

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 1421

By: Sparks of the Senate

and

Peters of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to children; amending 10 O.S. 2001,
11 Sections 7209, as last amended by Section 6, Chapter
12 196, O.S.L. 2007, 7221, 7206 and Section 7, Chapter
13 205, O.S.L. 2006 (10 O.S. Supp. 2007, Sections 7209
14 and 7004-1.8), which relate to foster care;
15 permitting certain fingerprinting exception;
16 permitting certain visitation exception; stating
17 minimum requirement for certain visits; amending 10
18 O.S. 2001, Section 7510-1.3, as amended by Section
19 12, Chapter 445, O.S.L. 2002 (10 O.S. Supp. 2007,
20 Section 7510-1.3), which relates to adoption;
21 providing certain limitation for children in
22 substitute care; amending 47 O.S. 2001, Section 6-
23 110.2, as last amended by Section 15, Chapter 311,
24 O.S.L. 2006 (47 O.S. Supp. 2007, Section 6-110.2),
which relates to a computerized finger imaging
system; expanding certain authorization; and
declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7209, as
last amended by Section 6, Chapter 196, O.S.L. 2007 (10 O.S. Supp.
2007, Section 7209), is amended to read as follows:

1 Section 7209. A. 1. Except as otherwise provided by law, the
2 Department of Human Services or the Department of Juvenile Justice
3 shall not place a child in out-of-home placement prior to completion
4 of:

5 a. a foster parent eligibility assessment on the foster
6 parent applicant,

7 b. a national criminal history records search based upon
8 submission of fingerprints for any adult residing in
9 the home, as required by the Oklahoma Child Care
10 Facilities Licensing Act and the Oklahoma Foster Care
11 and Out-of-Home Placement Act, and

12 c. a check of any child abuse registry maintained by a
13 state in which the prospective foster parent or any
14 adult living in the home of the prospective foster
15 parent has resided in the preceding five (5) years.

16 Provided, however, the state agencies may place a child in the home
17 of a foster parent, pending completion of the national criminal
18 history records search, if the foster parent and every adult
19 residing in the home of the foster parent have resided in this state
20 for at least five (5) years immediately preceding placement. The
21 director of such state agency or designee may authorize an exception
22 to the fingerprinting requirement for any person residing in the
23 home who has a severe physical condition which precludes such person
24 from being fingerprinted.

1 2. a. The Department of Human Services shall be the lead
2 agency for disseminating fingerprint cards to courts
3 and child-placing agencies for obtaining and
4 requesting a national criminal history records search
5 based upon submission of fingerprints from the
6 Oklahoma State Bureau of Investigation. The
7 Department of Juvenile Justice may directly request
8 national criminal history records searches as defined
9 by Section 150.9 of Title 74 of the Oklahoma Statutes
10 from the Oklahoma State Bureau of Investigation for
11 the purpose of obtaining the national criminal history
12 of any individual for which such a search is required
13 pursuant to this section.

14 b. Courts and child-placing agencies may request the
15 Department of Human Services to obtain from the
16 Oklahoma State Bureau of Investigation a national
17 criminal history records search based upon submission
18 of fingerprints for foster parents and other persons
19 requiring such search pursuant to the Oklahoma Child
20 Care Facilities Licensing Act and the Oklahoma Foster
21 Care and Out-of-Home Placement Act. Any fees charged
22 by the Oklahoma State Bureau of Investigation or the
23 Federal Bureau of Investigation for such searches
24 shall be paid by the requesting entity.

1 c. Either the Department of Human Services or the Office
2 of Juvenile Affairs, whichever is applicable, shall
3 contract with the Oklahoma State Bureau of
4 Investigation to obtain national criminal history
5 records searches based upon submission of
6 fingerprints.

7 d. (1) If the Department of Human Services or the Office
8 of Juvenile Affairs is considering placement of a
9 child with an individual in an emergency
10 situation and after normal business hours, the
11 Department may request local law enforcement to
12 conduct a criminal history records search based
13 upon submission of the individual's name, race,
14 sex, date of birth and social security number.

15 (2) Within five (5) business days of the name-based
16 search, the Department shall submit fingerprints
17 on the individual to the Oklahoma State Bureau of
18 Investigation. In the event the individual
19 refuses to submit to a name-based or fingerprint
20 search, the Department shall either not place or
21 shall remove the child from the individual's
22 home.

