

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 553

By: Sparks of the Senate

and

Peters of the House

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8
9 COMMITTEE SUBSTITUTE

10 An Act relating to children; amending 10 O.S. 2001,
11 Sections 7003-2.4, as amended by Section 1, Chapter
12 120, O.S.L. 2005, 7003-5.6, as last amended by
13 Section 2, Chapter 452, O.S.L. 2004, 7003-5.6d, as
14 last amended by Section 3, Chapter 452, O.S.L. 2004,
15 7003-8.1, 7005-1.3, as amended by Section 1, Chapter
16 153, O.S.L. 2005, 7505-5.3, 7111, 7209, as last
17 amended by Section 2, Chapter 213, O.S.L. 2003 and
18 7505-5.1 (10 O.S. Supp. 2006, Sections 7003-2.4,
19 7003-5.6, 7003-5.6d, 7005-1.3 and 7209), which relate
20 to the placement of children; directing courts to
21 advise certain persons of certain information at an
22 emergency custody hearing; directing the Department
23 of Human Services to provide certain written notice
24 to certain persons; providing for certain right of
hearing for certain persons; requiring certain
consideration for placement; directing certain
inquiry; requiring identification of certain
placements; clarifying those persons not approved for
child placement; providing exclusion; clarifying
disclosure of certain records to certain persons;
specifying review of certain information during home
study; changing number of years of residency required
to exempt certain search; requiring the Department of
Human Services to maintain a certain registry;
directing the court clerk to forward certain
information to the Department of Human Services in
specified circumstance; authorizing certain entities
to make specified inquiries; requiring the Department

1 to furnish certain information; prohibiting the
2 disclosure of certain information; authorizing the
3 promulgation of rules; expanding scope of eligibility
4 assessment required before placement; modifying
5 exclusion; clarifying those persons not approved for
6 child placement; providing an exception; amending 43
7 O.S. 2001, Sections 109, 110.1, 111.1 and Section 8,
8 Chapter 400, O.S.L. 2002 (43 O.S. Supp. 2006, Section
9 112.3), which relate to child custody and visitation;
10 providing for a rebuttable presumption in certain
11 circumstances for custody disputes; defining terms;
12 providing certain considerations for determining
13 custody; providing condition for shared parenting;
14 deleting certain burden of proof; adding condition
15 for visitation in a specific situation; specifying
16 certain alternatives for visitation orders; providing
17 conditions for termination of visitation; providing
18 for confidentiality of certain information in certain
19 circumstances; providing for waiver of notice of
20 relocation under certain circumstances; providing an
21 effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7003-2.4, as amended by Section 1, Chapter 120, O.S.L. 2005 (10 O.S. Supp. 2006, Section 7003-2.4), is amended to read as follows:

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

2. The written notice shall:

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

1 b. inform the parent, legal guardian, or custodian of the
2 child that an emergency custody hearing to determine
3 custody of the child will occur within two (2)
4 judicial days from the date the child was removed from
5 the home, and

6 c. contain information about the:

7 (1) emergency custody hearing process including, but
8 not limited to, the date, time and place that the
9 child was taken into protective or emergency
10 custody,

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

13 (3) address and telephone number of the local and
14 county law enforcement agencies,

15 (4) phone number of the local child welfare office of
16 the Department of Human Services, and

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

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

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

8 2. At the emergency custody hearing, the court shall advise the
9 parent, legal guardian or custodian of the child in writing of the
10 following information and rights and the procedure which will be
11 followed with regard to determining custody of the child, including,
12 but not limited to:

- 13 a. any right of the parent or legal guardian or custodian
14 to testify and present evidence at court hearings,
- 15 b. the right to be represented by an attorney at court
16 hearings as authorized by law,
- 17 c. the consequences of failure to attend any hearings
18 which may be held, ~~and~~
- 19 d. the right to appeal and the procedure for appealing
20 the finding of a court on custody issues as authorized
21 by law, and
- 22 e. that if the child is found to be deprived or if
23 parental rights are terminated due to a judicial
24 finding that the parent has committed child abuse or

1 neglect, the parent's name and the judicial finding
2 shall be included in the child abuse registry and that
3 information may subsequently be disclosed pursuant to
4 Section 7111 of this title should the parent apply to
5 become a foster parent or to adopt a child.

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. 1. Except as otherwise provided by this subsection, a
24 petition for a deprived child proceeding shall be filed and a

1 summons issued within five (5) judicial days from the date of
2 assumption of custody; provided, however, such time period may be
3 extended a period of time not to exceed fifteen (15) calendar days
4 from the date of assumption of custody of the child if, upon request
5 of the district attorney at the emergency custody hearing, the court
6 determines there are compelling reasons to grant additional time for
7 the filing of the petition for a deprived child proceeding.

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

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

17 The emergency custody order shall not be extended beyond sixty
18 (60) days absent a showing that such further extension is necessary
19 to ensure the health, safety or welfare of the child and is in the
20 best interests of the child.

