

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 2530

By: Steele, BigHorse, Shumate,
Pittman, Dorman and
McAffrey of the House

7 and

8 Coates of the Senate
9

10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to children; amending 10 O.S. 2001,
12 Section 601.6, as amended by Section 2, Chapter 205,
13 O.S.L. 2006 (10 O.S. Supp. 2007, Section 601.6),
14 which relates to the Office of Juvenile System
15 Oversight; authorizing the copying of certain
16 records; amending 10 O.S. 2001, Section 7003-2.4, as
17 last amended by Section 1, Chapter 196, O.S.L. 2007
18 (10 O.S. Supp. 2007, Section 7003-2.4), which relates
19 to an emergency custody hearing; providing for a
20 specific form to be filed of record in lieu of a
21 hearing by agreement of certain persons; amending
22 Section 4, Chapter 351, O.S.L. 2007 (10 O.S. Supp.
23 2007, Section 7005-1.9), which relates to the
24 disclosure of certain information in cases of death
or near-death of a child; extending certain time
limitations; amending Sections 10, 11, 12 and 13,
Chapter 205, O.S.L. 2006 (10 O.S. Supp. 2007,
Sections 7008-1.2, 7008-1.3, 7008-1.4 and 7008-1.5),
which relate to the Oklahoma Children and Juvenile
Law Reform Committee; extending duration of
Committee; extending time for submission of certain
draft; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 10 O.S. 2001, Section 601.6, as
2 amended by Section 2, Chapter 205, O.S.L. 2006 (10 O.S. Supp. 2007,
3 Section 601.6), is amended to read as follows:

4 Section 601.6 A. The Office of Juvenile System Oversight shall
5 have the responsibility of investigating and reporting misfeasance
6 and malfeasance within the children and youth service system,
7 inquiring into areas of concern, investigating complaints filed with
8 the Office of Juvenile System Oversight, and monitoring the children
9 and youth service system to ascertain compliance with established
10 responsibilities.

11 It shall be the duty of the Office of Juvenile System Oversight
12 to conduct regular, periodic, but not less than semiannual,
13 unannounced inspections of state-operated children's institutions
14 and facilities and to review the reports of the inspections of the
15 State Fire Marshal and the Department of Health and any agencies
16 which accredit such institutions and facilities.

17 B. The Office of Juvenile System Oversight shall:

18 1. Have the authority to examine and copy all records and
19 budgets pertaining to the children and youth service system and
20 shall have access to all facilities within the children and youth
21 service system for the purpose of conducting site visits and
22 speaking with the residents of such facilities;

23 2. Have the authority to subpoena witnesses and hold public
24 hearings;

1 3. Establish, in accordance with the Dispute Resolution Act,
2 Sections 1801 through 1813 of Title 12 of the Oklahoma Statutes, a
3 voluntary program for foster parents to mediate complaints
4 concerning the rights of foster parents, as provided for in Section
5 7206.1 of this title, that relate to certain actions, inactions or
6 decisions of the Department of Human Services, the Department of
7 Juvenile Justice, or child-placing agencies that may adversely
8 affect the safety and well-being of children in the custody of the
9 state;

10 4. Issue reports to the Governor, Speaker of the House of
11 Representatives, President Pro Tempore of the Senate, Chief Justice
12 of the Supreme Court of the State of Oklahoma, any appropriate
13 prosecutorial agency, the director of the agency under
14 consideration; and such other persons as necessary and appropriate;
15 and

16 5. Provide recommendations to the Oklahoma Commission on
17 Children and Youth on or before May 1 of each year.

18 C. The Office of Juvenile System Oversight shall not release
19 information that would identify a person who makes a complaint to
20 such Office, unless a court of competent jurisdiction orders release
21 of the information for good cause shown.

22 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7003-2.4, as
23 last amended by Section 1, Chapter 196, O.S.L. 2007 (10 O.S. Supp.
24 2007, Section 7003-2.4), is amended to read as follows:

1 Section 7003-2.4 A. 1. The peace officer or an employee of
2 the court shall provide the parent, legal guardian, or custodian of
3 a child immediate written notice of the protective or emergency
4 custody of the child whenever possible.

5 2. The written notice shall:

6 a. inform the parents, legal guardian, or custodian that
7 the child has been removed from the home,

8 b. inform the parent, legal guardian, or custodian of the
9 child that an emergency custody hearing to determine
10 custody of the child will occur within two (2)
11 judicial days from the date the child was removed from
12 the home, and

13 c. contain information about the:

14 (1) emergency custody hearing process including, but
15 not limited to, the date, time and place that the
16 child was taken into protective or emergency
17 custody,

18 (2) nature of the allegation that led to placement of
19 the child into protective or emergency custody,

20 (3) address and telephone number of the local and
21 county law enforcement agencies,

22 (4) phone number of the local child welfare office of
23 the Department of Human Services, and
24

1 (5) right of the parent, legal guardian or custodian
2 to contact an attorney.