23 e. Upon request for a national criminal history records
24 search based upon submission of fingerprints, the

1 Oklahoma State Bureau of Investigation shall forward
2 one set of fingerprints to the Federal Bureau of
3 Investigation for the purpose of conducting such a
4 national criminal history records search.

5 3. The Department of Human Services, pursuant to Section 7003-
6 5.3 of this title, and the Department of Juvenile Justice, pursuant
7 to Section 7303-5.2 of this title, shall conduct an assessment of
8 each child in its custody which shall be designed to establish an
9 appropriate treatment and service plan for the child.

10 B. 1. A child-placing agency shall not place a child who is in
11 the custody of the agency in out-of-home placement until completion
12 of a foster parent eligibility assessment or a national criminal
13 history records search based upon submission of fingerprints has
14 been completed for each individual residing in the home in which the
15 child will be placed, as required pursuant to the Oklahoma Child
16 Care Facilities Licensing Act or the Oklahoma Foster Care and Out-
17 of-Home Placement Act, and a check of any child abuse registry
18 maintained by a state in which the prospective foster parent or any
19 adult living in the home of the prospective foster parent has
20 resided in the past five (5) years; provided, however, the child-
21 placing agency may place a child in a foster family home pending
22 completion of the national criminal history records search if the
23 foster parent and every adult residing in the home have resided in
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1 this state for at least five (5) years immediately preceding the
2 placement.

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

6 C. 1. Whenever a court awards custody of a child to an
7 individual or a child-placing agency other than the Department of
8 Human Services or the Department of Juvenile Justice, for placement
9 of the child, the court shall:

10 a. require that when custody is placed with an
11 individual, a foster family eligibility assessment be
12 conducted for the foster parents prior to placement of
13 the child, and

14 b. require that if custody is awarded to a child-placing
15 agency, a foster family eligibility assessment be
16 conducted as required by the Oklahoma Child Care
17 Facilities Licensing Act.

18 2. A child-placing agency other than the Department of Human
19 Services or the Office of Juvenile Affairs shall, within thirty (30)
20 days of placement, provide for an assessment of the child for the
21 purpose of establishing an appropriate treatment and service plan
22 for the child. The court shall require the treatment and service
23 plan to be completed in substantially the same form and with the
24 same content as required by the Oklahoma Children's Code for a

1 deprived child or as required by the Juvenile Justice Code for a
2 delinquent child or a child in need of supervision.

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

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

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

17 2. The Department of Human Services and the Department of
18 Juvenile Justice shall be responsible for the completion of and
19 costs of the foster parent eligibility assessment and any national
20 criminal history records search based upon submission of
21 fingerprints, preparation of a treatment and service plan, and the
22 medical examination required by this subsection only for the
23 children placed in the custody of the state agency. The state
24 agency may provide for reimbursement of such expenses, costs and

1 charges so incurred pursuant to the Oklahoma Children's Code and the
2 Juvenile Justice Code, as applicable.

3 E. 1. Upon any voluntary out-of-home placement of a child by a
4 parent into foster care with a child-placing agency, the child-
5 placing agency shall conduct an assessment of the child in its
6 custody which shall be designed to establish an appropriate plan for
7 placement of the child. Following the assessment, the child-placing
8 agency shall establish an individual treatment and service plan for
9 the child. A copy of each plan shall be provided to the child if
10 the child is twelve (12) years of age or older and to the child's
11 parent or guardian. The plan shall at a minimum:

- 12 a. be specific,
- 13 b. be in writing,
- 14 c. be prepared by the agency in conference with the
15 child's parents,
- 16 d. state appropriate deadlines,
- 17 e. state specific goals for the treatment of the child,
- 18 f. describe the conditions or circumstances causing the
19 child to be placed in foster care,
- 20 g. describe the services that are necessary to remedy and
21 that have a reasonable expectation of remedying the
22 conditions or circumstances causing the child to be
23 placed in foster care,
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1 h. state to whom the services will be delivered and who
2 will deliver the services, and

3 i. prescribe the time the services are expected to begin
4 and the time within which expected results can
5 reasonably be accomplished.

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

8 F. The child may receive such further diagnosis and evaluation
9 as is necessary to preserve the physical and mental well-being of
10 the child.

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

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

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

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

6 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7221, is
7 amended to read as follows:

8 Section 7221. A. In order to promote the stability and healthy
9 growth of a foster child who has been placed in a foster family
10 home, it is the intent of the Legislature to limit the number of
11 times a foster child is moved within the foster family system.