21 E. 1. The court may hold additional hearings at such intervals
22 as may be determined necessary by the court to provide for the
23 health, safety or welfare of the child.

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

5 F. In scheduling hearings, the court shall give priority to
6 proceedings in which a child is in emergency custody.

7 G. 1. ~~No~~ An order of the court providing for the removal of a
8 child alleged to be deprived from the home of such child shall not
9 be entered unless the court makes a determination:

10 a. that continuation of the child in the child's home is
11 contrary to the health, safety or welfare of the
12 child, and

13 b. as to whether or not reasonable efforts were made to
14 prevent the need for the removal of the child from the
15 child's home, or

16 c. as to whether or not an absence of efforts to prevent
17 the removal of the child from the child's home is
18 reasonable because the removal is due to an alleged
19 emergency and is for the purpose of providing for the
20 health, safety or welfare of the child, or

21 d. that reasonable efforts to provide for the return of
22 the child to the child's home are not required
23 pursuant to Section 7003-4.6 of this title; provided,
24 however, upon such determination, the court shall

1 inform the parent that a permanency hearing will be
2 held within thirty (30) days from the determination.

3 2. In all proceedings or actions pursuant to this subsection,
4 the child's health, safety or welfare shall be the paramount
5 concern.

6 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7003-5.6, as
7 last amended by Section 2, Chapter 452, O.S.L. 2004 (10 O.S. Supp.
8 2006, Section 7003-5.6), is amended to read as follows:

9 Section 7003-5.6 A. Every case regarding a child alleged or
10 adjudicated to be deprived shall be reviewed by the court at a
11 hearing no later than six (6) months from the date of the child's
12 out-of-home placement and at least once every six (6) months
13 thereafter. A review hearing may be held concurrently with a
14 permanency hearing. A child shall be considered to have entered an
15 out-of-home placement on the earlier of the adjudication date or the
16 date that is sixty (60) days after the date on which the child is
17 removed from the home. Such reviews shall continue until such time
18 as:

19 1. The conditions which caused the child to be adjudicated have
20 been corrected;

21 2. The parental rights of the parent are terminated and a final
22 adoption decreed or the child is placed with a suitable custodian or
23 kinship guardian; or

24 3. ~~Until the~~ The court otherwise terminates jurisdiction.

1 B. The provisions of this section shall also apply to a child
2 who has been removed from the home of the parent or parents, legal
3 guardian or custodian of the child after the child has been returned
4 to that home.

5 C. The court may set a case for a review hearing upon the
6 motion of a party at any time, if the hearing is deemed by the court
7 to be for the health, safety or welfare of the child and in the best
8 interests of the child.

9 D. In addition to the parties, adequate prior written notice of
10 review hearings, ~~as determined by the Department pursuant to rules~~
11 ~~promulgated by the Commission for Human Services,~~ shall be provided
12 by the Department pursuant to rules promulgated by the Commission
13 for Human Services to the current foster parents, ~~and an opportunity~~
14 preadoptive parent, or relative providing care for the child. A
15 right to be heard at such hearings shall be provided by the court to
16 the current foster parent of a child, the child's guardian ad litem,
17 and to any preadoptive parent or relative providing care for the
18 child. Such notice and ~~opportunity~~ right to be heard shall not be
19 construed as requiring any foster parent, preadoptive parent or
20 relative to be made a party to such deprived proceedings if not
21 currently a party to the action.

22 E. The court shall receive all evidence helpful in deciding the
23 issues before the court including, but not limited to, oral and
24 written reports, which may be admitted and relied upon to the extent

1 of their probative value, even though not competent for purposes of
2 an adjudicatory hearing.

3 F. At each review hearing the court shall:

4 1. Determine whether:

5 a. the child should be returned to the child's parent or
6 placed with willing and suitable kinship relations.

7 Before a return to the child's parent is ordered, the
8 court must find that the parties:

9 (1) have complied with, performed, and completed the
10 terms and conditions of the individual treatment
11 and service plan which are essential and
12 fundamental to the health, safety or welfare of
13 the child as determined by the court,

14 (2) have corrected those conditions which caused the
15 child to be adjudicated and which the court
16 determines to be essential and fundamental to the
17 health, safety or welfare of the child,

18 (3) have made marked progress towards reunification
19 with the child, and

20 (4) have maintained a close and positive relationship
21 with the child,

22 b. the child should continue in out-of-home placement for
23 a specified period. The court shall project a likely
24 date by which the child may be:

1 (1) returned to and safely maintained in the home,

2 (2) placed with a willing and suitable guardian or
3 custodian, or

4 (3) placed for adoption, or other permanent
5 arrangement,

6 c. the rights of the parent of the child should be
7 terminated and the child placed for adoption, placed
8 with a guardian or custodian, or provided with another
9 permanent arrangement, or

10 d. the child, because of exceptional circumstances,
11 should remain in long-term out-of-home placement as a
12 permanent plan or with a goal of independent living;

13 2. Consider in-state and out-of-state permanent placement

14 options for the child;

15 3. Make a determination as to whether:

16 a. reasonable efforts have been made to provide for the
17 safe return of the child to the child's own home. In
18 determining reasonable efforts, the child's health,
19 safety or welfare shall be the paramount concern. If
20 the court determines or has previously determined that
21 reasonable efforts are not required, pursuant to the
22 provisions of Section 7003-4.6 of this title, or that
23 continuation of reasonable efforts to reunite the
24 child with the child's family is inconsistent with the

1 permanency plan for the child, the court shall
2 determine if reasonable efforts are being made to
3 place the child in a timely manner in accordance with
4 the permanency plan and to complete steps necessary to
5 finalize permanent placement for the child, and

6 b. where appropriate, when the child is sixteen (16)
7 years of age or older, services are being provided
8 that will assist the child in making the transition
9 from foster care to independent living, and shall also
10 inquire, or cause inquiry to be made of the child,
11 regarding any proposed independent living plan;

12 ~~3.~~ 4. Determine the safety of the child and consider fully all
13 relevant prior and current information including, but not limited
14 to, the report or reports submitted pursuant to Sections 7208 and
15 7003-5.6a of this title;

16 ~~4.~~ 5. Inquire as to the nature and extent of services being
17 provided the child and parent or parents of the child and shall
18 direct that additional services be provided if necessary to ensure
19 the safety of the child and to protect the child from further
20 physical, mental, or emotional harm, or to correct the conditions
21 that led to the adjudication; and

22 ~~5.~~ 6. Order such modification to the existing individual
23 treatment and service plan as the court determines to be in the best
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1 interests of the child and necessary for the correction of the
2 conditions that led to the adjudication of the child.

3 SECTION 3. AMENDATORY 10 O.S. 2001, Section 7003-5.6d,
4 as last amended by Section 3, Chapter 452, O.S.L. 2004 (10 O.S.
5 Supp. 2006, Section 7003-5.6d), is amended to read as follows:

6 Section 7003-5.6d A. 1. The court shall conduct a permanency
7 hearing on behalf of a child no later than:

8 a. six (6) months after placing the child in out-of-home
9 placement and every six (6) months thereafter, and

10 b. thirty (30) days after a determination by the court
11 that reasonable efforts are not required pursuant to
12 the provisions of Section 7003-4.6 of this title and
13 every six (6) months thereafter.

14 2. A child shall be considered to have entered out-of-home
15 placement on the earlier of:

16 a. the adjudication date, or

17 b. the date that is sixty (60) days after the date on
18 which the child is removed from the home.

19 B. A permanency hearing may be held concurrently with a
20 dispositional or review hearing. All permanency decisions must be
21 in writing and in accordance with the health, safety or welfare of
22 the child and the long-term best interests of the child. In the
23 case of a child who will not be returned to the parent, the hearing

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1 shall consider in-state and out-of-state permanent placement
2 options.

3 C. In addition to the parties, adequate prior written notice of
4 permanency hearings, ~~as determined by the Department of Human~~
5 ~~Services, pursuant to rules promulgated by the Commission for Human~~
6 ~~Services,~~ shall be provided by the Department pursuant to rules
7 promulgated by the Commission for Human Services to the current
8 foster parents ~~and an opportunity~~ and to any preadoptive parent or
9 relative providing care for the child. A right to be heard at such
10 hearing shall be provided by the court to the current foster parents
11 of a child, the child's guardian ad litem, and to any preadoptive
12 parent or relative providing care for the child. Such notice and
13 ~~opportunity~~ right to be heard shall not be construed as requiring
14 any foster parent, preadoptive parent or relative to be made a party
15 to such action.

16 D. At the hearing, the court shall determine the most suitable
17 permanency plan based on the child's need for a permanent placement
18 as indicated by the recommended permanency plan or other evidence
19 submitted and shall also, in an age-appropriate manner, inquire or
20 cause inquiry to be made of the child regarding the proposed
21 permanency plan or if the child is age sixteen (16) or older, the
22 independent living plan. The court shall determine whether:

23 1. The child should be returned home immediately or by a
24 specified date not to exceed three (3) months. An order entered

1 pursuant to the provisions of this paragraph shall enumerate the
2 specific factors, conditions, or expected behavioral changes which
3 must occur by the specified date before the child may be returned
4 home. Before a child may be returned home, the court must find
5 that:

6 a. the parent, legal guardian or custodian has made
7 marked progress towards reunification with the child,
8 and has maintained a close and positive relationship
9 with the child, and

10 b. the parties have complied with, performed and
11 completed those terms and conditions of the court-
12 ordered individual treatment and service plan and have
13 corrected those conditions which caused the child to
14 be adjudicated which are essential and fundamental to
15 the health, safety and welfare of the child;

16 2. A plan for the guardianship or kinship guardianship of the
17 child should be approved;

18 3. The child should be placed in a planned permanent living
19 arrangement if the Department has documented a compelling reason for
20 the court to determine that it would not be in the best interests of
21 the child to return home, or to be placed for adoption or with a fit
22 and willing relative or a legal guardian;

23 4. A petition to terminate the rights of the parents of the
24 child should be filed and the child placed for adoption; or

1 5. Any other out-of-home placement in which the child is placed
2 continues to be safe and appropriate and in the best interests of
3 the child.

