justice:

~~a. programs for community intervention and diversion projects to prevent juvenile delinquency,~~

~~b. state programs for children who are potentially delinquent and/or who are adjudicated delinquent,~~

~~c.~~ programs for community disciplinary projects,

~~d.~~ b. programs of juvenile crime restitution,

~~e.~~ c. the Serious and Habitual Juvenile Offender Program,

- ~~f.~~ d. regimented juvenile training programs,
- ~~g.~~ the ~~Delinquency and Youth Gang Intervention and Deterrence Act~~; and
- ~~h.~~ e. such other programs prescribed by the Executive Director of the Office of Juvenile Justice or by law.

~~2. Beginning July 1, 1995, the Office of Juvenile Affairs, in cooperation with the courts, shall develop programs which can be used directly by the Department of Juvenile Justice or can be used in communities with the assistance of the Department of Juvenile Justice to divert juveniles at risk of becoming delinquent from the formal court process. Such programs shall be implemented by the Department of Juvenile Justice beginning July 1, 1995. Such programs shall include, but not be limited to:~~

- ~~a. alternative diversion programs for first-time offenders as defined by Section 7303-4.6 of this title,~~
- ~~b. teen court programs, subject to the requirements and procedures provided in Section 7303-4.6 of this title,~~  
~~and~~
- ~~c. teen substance abuse schools. A teen substance abuse school shall include any program approved by the court that provides educational, motivational and behavior modification instruction for juveniles who have chemical dependency problems.~~

~~D. Beginning July 1, 1995, the Department of Juvenile Justice, in its role as coordinator for delinquency prevention services, shall:~~

~~1. Establish guidelines for juvenile delinquency prevention and diversion programs for use in local communities, including but not limited to:~~

- ~~a. counseling programs,~~
- ~~b. recreational programs,~~

- ~~e. job skills workshops,~~
- ~~d. community public improvement projects,~~
- ~~e. mediation programs,~~
- ~~f. programs to improve relationships between juveniles and law enforcement personnel,~~
- ~~g. diagnostic evaluation services,~~
- ~~h. substance abuse prevention programs, and~~
- ~~i. independent living skills and self-sufficiency planning programs; and~~

~~2. Provide that personnel shall be available in each county of the state to assist local communities in developing and implementing community programs to prevent delinquency and to divert juveniles who have committed delinquent acts from committing further delinquent or criminal acts. The Department of Juvenile Justice shall provide this service in each county either directly or by contract.~~

~~E. 1.~~ On July 1, 1995, the following programs or divisions shall be transferred, along with funding allocations, from the Department of Human Services to the Department of Juvenile Justice within the Office of Juvenile Affairs:

- a. the Residential Services Unit of the Office of Juvenile Justice and all staff for the Unit,
- b. the Quality Assurance Monitoring Unit of the Office of Juvenile Justice and all staff for the Unit,
- ~~c. the Contract Management/Youth Services Unit of the Office of Juvenile Justice and all staff for the Unit,~~
- ~~d.~~ the Psychological Unit of the Office of Juvenile Justice and all staff for the Unit,
- ~~e.~~ d. the Juvenile Services Unit and all field and supervisory staff for the Unit,

- ~~f.~~ e. all institutional staff for institutions transferred from the Department of Human Services to the Office of Juvenile Affairs,
- ~~g.~~ f. all staff assigned to the community residential programs of the Office of Juvenile Justice,
- ~~h.~~ g. the Management Services Unit of the Office of Juvenile Justice,
- ~~i.~~ h. the Programs Unit of the Office of Juvenile Justice,
- ~~j.~~ i. all staff of the business office of the Office of Juvenile Justice,
- ~~k.~~ j. the Planning and Information Unit of the Office of Juvenile Justice,
- ~~l.~~ k. all staff of the Office of Juvenile Justice assigned to serve as the liaison to the Federal Court Monitor of the Office of Juvenile Justice,
- ~~m.~~ l. the Parole Review and Hearing Board within the Office of the General Counsel of the Department of Human Services and all members of the Board and support staff for the Board, and
- ~~n.~~ m. the Division Administrator for the Office of Juvenile Justice and administrative staff for the Division Administrator.

~~2.~~ 3. The Office of Juvenile Affairs and the Department of Human Services may enter into an agreement for the transfer of personnel on July 1, 1995, from the Department of Human Services to the Office of Juvenile Affairs. No selected employee shall be transferred to the Office of Juvenile Affairs, except on the freely given written consent of the employee.