12 B. If there is an allegation of abuse or neglect in a foster
13 home, an investigation of the allegation shall be conducted as
14 required in Section 7106 of ~~Title 10 of the Oklahoma Statutes~~ this
15 title.

16 C. Required visitations for the foster child are to be made in
17 the home of the foster parent, except as provided in paragraph 2 of
18 subsection C of Section 7206 of this title. If there is good cause,
19 other than an allegation of abuse or neglect, to believe the foster
20 child needs to be interviewed alone without the foster parent
21 present, then the foster parent shall provide a location in the home
22 where the foster child can be questioned without the foster parent's
23 being present.

1 SECTION 3. AMENDATORY 10 O.S. 2001, Section 7206, is
2 amended to read as follows:

3 Section 7206. A. The Department of Human Services, the
4 Department of Juvenile Justice or any child-placing agency shall,
5 prior to any out-of-home foster placement, enter into a written
6 contract with the foster care placement provider. The contract
7 shall provide, at a minimum:

8 1. That the state agency and the child-placing agency shall
9 have access at all times to the child and to the foster placement;

10 2. A listing of any specific requirements, specific duties or
11 restrictions in providing foster care services;

12 3. That any foster child shall have access to and be accessible
13 by any court-appointed special advocate for the foster child and the
14 foster child's attorney;

15 4. That the foster care placement provider shall comply with
16 performance standards required pursuant to the Oklahoma Foster Care
17 and Out-of-Home Placement Act, the Oklahoma Children's Code, the
18 Juvenile Justice Code, and the Oklahoma Child Care Facilities
19 Licensing Act;

20 5. Information regarding the amount of payments to be made for
21 foster care services, including but not limited to a description of
22 the process involved in receiving payments, including projected time
23 frames, information related to reimbursements for eligible costs and
24 expenses for which the foster parent may be reimbursed and any

1 information concerning the accessibility and availability of funds
2 for foster parents;

3 6. That any foster child placed with a foster care placement
4 provider shall be released to the state agency or the child-placing
5 agency whenever, in the opinion of the state agency or the child-
6 placing agency, the best interests of the deprived child require
7 such release, or the best interests of the delinquent child or the
8 child in need of supervision, consistent with the state's interest
9 in the protection of the public, require such release pursuant to
10 the Oklahoma Foster Care and Out-of-Home Placement Act; and

11 7. Such other information required by the state agency and the
12 child-placing agency.

13 B. The state agency or child-placing agency shall provide the
14 following information to the foster parent at the time of placement,
15 along with a copy of the written contract required pursuant to
16 subsection A of this section:

17 1. The names and telephone numbers of the child's case worker,
18 the foster parents' case worker, the case workers' supervisors, and
19 the contact within the state agency central office, or the name and
20 telephone number of the contact person within the child-placing
21 agency and any other medical, psychological, social or other
22 pertinent information relating to foster care;

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1 2. A copy of the grievance procedure established by the state
2 agency or the child-placing agency pursuant to the Oklahoma Foster
3 Care and Out-of-Home Placement Act;

4 3. The name and telephone number of any foster parent
5 association in the county of residence of the foster parent;

6 4. For foster parents of deprived children, the name and
7 telephone number of any postadjudication review board established in
8 the county of residence of the foster parent or the nearest
9 postadjudication review board and the court having jurisdiction over
10 the child;

11 5. A copy of the statement of foster parent rights;

12 6. Information detailing the foster parents' ability to submit
13 written reports to the court, or to petition the court directly for
14 review of a decision by the state agency or the child-placing agency
15 to remove a foster child who has been placed with the foster parent,
16 in accordance with the limitations and requirements of Section 7208
17 of this title; and

18 7. A copy of the policies and procedures of the Department or
19 child-placing agency which pertain to placement operations of the
20 agency, and which may be necessary to properly inform the out-of-
21 home placement providers of the duties, rights and responsibilities
22 of the out-of-home placement providers and the Department.

23 C. 1. In addition to other requirements made pursuant to the
24 Oklahoma Child Care Facilities Licensing Act, each child-placing

1 agency shall maintain supervision of all children placed by the
2 agency in foster placement and shall maintain supervision of and
3 make regular visits to such foster placements.

4 2. The child-placing agency shall visit each foster ~~placement~~
5 child no less than once every month with no less than two visits per
6 quarter in the foster placement.

7 3. The child-placing agency shall prepare and maintain a
8 written report of its findings for each visit.

9 4. a. A complete written review of the placement, well-being
10 and progress of any foster child in foster care with a
11 child-placing agency shall be made by the child-
12 placing agency as required by the state agency with
13 which the child-placing agency has a contract.