4 E. The court shall enter an order for completion of all steps
5 necessary to finalize the permanent placement of the child.

6 SECTION 4. AMENDATORY 10 O.S. 2001, Section 7003-8.1, is
7 amended to read as follows:

8 Section 7003-8.1 A. In placing a child in the custody of an
9 individual or in the custody of a private agency or institution, the
10 court shall, and the Department of Human Services shall, if at all
11 possible, select a person or an agency or institution governed by
12 persons of the same religious faith as that of the parents of the
13 child, or in case of a difference in the religious faith of the
14 parents, then of the religious faith of the child, or, if the
15 religious faith of the child is not ascertainable, then of the faith
16 of either of the parents.

17 B. Except as otherwise provided by this section or by law, it
18 shall be left to the discretion of the judge to place the custody of
19 children where their total needs will best be served.

20 C. If the child is removed from the custody of the child's
21 parent, the court or the Department of Human Services, as
22 applicable, shall immediately consider concurrent permanency
23 planning, so that permanency may occur at the earliest opportunity.

24 ~~Consideration~~ Identification of appropriate in-state and out-of-

1 state placements should be ~~given~~ made so that if reunification fails
2 or is delayed, the placement made is the best available placement to
3 provide permanency for the child.

4 D. ~~For purposes of this subsection, the State of Oklahoma~~
5 ~~elects to make subparagraph (A) of paragraph 20 of subsection 3 of~~
6 ~~Section 471(a) of the Social Security Act (Public Law 105-89)~~
7 ~~inapplicable to Oklahoma. Instead, the State of Oklahoma requires~~
8 ~~that:~~

9 1. ~~Except as otherwise provided by this subsection, on and~~
10 ~~after the effective date of this act, the Department or a child-~~
11 ~~placing agency shall not place a child in out-of-home placement with~~
12 ~~a foster parent if the foster parent or any other person residing in~~
13 ~~the home of the foster parent has been convicted of any of the~~
14 ~~following felony offenses:~~

- 15 a. ~~within the five-year period preceding the application~~
16 ~~date, physical assault, battery or a drug related~~
17 ~~offense,~~
- 18 b. ~~child abuse or neglect,~~
- 19 c. ~~domestic abuse,~~
- 20 d. ~~a crime against a child, including, but not limited~~
21 ~~to, child pornography, or~~
- 22 e. ~~a crime involving violence, including, but not limited~~
23 ~~to, rape, sexual assault or homicide, but excluding~~
24 ~~physical assault or battery; and~~

1 ~~2. a.~~

2 A prospective foster or adoptive parent ~~or guardian or kinship~~
3 ~~guardian or other long-term placement provider~~ shall not be an
4 approved placement for ~~the~~ a child if the ~~person~~ prospective foster
5 or adoptive parent or any other person residing in the home of the
6 prospective foster or adoptive parent has been convicted of any of
7 the following felony offenses:

8 ~~(1) within~~

9 1. Within the five-year period preceding the ~~date of the~~
10 ~~petition~~ application date, physical assault, battery or a drug-
11 related offense, ~~except as otherwise authorized by this subsection;~~

12 ~~(2) child~~

13 2. Child abuse or neglect~~;~~

14 ~~(3) domestic~~

15 3. Domestic abuse~~;~~

16 ~~(4) a~~

17 4. A crime against a child, including, but not limited to,
18 child pornography~~;~~ and

19 ~~(5) a~~

20 5. A crime involving violence, including, but not limited to,
21 rape, sexual assault or homicide, but excluding ~~physical assault or~~
22 ~~battery~~ those crimes specified in paragraph 1 of this subsection.

23 ~~b. A prospective adoptive parent or long-term placement~~
24 ~~provider may be an approved placement regardless of~~

~~whether such parent or provider has been convicted of any of the felony offenses specified by division (1) of subparagraph a of this paragraph, if an evaluation has been made and accepted by the court which considers the nature and seriousness of the crime in relation to the adoption or long term placement, the time elapsed since the commission of the crime, the circumstances under which the crime was committed, the degree of rehabilitation, the number of crimes committed by the person involved, and a showing by clear and convincing evidence that the child will not be at risk by such placement.~~

E. 1. Under no circumstances shall a child be placed in the custody of an individual subject to the Oklahoma Sex Offenders Registration Act or an individual who is married to or living with an individual subject to the Oklahoma Sex Offenders Registration Act.

2. In addition, prior to placing a child in the custody of an individual, the court shall inquire as to whether the individual has been previously convicted of any other felony or a relevant misdemeanor or has any felony or relevant misdemeanor charges pending.

3. Prior to the custody order being entered, the individual seeking custody shall respond by certified affidavit or through

1 sworn testimony to the court and shall provide an Oklahoma criminal
2 history record obtained pursuant to Section 150.9 of Title 74 of the
3 Oklahoma Statutes.