~~3.~~ 4. The classified and unclassified employees who are transferred pursuant to paragraph ~~1~~ 2 or ~~2~~ 3 of this subsection from the Department of Human Services to the Office of Juvenile Affairs on July 1, 1995, shall be subject to the following provisions:

- a. classified employees shall remain subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act except that such employees shall be exempt from the provisions of the Merit System pertaining to classification until October 1, 1995. Effective October 1, 1995, such employees shall be given status in the class to which the position occupied by the employee on October 1, 1995, is allocated by the Office of Personnel Management. The salary of such an employee shall not be reduced as a result of such position allocation, and if the employee's salary is below the minimum rate of pay for the class to which the position occupied by the employee on October 1, 1995, is allocated, the employee's salary shall be adjusted up to the minimum rate of pay; provided, if such allocation is a promotion, the minimum rate shall be determined as provided in 530:10-7-14 of the Oklahoma Administrative Code,
- b. unclassified employees shall remain in the unclassified service and shall serve at the pleasure of the Executive Director. Effective October 1, 1995, such employees who occupy positions that are subject to the Merit System of Personnel Administration shall become classified and subject to the provisions of the Merit System of Personnel Administration pursuant to Section 840-4.1 of Title 74 of the Oklahoma Statutes. Unclassified employees who, on October 1, 1995, occupy positions that remain in the unclassified service pursuant to law, shall remain in the unclassified service and shall continue to serve at the pleasure of the Executive Director,

- c. all employees who are transferred to the Office of Juvenile Affairs shall retain leave, sick and annual time earned and any retirement and longevity benefits which have accrued during their tenure with the agency from which transferred. The salaries of employees who are transferred shall not be reduced as a direct and immediate result of the transfer. The transfer of personnel among the state agencies shall be coordinated with the Office of Personnel Management, and
- d. if the Office of Juvenile Affairs should implement a reduction in force, all employees transferred from the Department of Human Services to the Office of Juvenile Affairs on July 1, 1995, shall be credited for the time they were employed by the Department of Human Services.

~~F.~~ D. Effective July 1, 1995, custody, care and supervision of juveniles adjudicated to be delinquent or in need of supervision and any monies and funds received on behalf of such juveniles are hereby transferred from the Department of Human Services to the Office of Juvenile Affairs. Records in the custody of the Department of Human Services on the transfer date relating to delinquent juveniles and juveniles in need of supervision shall be transferred to the Department of Juvenile Justice.

~~G.~~ E. Effective July 1, 1995, all powers, duties, records, property, assets, monies and funds of the Office of Juvenile Justice shall be transferred to the Office of Juvenile Affairs. Effective July 1, 1995, liabilities of the Office of Juvenile Justice shall be transferred to the Office of Juvenile Affairs as provided for in the appropriation process of the Legislature. Any additional administrative support or costs incurred by the Office of Juvenile

Affairs as a result of the transfer required by this section shall be borne by the Office of Juvenile Affairs.

~~H.~~ F. The Office of Juvenile Justice shall be abolished by the Commission for Human Services after such transfer has been completed.

~~I.~~ G. The Director of State Finance is hereby directed to coordinate the transfer of assets, funds, allotments, purchase orders, liabilities, outstanding financial obligations or encumbrances provided for in this section. The Department of Central Services is hereby directed to coordinate the transfer of property and records provided for in this section.

SECTION 20. AMENDATORY 10 O.S. 2001, Section 7302-5.1, is amended to read as follows:

Section 7302-5.1 A. The Department of Juvenile Justice shall provide intake, probation and parole services for juveniles and may enter into agreements to supplement probationary services to juveniles in any county. The Department may participate in federal programs for juvenile probation officers, and may apply for, receive, use and administer federal funds for such purpose.

B. A ~~pre-adjudicatory~~ preadjudicatory substance abuse assessment of a child may be conducted in conjunction with a court intake or preliminary inquiry pursuant to an alleged delinquent act or upon admission to a juvenile detention facility through the use of diagnostic tools including, but not limited to, urinalysis, structured interviews or substance abuse projective testing instruments.

1. Information gained from the substance abuse assessment pursuant to this subsection shall be used only for substance abuse treatment and for no other purpose. The results shall not be used in any evidentiary or fact-finding hearing in a juvenile proceeding or as the sole basis for the revocation of a community-based placement or participation in a community-based program.

2. The results of the substance abuse assessment may be given to the child's intake, probation or parole counselor, the parent or guardian of the child or to the child's attorney. In accordance with the guidelines established pursuant to the Serious and Habitual Juvenile Offender Program and Section 620.6 of this title, the counselor may also provide the results of the substance abuse assessment to medical personnel, therapists, school personnel or others for use in the treatment and rehabilitation of the child.

C. In accordance with the guidelines adopted pursuant to the Serious and Habitual Juvenile Offender Program, the Department of Juvenile Justice and the juvenile bureaus shall implement:

1. Court intake risk-assessment for children alleged or adjudicated to be delinquent;
2. The imposition of administrative sanctions for the violation of a condition of probation or parole;
3. A case management system for ensuring appropriate:
  - a. diversion of youth from the juvenile justice system,
  - b. services for and supervision of all youth on pre-adjudicatory or postadjudicatory probation or on parole, and for juvenile offenders in the custody of the Department of Juvenile Justice, and
  - c. intensive supervision of serious and habitual offenders and communication between law enforcement and juvenile court personnel and others regarding such offenders; and
4. Guidelines for juvenile court personnel recommendations to district attorneys regarding the disposition of individual cases by district attorneys.