14 b. If a child-placing agency is providing foster care
15 services for a child pursuant to a written agreement
16 or contract with the parents or guardian of a child,
17 the child-placing agency shall provide a copy of the
18 written review to the parents or guardian of the
19 child. The written agreement or contract shall
20 specify how often the review shall be conducted.

21 SECTION 4. AMENDATORY Section 7, Chapter 205, O.S.L.
22 2006 (10 O.S. Supp. 2007, Section 7004-1.8), is amended to read as
23 follows:
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1 Section 7004-1.8 On or before January 1, 2007, the Department
2 of Human Services shall establish a performance-based incentive
3 compensation program for employees exclusively working as child
4 welfare specialists. All full-time child welfare specialists shall
5 be eligible to participate in the performance-based incentive
6 compensation program. Eligibility factors shall include, but not be
7 limited to, child welfare specialists who have met or exceeded the
8 suggested federal child welfare outcomes, received ~~above average~~
9 "exceeds standards" employee evaluations, as defined by the Office
10 of Personnel Management, completed Department-sponsored field
11 training, and obtained an advanced higher education degree in social
12 work or closely related field. The eligibility of a child welfare
13 specialist shall not be based upon the level of seniority that has
14 been obtained by the child welfare specialist. The Oklahoma
15 Commission for Human Services shall promulgate rules as necessary to
16 implement the provisions of this section.

17 SECTION 5. AMENDATORY 10 O.S. 2001, Section 7510-1.3, as
18 amended by Section 12, Chapter 445, O.S.L. 2002 (10 O.S. Supp. 2007,
19 Section 7510-1.3), is amended to read as follows:

20 Section 7510-1.3 A. The Department of Human Services shall
21 establish and administer an ongoing program of adoption assistance
22 for eligible special needs children in the legal custody of the
23 Department or a federally recognized Indian tribe, as defined by the
24 federal Indian Child Welfare Act and the Oklahoma Indian Child

1 Welfare Act, who are not eligible for federally funded adoption
2 assistance benefits. Adoption assistance benefits under this
3 program shall be provided out of funds appropriated to the
4 Department for the maintenance of children in foster care or made
5 available to it from other sources.

6 B. Adoption assistance benefits under this program may include
7 Medicaid coverage, a monthly adoption assistance payment,
8 reimbursement of nonrecurring adoption expenses, special services,
9 or any combination of such benefits.

10 C. To comply with 42 U.S.C., Section 471(a)(14) of the Social
11 Security Act and 45 C.F.R., Section 1356.21(n), the Department shall
12 limit the number of children under the responsibility of the
13 Department, who remain in substitute care for a period over twenty-
14 four (24) months, to no more than thirty percent (30%) of the
15 children in care during any fiscal year.

16 SECTION 6. AMENDATORY 47 O.S. 2001, Section 6-110.2, as
17 last amended by Section 15, Chapter 311, O.S.L. 2006 (47 O.S. Supp.
18 2007, Section 6-110.2), is amended to read as follows:

19 Section 6-110.2 A. The Department of Public Safety shall
20 implement a procedure for computerized finger imaging by means of an
21 inkless finger image scanning device and shall require every
22 applicant for an original, renewal or replacement driver license or
23 identification card to submit to finger imaging for the purposes of
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1 proof of identity and to ensure the security of the driver license
2 or identification card issued to the applicant.

3 B. No unemancipated person under eighteen (18) years of age
4 shall be issued a driver license or identification card by the
5 Department unless an authorization form, prescribed and furnished by
6 the Department, authorizing the finger imaging of the person and
7 signed by the legal custodial parent ~~or~~, legal guardian, or legal
8 custodian of the person, is in the possession of the Department.

9 C. No law enforcement agency of the state or federal government
10 other than the Department of Public Safety shall have access to any
11 information collected through the use of computerized finger imaging
12 without first obtaining a court order from a judge of competent
13 jurisdiction. Each application for an order authorizing the access
14 to any information collected through the use of computerized finger
15 imaging shall be made in writing upon oath or affirmation to a judge
16 of competent jurisdiction. Each application shall establish
17 probable cause for belief that a named individual is committing, has
18 committed or is about to commit a particular violation of law.

19 D. The Commissioner of Public Safety shall adopt rules as may
20 be necessary to carry out the provisions of this section.

21 SECTION 7. It being immediately necessary for the preservation
22 of the public peace, health and safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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