3 3. The written notice shall also contain the following or
4 substantially similar language: "FAILURE TO RESPOND TO THIS NOTICE
5 OR TO APPEAR AT THE EMERGENCY CUSTODY HEARING MEANS YOUR CHILD WILL
6 STAY OR BE PLACED IN EMERGENCY CUSTODY. YOUR FAILURE TO RESPOND OR
7 COOPERATE MEANS YOU MAY LOSE CUSTODY OF THIS CHILD OR YOUR RIGHTS AS
8 A PARENT MAY BE TERMINATED."

9 B. 1. Within the next two (2) judicial days following the
10 child being taken into protective or emergency custody, the court
11 shall conduct an emergency custody hearing to determine whether
12 evidence or facts exist that are sufficient to demonstrate to the
13 court there is reason to believe the child is in need of protection
14 due to abuse or neglect, or is in surroundings that are such as to
15 endanger the health, safety or welfare of the child.

16 2. At the emergency custody hearing, the court shall advise the
17 parent, legal guardian or custodian of the child in writing of the
18 procedure which will be followed with regard to determining custody
19 of the child, including, but not limited to:

- 20 a. any right of the parent or legal guardian or custodian
21 to testify and present evidence at court hearings,
22 b. the right to be represented by an attorney at court
23 hearings as authorized by law,
24

- 1 c. the consequences of failure to attend any hearings
2 which may be held, and
3 d. the right to appeal and the procedure for appealing
4 the finding of a court on custody issues as authorized
5 by law.

6 3. a. At the emergency custody hearing, the court shall:

- 7 (1) release the child to the child's parent, legal
8 guardian or custodian or other responsible adult
9 without conditions or under such conditions as
10 the court finds reasonably necessary to ensure
11 the health, safety or welfare of the child, or
12 (2) continue the child in or place the child into
13 emergency custody if continuation of the child in
14 the child's home is contrary to the health,
15 safety or welfare of the child,
16 (3) obtain information from the parent, legal
17 guardian or custodian necessary to identify and
18 locate kinship placement resources. If such
19 information indicates that within one (1) year of
20 the emergency custody hearing the child had
21 resided with a grandparent for six (6) months,
22 and that such grandparent was the primary
23 caregiver and provided primary financial support
24 for the child during such time, the court shall

1 provide notice and an opportunity to be heard at
2 future hearings to such grandparent, and
3 (4) require the Department to provide to any
4 custodian or other person caring for the child
5 information on Department of Human Services
6 programs and services available to the child and
7 provide written notice of any further proceedings
8 to any foster or preadoptive parents or relatives
9 providing care for a child.

10 b. If a child has been removed from the custodial parent
11 of the child and the court, in the best interests of
12 the child, is unable to release the child to the
13 custodial parent, the court shall give priority for
14 placement of the child with the noncustodial parent of
15 the child unless such placement would not be in the
16 child's best interests. If the court cannot place the
17 child with the noncustodial parent, custody shall be
18 consistent with the provisions of Section 21.1 of this
19 title. If custody of the child cannot be made
20 pursuant to the provisions of Section 21.1 of this
21 title, the reason for such determination shall be
22 documented in the court record.

23 C. If it is determined by agreement of the office of the
24 district attorney and the Department of Human Services that a child

1 may be safely returned home prior to an emergency custody hearing,
2 the following form or a substantially similar form shall be
3 completed by the office of the district attorney and the Department
4 and filed of record:

5 IN THE DISTRICT COURT OF _____ COUNTY

6 STATE OF OKLAHOMA

7 IN THE MATTER OF:

8 _____
9 ALLEGED DEPRIVED CHILD (REN)

10 MEMORANDUM

11 CHILD WELFARE WORKER:

12 ASSISTANT DISTRICT ATTORNEY:

13 _____ INVESTIGATION REVEALED ALLEGATIONS NOT CONFIRMED

14 _____ SERVICES WERE OFFERED AND ACCEPTED

15 _____ PARENT/CARETAKER HAS TAKEN APPROPRIATE STEPS TO

16 PROTECT CHILD FROM HARM

17 _____ OTHER:

18 NOTES:

19 CHILD (REN) RELEASED TO:

20 _____
21 ASSISTANT DISTRICT ATTORNEY

22 I work for the Department of Human Services and am requesting that
23 the District Attorney's Office release the above-mentioned
24 _____

1 child(ren) from temporary emergency custody and that a Petition not
2 be filed for court intervention.