4 4. For purposes of this subsection the terms:

5 a. "relevant misdemeanor" may include, but shall not be
6 limited to, assault and battery, alcohol- or drug-
7 related offenses, crimes involving domestic abuse and
8 other offenses deemed relevant by the court, and

9 b. "individual" shall not include a parent, legal
10 guardian, or custodian of the child.

11 F. The provisions of this section shall not apply in any
12 paternity or domestic relations case, unless otherwise ordered by
13 the court.

14 SECTION 5. AMENDATORY 10 O.S. 2001, Section 7005-1.3, as
15 amended by Section 1, Chapter 153, O.S.L. 2005 (10 O.S. Supp. 2006,
16 Section 7005-1.3), is amended to read as follows:

17 Section 7005-1.3 A. Juvenile court records may be inspected,
18 and their contents shall be disclosed, without a court order to the
19 following persons upon showing of proper credentials and pursuant to
20 their lawful duties:

21 1. The court having the child currently before it in any
22 proceeding pursuant to this title, any district court or tribal
23 court to which such proceedings may be transferred, employees and
24 officers of the court in the performance of their duties, including

1 but not limited to guardians ad litem appointed by the court, and
2 court-appointed special advocates;

3 2. Employees of court-appointed special advocate programs, as
4 defined in Section 7001-1.3 of this title, in the course of their
5 official duties pertaining to recruiting, screening, training,
6 assigning cases, supervising and supporting volunteers in their
7 roles as guardian ad litem, pursuant to Section 7003-3.7 of this
8 title;

9 3. Members of postadjudication review boards established
10 pursuant to the provisions of Section 1116.2 of this title, the
11 Child Death Review Board, and multidisciplinary personnel. In
12 addition to juvenile court records, members of such postadjudication
13 review boards may inspect, without a court order, information that
14 includes, but is not limited to:

- 15 a. psychological and medical records,
- 16 b. placement history and information, including the names
17 and addresses of foster parents,
- 18 c. family assessments,
- 19 d. treatment or service plans, and
- 20 e. school records;

21 4. A district attorney, United States Attorney, or Attorney
22 General of this or another state and the employees of such offices
23 in the course of their official duties pursuant to this title or the
24

1 prosecution of crimes against children, or upon their request in
2 their official capacity as advisor in a grand jury proceeding;

3 5. The attorney representing a child who is the subject of a
4 proceeding pursuant to the provisions of this title, including the
5 attorney representing a child pursuant to the provisions of
6 subsection C of Section 7002-1.2 of this title or representing a
7 child pursuant to the provisions of subsection A of Section 7112 of
8 this title. Such attorney may also access other records listed in
9 subsection A of Section 7005-1.2 of this title for use in the legal
10 representation of the child;

11 6. Employees of juvenile bureaus in the course of their
12 official duties pursuant to this title, and employees of the
13 Department of Human Services in the course of their official duties;

14 7. Employees of a law enforcement agency of this or another
15 state and employees of a child protective service of another state
16 in the course of their official duties pertaining to investigations
17 of a report of known or suspected child abuse or neglect or crimes
18 against children or for the purpose of determining whether to place
19 a child in protective custody;

20 8. Persons and agencies authorized by Section 7005-1.7 of this
21 title;

22 9. The Oklahoma Commission on Children and Youth as provided by
23 Sections 601.2 and 601.6 of this title;

24

1 10. The Department of Human Services or other public or private
2 agency or individual having court-ordered custody or custody
3 pursuant to Department of Human Services placement of the child who
4 is the subject of the record;

5 11. The Office of Juvenile Affairs;

6 12. The child who is the subject of the record and the parents,
7 legal guardian, custodian or foster parent of such child;

8 13. A federally recognized Indian tribe in which the child who
9 is the subject of the record is a member or is eligible to become a
10 member of the tribe and is the biological child of a member of an
11 Indian tribe pursuant to the provisions of the Federal Indian Child
12 Welfare Act, P.L. 95-608, and the Oklahoma Indian Child Welfare Act;
13 provided such Indian tribe, in the course of its official duties,
14 is:

15 a. investigating a report of known or suspected child
16 abuse or neglect or crimes against children or for the
17 purpose of determining whether to place a child in
18 protective custody,

19 b. providing services to or for the benefit of a child
20 including, but not limited to, protective, emergency,
21 social and medical services, or

22 c. the tribe, the tribal court or the tribal child
23 welfare program has asserted jurisdiction or
24 intervened in any case in which the child is the

1 subject of the proceedings or is a party to the
2 proceedings pursuant to the authority provided in the
3 Oklahoma Indian Child Welfare Act.