D. 1. The Department of Juvenile Justice shall establish directly and by contract, the services necessary to implement the Serious and Habitual Juvenile Offender Program including, but not limited to:

- a. misdemeanor and non-serious first-time offender programs,
- b. tracking and mentor services,
- c. weekend detention,
- d. five-day out-of-home sanction placements,
- e. short-term thirty-day intensive, highly structured placements,
- f. transitional programs,
- g. substance abuse treatment and diagnostic and evaluation programs, and
- h. day treatment programs.

2. In implementing these services, the Department shall give priority to those areas of the state having the highest incidences of juvenile crime and delinquency.

E. 1. The following entities shall conduct, upon adjudication of a child as a delinquent or in need of supervision unless such child has been previously assessed within the six (6) months prior to such intake, a literacy skills assessment:

- a. the Department of Juvenile Justice,
- b. a first-time offender program within a designated youth services agency,
- c. any metropolitan county juvenile bureau, or
- d. any county operating a juvenile bureau.

2. Such assessment shall be conducted through the use of diagnostic tools which include, but are not limited to:

- a. structured interviews,
- b. standardized literacy testing instruments which measure the educational proficiency of the child, and
- c. any other measure used to determine:
  - (1) whether a child is reading at an age-appropriate level, and
  - (2) the child's capacity to read at such level.

3. The results of the literacy skills assessment required pursuant to this subsection shall be made available to the court by the district attorney for use in the disposition phase; provided, however, the results shall not be used in any evidentiary or fact-finding hearing in a juvenile proceeding to determine whether a juvenile should be adjudicated. Provided, further, such results shall not be used as the sole basis for the revocation of a community-based placement or participation in a community-based program.

4. a. Upon request, the results of the literacy skills assessment shall be given to the following:

- (1) the child's intake, probation or parole counselor,
- (2) the parent or guardian of the child, or
- (3) the child's attorney.

b. In accordance with the guidelines established pursuant to the Serious and Habitual Juvenile Offender Program and Section 620.6 of this title, the counselor may also provide the results of the literacy skills assessment to therapists, school personnel or others for use in the training and rehabilitation of the child.

5. a. If the child is a juvenile placed in an institution or facility operated by the Department, the child shall be assessed and a literacy improvement program shall be implemented in accordance with Sections 7302-6.1 and 7302-6.3 of this title.

b. If the child is adjudicated delinquent or in need of supervision or is being detained as part of a deferral of prosecution agreement, deferral to file agreement or a deferral sentence agreement, and the results of the literacy skills assessment show that the child is

not reading at an age-appropriate level but has the capacity to improve his or her reading skills, the child shall be required to actively participate in a literacy skills improvement program which may include, but not be limited to, a program of instruction through a public or private school, including any technology center school, of this state or any other state. The child shall provide documentation of substantial quantifiable literacy improvement, sufficient to demonstrate reading proficiency at an age-appropriate or developmentally appropriate level; provided, however, failure to demonstrate substantial quantifiable literacy improvement shall not be the sole basis for not dismissing a case against a child.

F. The Department of Juvenile Justice shall implement and provide appropriate reintegration and transitional services for juveniles transitioning from out-of-home placements to home. Reintegration and transitional services shall include one or more of the following: Community-at-Risk Services, sanctions and surveillance. These services shall be coordinated with all existing services available for juveniles under probation and parole, and in addition may include, but not be limited to:

1. Services for additional assessment, classification, screening and selection criteria for program placements, case management and services to the family;

2. Individualized case planning and management including, but not limited to, family evaluations and services and community involvement;

3. A balanced continuum of incentives and sanctions for juveniles;

4. A network and linkage to all existing community resources and social networks; and

5. Various methods and levels of supervision, tracking, mentoring and monitoring.

G. Any time within four (4) months, but not less than thirty (30) days, before the juvenile is released from an institution to probation or parole and who is in need of reintegration or transitional services in the determination of the Department, the Department shall begin working with the person or persons responsible for the health and welfare of the juvenile, and any other persons who will be present in the home environment where the juvenile will be transitioned. The prerelease evaluations and services may further coordinate with any community resources and will be considered part of the individualized case plan and management for a successful reintegration and transition to the home environment and community.

H. Community intervention centers may be used for sanction services.

I. As used in this section:

1. "Community-at-Risk Services" means a community-based program as defined in Section 7001-1.3 of this title;

2. "Sanctions" means a consequence imposed upon a juvenile offender as a result of a criminal act or as a result of a violation of a condition of probation or parole; and

3. "Surveillance" means tracking, electronic monitoring, face-to-face contact or other services provided to a juvenile designated to account for their activities.

SECTION 21. REPEALER 10 O.S. 2001, Sections 7302-3.3, 7302-3.4, 7302-3.5, 7302-3.7, 7302-3.8, 7302-3.9, 7302-3.10, and 7302-3.11 and Section 4, Chapter 4, O.S.L. 2002 (10 O.S. Supp. 2005, Section 7302-3.6a), are hereby repealed.

SECTION 22. This act shall become effective November 1, 2006.

50-2-8682 GRS 01/18/06