3 _____
4 DHS CHILD WELFARE WORKER.

5 D. 1. Except as otherwise provided by this subsection, a
6 petition for a deprived child proceeding shall be filed and a
7 summons issued within five (5) judicial days from the date of
8 assumption of custody; provided, however, such time period may be
9 extended a period of time not to exceed fifteen (15) calendar days
10 from the date of assumption of custody of the child if, upon request
11 of the district attorney at the emergency custody hearing, the court
12 determines there are compelling reasons to grant additional time for
13 the filing of the petition for a deprived child proceeding.

14 2. If the petition is not filed as required by this subsection,
15 then the emergency custody order shall expire. The district
16 attorney shall submit for filing in the court record a written
17 record specifying the reasons why the petition was not filed and
18 specifying to whom the child was released.

19 ~~D.~~ E. If a petition is filed within the time period specified
20 in subsection ~~C~~ D of this section, the emergency custody order shall
21 remain in force and effect for not longer than sixty (60) days,
22 except as otherwise provided by this subsection.

23 The emergency custody order shall not be extended beyond sixty
24 (60) days absent a showing that such further extension is necessary

1 to ensure the health, safety or welfare of the child and is in the
2 best interests of the child.

3 ~~E.~~ F. 1. The court may hold additional hearings at such
4 intervals as may be determined necessary by the court to provide for
5 the health, safety or welfare of the child.

6 2. The parent, legal guardian or custodian of the child, the
7 child's attorney, the district attorney and guardian ad litem if
8 appointed shall be given prior adequate notice of the date, time,
9 place and purpose of any hearing by the court.

10 ~~F.~~ G. In scheduling hearings, the court shall give priority to
11 proceedings in which a child is in emergency custody.

12 ~~G.~~ H. 1. An order of the court providing for the removal of a
13 child alleged to be deprived from the home of such child shall not
14 be entered unless the court makes a determination:

15 a. that continuation of the child in the child's home is
16 contrary to the health, safety or welfare of the
17 child, and

18 b. as to whether or not reasonable efforts were made to
19 prevent the need for the removal of the child from the
20 child's home, or

21 c. as to whether or not an absence of efforts to prevent
22 the removal of the child from the child's home is
23 reasonable because the removal is due to an alleged
24

1 emergency and is for the purpose of providing for the
2 health, safety or welfare of the child, or

3 d. that reasonable efforts to provide for the return of
4 the child to the child's home are not required
5 pursuant to Section 7003-4.6 of this title; provided,
6 however, upon such determination, the court shall
7 inform the parent that a permanency hearing will be
8 held within thirty (30) days from the determination.

9 2. In all proceedings or actions pursuant to this subsection,
10 the child's health, safety or welfare shall be the paramount
11 concern.

12 SECTION 3. AMENDATORY Section 4, Chapter 351, O.S.L.
13 2007 (10 O.S. Supp. 2007, Section 7005-1.9), is amended to read as
14 follows:

15 Section 7005-1.9 A. For purposes of this section, the term
16 "near death" means the child is in serious or critical condition, as
17 certified by a physician, as a result of abuse or neglect.

18 B. In cases involving the death or near death of a child when a
19 person responsible for the child has been charged by information or
20 indictment with committing a crime resulting in the death or near
21 death of the child, there shall be a presumption that the best
22 interest of the public will be served by public disclosure of
23 certain information concerning the circumstances of the
24 investigation of the death or near death of the child and any other

1 investigations within ~~the last~~ three (3) years of the death or near
2 death and one (1) year after the death or near death concerning that
3 child, or other children while living in the same household.

4 C. 1. At any time subsequent to seven (7) days, but no more
5 than thirty (30) days, of the date the person responsible for the
6 child has been criminally charged, the Department of Human Services,
7 the district attorney, the district court clerk, and the judge
8 having jurisdiction over the case, upon request, shall release
9 certain information to the public as follows:

10 a. a confirmation shall be provided by the Department as
11 to whether a report has been made concerning the
12 alleged victim or other children while living in the
13 same household and whether an investigation has begun,

14 b. confirmation shall be provided by the Department as to
15 whether previous reports have been made and the dates
16 thereof, a summary of those previous reports, the
17 dates and outcome of any investigations or actions
18 taken by the Department in response to a previous
19 report of child abuse or neglect, and the specific
20 recommendation made to the district attorney and any
21 subsequent action taken by the district attorney,

22 c. the dates of any judicial proceedings prior to the
23 death or near death of the child,
24

- 1 d. recommendations submitted by each participant in
2 writing at the judicial proceedings including
3 recommendations made at the hearing as they relate to
4 custody or placement of a child, and
5 e. the rulings of the court.