4 The records that are to be provided to Indian tribes under this
5 subsection shall include all case records, reports, and documents as
6 defined in Section 7005-1.1 of this title;

7 14. The Governor or to any person the Governor designates, in
8 writing;

9 15. Any federal official of the United States Department of
10 Health and Human Services;

11 16. Any member of the Legislature approved in writing by the
12 Speaker of the House of Representatives or the President Pro Tempore
13 of the Senate;

14 17. Persons authorized by and in the manner provided in the
15 Oklahoma Child Abuse Reporting and Prevention Act, including the
16 court clerk of the district court and the Department of Human
17 Services for purposes of establishing and maintaining a child abuse
18 registry and disclosing certain information pursuant to the
19 provisions of Section 7111 of this title;

20 18. A foster parent, with regard to records concerning the
21 social, medical, psychological or educational needs of a child
22 currently placed with that foster parent or of a child being
23 considered for placement with that foster parent;

1 19. An employee of any state or federal corrections or law
2 enforcement agency in the performance of such employee's official
3 duties concerning presentence investigations or supervision of a
4 parent of an alleged or adjudicated deprived child, or the legal
5 guardian, custodian or any other adult member of the child's home
6 who is responsible for the health, safety or welfare of the child;
7 and

8 20. An employee of a state agency of this or another state in
9 the performance of such employee's official duties concerning the
10 establishment of paternity or the establishment or enforcement of a
11 child support order or other entitlement for the benefit of a child;
12 provided, disclosure shall be limited to information directly
13 related to the purpose of such disclosure.

14 B. In accordance with the rules promulgated for such purpose
15 pursuant to Section 620.6 of this title, records listed in
16 subsection A of Section 7005-1.2 of this title may be inspected and
17 their contents disclosed without a court order to participating
18 agencies.

19 C. Records and their contents disclosed without an order of the
20 court as provided by this section shall remain confidential. The
21 use of such information shall be limited to the purposes for which
22 disclosure is authorized. It shall be unlawful and a misdemeanor
23 for any person to furnish any record or disclose any information
24

1 contained therein for commercial, political or any other
2 unauthorized purpose.

3 SECTION 6. AMENDATORY 10 O.S. 2001, Section 7505-5.3, is
4 amended to read as follows:

5 Section 7505-5.3 A. A home study satisfying Section 7505-5.1
6 or 7505-5.2 of this title must include at a minimum the following:

7 1. An appropriate inquiry to determine whether the proposed
8 home is a suitable one for the minor; and any other circumstances
9 and conditions which may have a bearing on the adoption and of which
10 the court should have knowledge; and in this entire matter of
11 investigation, the court is specifically authorized to exercise
12 judicial knowledge and discretion;

13 2. Documentation of at least one individual interview with each
14 parent, each school-age child and any other household member, one
15 joint interview, a home visit, and three written references;

16 3. Verification that the home is a healthy, safe environment in
17 which to raise a minor, as well as verification of marital status,
18 employment, income, access to medical care, physical health and
19 history; and

20 4. A review of a criminal background check ~~and~~ a child abuse
21 and neglect information system check, and a child abuse registry
22 check.

23 a. A background check shall be required for adoptive
24 parents and all other household members eighteen (18)

1 years of age and older, consisting of a review of ~~the~~
2 ~~state~~ a national fingerprint-based criminal background
3 check, a search of the Department of Corrections'
4 files maintained pursuant to the Sex Offenders
5 Registration Act, and a search of the child abuse and
6 neglect files information system and the child abuse
7 registry maintained for review by authorized entities
8 by the Department of Human Services ~~pursuant to the~~
9 ~~Oklahoma Child Abuse Reporting and Prevention Act.~~

10 b. For each adoptive parent or other household member
11 eighteen (18) years of age or older who has not
12 maintained continuous residency in the state for ~~ten~~
13 ~~(10)~~ five (5) years prior to the home study or home
14 study update, a ~~national fingerprint based criminal~~
15 ~~background check shall be performed in addition to the~~
16 ~~state criminal background check and child abuse~~
17 registry check shall be required from every other
18 state in which the prospective adoptive parent or
19 other adult has resided during such five-year period.

20 c. Each prospective adoptive parent or other household
21 member eighteen (18) years of age or older shall be
22 required to cooperate with the requirements of the
23 Department of Human Services and the Oklahoma State
24 Bureau of Investigation with regard to the criminal

1 background check and child abuse check, including but
2 not limited to signing a release of information
3 allowing the release of the results of any search to
4 the agency or person conducting the home study or home
5 study update.

6 d. Upon completion of the criminal record checks and
7 child abuse and neglect checks, the Department of
8 Human Services and the Oklahoma State Bureau of
9 Investigation shall forward all information obtained
10 to the agency or other person authorized in Section
11 7505-5.4 of this title to conduct home study
12 investigations who has requested the background
13 searches.

14 B. A home study which is being updated or brought current in
15 accordance with subsection A of Section 7505-5.1 of this title shall
16 document appropriate inquiry into changes in the family situation
17 since the last home study, a home visit, at least one joint
18 interview, information on any children added to the family,
19 experiences, if any, of the adoptive parents as parents since the
20 last study, verification of current physical health, and three
21 current letters of reference.