6 2. Specific recommendations made and services rendered by the
7 Department described in any progress reports of a pending case
8 submitted to the court may be disclosed by the Department.

9 D. 1. At any time subsequent to seven (7) days, ~~but no more~~
10 ~~than thirty (30) days, of~~ after the date the person responsible for
11 the child has been criminally charged, the Oklahoma Commission on
12 Children and Youth shall, upon request, release certain information
13 to the public within sixty (60) days of the request as follows:

- 14 a. a confirmation shall be provided by the Commission as
15 to whether a report of suspected child abuse or
16 neglect has been made concerning the alleged victim or
17 other children while living in the same household and
18 whether an investigation has begun,
19 b. confirmation shall be provided by the Commission as to
20 whether previous reports of suspected child abuse or
21 neglect have been made and the dates thereof, a
22 summary of those previous reports, the dates and
23 outcome of any investigations or actions taken by the
24 Department and the Commission in response to any

1 previous report of child abuse or neglect, and the
2 specific recommendation made to the district attorney
3 and any subsequent action taken by the district
4 attorney,

5 c. the dates of any judicial proceedings prior to the
6 death or near death of the child,

7 d. recommendations submitted by the Department and the
8 Commission shall be provided in writing including
9 recommendations made at the hearing as they relate to
10 custody or placement of a child, and

11 e. the rulings of the court.

12 2. Specific recommendations made by the Commission described in
13 any progress reports of a pending case submitted to the court may be
14 disclosed by the Commission.

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

22 SECTION 4. AMENDATORY Section 10, Chapter 205, O.S.L.
23 2006 (10 O.S. Supp. 2007, Section 7008-1.2), is amended to read as
24 follows:

1 Section 7008-1.2 A. The Committee shall consist of twenty (20)
2 members appointed as follows:

3 1. One member shall be a presiding judge of a court having
4 juvenile law jurisdiction, to be appointed by the President of the
5 State Judicial Conference;

6 2. One member shall be a professor of law from Oklahoma City
7 University School of Law, to be appointed by the Dean of the School
8 of Law;

9 3. One member shall be a professor of law from the University
10 of Tulsa College of Law, to be appointed by the Dean of the College
11 of Law;

12 4. One member shall be a professor of law from the University
13 of Oklahoma, to be appointed by the Dean of the College of Law;

14 5. Three members who are employees of the Department of Human
15 Services shall be appointed by the Director of the Department of
16 Human Services, one of which shall be an attorney;

17 6. Two members who are employees of the Office of Juvenile
18 Affairs shall be appointed by the Executive Director of the Office
19 of Juvenile Affairs, one of which shall be an attorney;

20 7. One member shall be appointed by the Director of the
21 Oklahoma Commission on Children and Youth;

22 8. Three members shall be appointed by the Speaker of the House
23 of Representatives;

1 9. Three members shall be appointed by the President Pro
2 Tempore of the Senate;

3 10. One member shall be a judge or a justice of the Supreme
4 Court of the State of Oklahoma, to be appointed by the justices of
5 the Supreme Court of the State of Oklahoma;

6 11. One member shall be an attorney practicing in the area of
7 child or juvenile law and who is an active member of the Family Law
8 Section of the Oklahoma Bar Association, to be appointed by the
9 President of the Oklahoma Bar Association;

10 12. One member shall be an attorney appointed by the District
11 Attorneys Council; and

12 13. One member shall be a social worker appointed by the state
13 chapter of the National Association of Social Workers.

14 B. Each member of the Oklahoma Children and Juvenile Law Reform
15 Committee initially appointed shall make the appointment known to
16 the Speaker of the House of Representatives and the President Pro
17 Tempore of the Senate by August 1, 2006. Appointed members shall
18 serve until June 30, ~~2008~~ 2009.

19 C. The Oklahoma Children and Juvenile Law Reform Committee may
20 divide into subcommittees in furtherance of its purposes.

21 D. Any vacancies in the appointive membership of the Oklahoma
22 Children and Juvenile Law Reform Committee shall be filled for the
23 unexpired term in the same manner as the original appointment.