22 C. An updated home study as described in subsection B of this
23 section shall include a review of criminal background checks and
24 child abuse ~~registry~~ and neglect checks as described in subsection A

1 of this section. However, when a national fingerprint background
2 check has been done within the five (5) years previous to the
3 completion of the updated home study and the results are available
4 for review by the home study investigator, then a name-based search
5 of the records of the Oklahoma State Bureau of Investigation on the
6 adoptive parents and other household residents over the age of
7 eighteen (18) for whom the fingerprint background check has been
8 performed shall satisfy the requirements for a criminal background
9 check for purposes of a home study update.

10 D. 1. A preplacement home study or update which is being used
11 solely for purposes of international adoption shall not require a
12 national fingerprint-based criminal background search in addition to
13 the one required by the United States Immigration and Naturalization
14 Service.

15 2. Such an international home study shall contain a review of a
16 state criminal background check, a search of the Department of
17 Corrections' files maintained pursuant to the Sex Offenders
18 Registration Act, and a search of the child abuse and neglect ~~files~~
19 information system and child abuse registry maintained for review by
20 authorized entities by the Department of Human Services ~~pursuant to~~
21 ~~the Oklahoma Child Abuse Reporting and Prevention Act.~~

22 3. An international home study or home study update as
23 described in this section must include a statement that the home
24 study recommendation is for international adoption purposes only and

1 may not be used as the basis for a domestic adoption without the
2 addition of a review of the results of a national fingerprint-based
3 criminal background search if such would be required by subparagraph
4 b of paragraph 4 of subsection A of this section.

5 E. The report of such home study or home study update shall
6 become a part of the files in the case and shall contain a definite
7 recommendation for or against the proposed adoption and the reasons
8 therefor.

9 F. Following issuance of an interlocutory decree of adoption,
10 or if the interlocutory decree is waived, prior to issuance of a
11 final decree, the investigator conducting the home study or another
12 investigator who meets the qualifications specified in Section 7505-
13 5.4 of this title, shall observe the minor in the proposed adoptive
14 home and report in writing to the court on any circumstances or
15 conditions which may have a bearing on the granting of a final
16 adoption decree. If the interlocutory decree was not waived, the
17 investigator must certify that the final examination described in
18 this subsection has been made since the granting of the
19 interlocutory order. This supplemental report shall include a
20 determination as to the legal availability or status of the minor
21 for adoption and shall be filed prior to the final decree of
22 adoption.

23 SECTION 7. AMENDATORY 10 O.S. 2001, Section 7111, is
24 amended to read as follows:

1 Section 7111. A. There is hereby established within the
2 Department of Human Services an information system for the
3 maintenance of all reports of child abuse, sexual abuse, and neglect
4 made pursuant to the provisions of the Oklahoma Child Abuse
5 Reporting and Prevention Act.

6 B. The Division of Children and Family Services of the
7 Department of Human Services shall be responsible for maintaining a
8 suitably cross-indexed system of all the reports.

9 C. The records maintained shall contain, but shall not be
10 limited to:

11 1. All information in the written report required by Section
12 7103 of this title;

13 2. A record of the final disposition of the report including
14 services offered and services accepted;

15 3. The plan for rehabilitative treatment; and

16 4. Any other relevant information.

17 D. Data and information maintained and related to individual
18 cases shall be confidential and shall be made available only as
19 authorized by state or federal law.

20 E. The Commission for Human Services shall promulgate rules
21 governing the availability of such data and information.

22 ~~F. Rules promulgated by the Commission shall encourage~~
23 ~~cooperation with other states in exchanging reports in order to~~
24 ~~effect a national registration system.~~

1 ~~G.~~ No person shall allow the data and information maintained to
2 be released except as authorized by Article V of the Oklahoma
3 Children's Code or this section.

4 ~~H.~~ G. Records obtained by the Department shall be maintained by
5 the Department until otherwise provided by law.

6 H. 1. The Department shall also maintain a child abuse
7 registry that identifies perpetrators of child abuse or neglect.
8 The child abuse registry shall contain names of persons who have
9 committed child abuse or neglect as evidenced by a judicial finding
10 made in a deprived proceeding brought under the Oklahoma Children's
11 Code that adjudicates a child to be deprived or terminates the
12 parental rights of an alleged perpetrator, provided the alleged
13 perpetrator contested or could have contested the judicial finding.

14 2. Upon a court making a finding or entering an order described
15 in this subsection, the court clerk shall forward a file-stamped
16 copy of such order to the Department of Human Services along with
17 additional information the Department may reasonably request
18 regarding the facts upon which the judicial finding was based.

19 3. The method for reporting and forwarding the information
20 under the provisions of this subsection shall be established by
21 rules promulgated by the Department.

22 I. Beginning July 1, 2007, a state agency or licensed child-
23 placing agency of this or another state responsible for placing a
24 child in a prospective adoptive or foster home may inquire of the

1 Department of Human Services prior to such placement as to whether
2 the prospective foster or adoptive parent or any other person
3 residing in the home is named in the registry established in
4 subsection H of this section. The state agency or licensed child-
5 placing agency may further request the Department search its records
6 to ascertain whether a court has made a finding of child abuse or
7 neglect as described in this subsection in the five (5) years
8 preceding the request. Within thirty (30) days of such inquiry, the
9 Department shall furnish to the requesting agency a summary of the
10 facts and circumstances which caused the prospective adoptive or
11 foster parent or any other person residing in the home to be listed
12 on the registry. The summary shall not include information which
13 identifies or could reasonably be used to identify any individual
14 other than the perpetrator, except for information previously
15 disclosed or authorized for disclosure by a court.