24

1 SECTION 5. AMENDATORY Section 11, Chapter 205, O.S.L.
2 2006 (10 O.S. Supp. 2007, Section 7008-1.3), is amended to read as
3 follows:

4 Section 7008-1.3 A. The purposes of the Oklahoma Children and
5 Juvenile Law Reform Committee shall be to conduct a systematic
6 review and study of all laws and procedures in ~~Title 10 of the~~
7 ~~Oklahoma Statutes~~ this title and prepare a recommended draft to
8 reclassify, update, reform and recodify the statutes. The duties of
9 the Committee in preparing recommendations shall be as follows:

- 10 1. To consolidate similar statutes;
- 11 2. To renumber children and juvenile law statutes;
- 12 3. To repeal obsolete or duplicate statutes or any statutes
13 which have been declared unconstitutional by court decision;
- 14 4. To create a recommended Children's Code Article in ~~Title 10~~
15 ~~of the Oklahoma Statutes~~ this title;
- 16 5. To incorporate into the Children's Code Article as many
17 existing statutes relating to children and juvenile law procedure
18 found throughout the Oklahoma Statutes as is practicable;
- 19 6. To update statutory references within each section relating
20 to children and juvenile law procedure;
- 21 7. To clarify and update existing statutory language;
- 22 8. To recodify those sections of law which relate to children
23 and juvenile law procedure when the move will improve the location,
24 use, application and appropriateness of the section; and

1 9. To perform any other act necessary to complete the purposes
2 of the Committee.

3 B. The Oklahoma Children and Juvenile Law Reform Committee
4 shall be responsible for drafting recommended legislation in
5 accordance with the current legislative drafting procedures.

6 C. 1. The Oklahoma Children and Juvenile Law Reform Committee
7 shall prepare a final draft of a recommended Children's Code
8 Article, and shall submit the recommended Article to the Speaker of
9 the House of Representatives and the President Pro Tempore of the
10 Senate by November 1, ~~2007~~ 2008.

11 2. If, after the Committee submits the recommended Article, the
12 Committee determines the Article needs additional revisions, the
13 revisions shall be submitted as one final amendment. The
14 recommended Article amendment shall be submitted to the Speaker of
15 the House of Representatives and the President Pro Tempore of the
16 Senate not later than March 1, ~~2008~~ 2009.

17 3. The Oklahoma Children and Juvenile Law Reform Committee
18 shall submit a summary of every recommended change and addition to
19 existing laws at the time the recommended Children's Code Article
20 and any amendments are presented to the Speaker of the House of
21 Representatives and the President Pro Tempore of the Senate.

22 D. The Oklahoma Children and Juvenile Law Reform Committee
23 shall cease to function June 30, ~~2008~~ 2009.

24

1 SECTION 6. AMENDATORY Section 12, Chapter 205, O.S.L.
2 2006 (10 O.S. Supp. 2007, Section 7008-1.4), is amended to read as
3 follows:

4 Section 7008-1.4 A. Within fifteen (15) days from the initial
5 appointment of membership for the Oklahoma Children and Juvenile Law
6 Reform Committee, the Speaker of the House of Representatives and
7 the President Pro Tempore of the Senate shall each appoint one
8 member of the Committee to serve as cochairs. If a vacancy occurs
9 in such office, a new cochair shall be appointed from the Committee
10 in the same manner as the original appointment, who shall serve
11 until June 30, ~~2008~~ 2009.

12 B. Other officers may be elected to serve the Committee for
13 terms of office as may be designated by the Committee members. The
14 cochairs of the Committee or their designees shall preside at
15 meetings.

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

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

21 1. Legislative members of the Committee shall receive
22 reimbursement from the house in which they serve as provided in the
23 State Travel Reimbursement Act, except when the Legislature is in
24 session and the meeting is held in Oklahoma City;

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

4 3. Any other Committee member shall receive reimbursement
5 pursuant to the State Travel Reimbursement Act.

6 E. A majority of the members appointed to the Committee shall
7 constitute a quorum and a majority present may act for the
8 Committee.

9 SECTION 7. AMENDATORY Section 13, Chapter 205, O.S.L.
10 2006 (10 O.S. Supp. 2007, Section 7008-1.5), is amended to read as
11 follows:

12 Section 7008-1.5 The Oklahoma Children and Juvenile Law Reform
13 Committee shall provide a written progress report to the President
14 Pro Tempore of the Senate and the Speaker of the House of
15 Representatives on or before ~~March~~ August 1, ~~2007~~ 2008.

16 SECTION 8. It being immediately necessary for the preservation
17 of the public peace, health and safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

20

21 51-2-11331 SAB 05/13/08

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