16 J. The Commission shall promulgate rules governing the
17 availability or the release of information to authorized entities
18 pursuant to this section. These rules shall encourage cooperation
19 with other states in exchanging information in order to effect a
20 national registration system.

21 SECTION 8. AMENDATORY 10 O.S. 2001, Section 7209, as
22 last amended by Section 2, Chapter 213, O.S.L. 2003 (10 O.S. Supp.
23 2006, Section 7209), is amended to read as follows:

24

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 ~~and completion of,~~

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, ~~provided,~~ and

12 c. a child abuse registry check or search of information
13 maintained by the Department of Human Services that is
14 available for disclosure pursuant to Section 7111 of
15 this title.

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
24 person's 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 ~~may~~ shall not place a child who
11 is in the custody of the agency in out-of-home placement ~~if~~ until
12 completion of a foster parent eligibility assessment or a national
13 criminal history records search based upon submission of
14 fingerprints has been completed for each individual residing in the
15 home in which the child will be placed, as required pursuant to the
16 Oklahoma Child Care Facilities Licensing Act or the Oklahoma Foster
17 Care and Out-of-Home Placement Act, and completion of a child abuse
18 registry check or search of information maintained by the Department
19 of Human Services that is available for disclosure pursuant to
20 Section 7111 of this title; provided, however, the child-placing
21 agency may place a child in a foster family home pending completion
22 of the national criminal history records search if the foster parent
23 and every adult residing in the home have resided in this state for
24 at least five (5) years immediately preceding the placement. Upon

1 the request of a child-placing agency, the directors of the state
2 agencies or designees may authorize an exception to the
3 fingerprinting requirement for any person residing in the foster
4 home who has a severe physical condition which precludes such
5 person's being fingerprinted.

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

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

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

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

21 2. A child-placing agency other than the Department of Human
22 Services or the Office of Juvenile Affairs shall, within thirty (30)
23 days of placement, provide for an assessment of the child for the
24 purpose of establishing an appropriate treatment and service plan

1 for the child. The court shall require the treatment and service
2 plan to be completed in substantially the same form and with the
3 same content as required by the Oklahoma Children's Code for a
4 deprived child or as required by the Juvenile Justice Code for a
5 delinquent child or a child in need of supervision.

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

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

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

20 2. The Department of Human Services and the Department of
21 Juvenile Justice shall be responsible for the completion of and
22 costs of the foster parent eligibility assessment and any national
23 criminal history records search based upon submission of
24 fingerprints, preparation of a treatment and service plan, and the

1 medical examination required by this subsection only for the
2 children placed in the custody of the state agency. The state
3 agency may provide for reimbursement of such expenses, costs and
4 charges so incurred pursuant to the Oklahoma Children's Code and the
5 Juvenile Justice Code, as applicable.

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

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

1 conditions or circumstances causing the child to be
2 placed in foster care,

3 h. state to whom the services will be delivered and who
4 will deliver the services, and

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

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

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

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

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

19 I. 1. If the assessment and medical examination disclose no
20 physical, mental or emotional reasons for therapeutic foster care, a
21 child voluntarily placed with a child-placing agency shall be placed
22 in a regular foster family home. If therapeutic foster care is
23 required, the child may be placed only in foster homes that are
24

1 certified as therapeutic foster homes pursuant to the Oklahoma Child
2 Care Facilities Licensing Act.

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

8 SECTION 9. AMENDATORY 10 O.S. 2001, Section 7505-5.1, is
9 amended to read as follows:

10 Section 7505-5.1 A. Except as otherwise provided in this
11 section, only a person for whom a favorable written preplacement
12 home study has been prepared may accept custody of a minor for
13 purposes of adoption. A preplacement home study is favorable if it
14 contains a finding that the person is suited to be an adoptive
15 parent, either in general or for a particular minor, and it is
16 completed or brought current within twelve (12) months next
17 preceding a placement of a minor with the person for adoption.

18 B. A court may waive the requirement of a preplacement home
19 study for good cause shown, but a person who is the subject of a
20 waiver must be evaluated during the pendency of a proceeding for
21 adoption.

22 C. A preplacement home study is not required if a parent or
23 guardian places a minor directly with a relative of the minor for
24

1 purposes of adoption, but a home study of the relative is required
2 during the pendency of a proceeding for adoption.

3 D. ~~For purposes of this subsection, the State of Oklahoma~~
4 ~~elects to make subparagraph (A) of paragraph 20 of subsection 3 of~~
5 ~~Section 471(a) of the Social Security Act (Public Law 105-89)~~
6 ~~inapplicable to Oklahoma. Instead, the State of Oklahoma requires~~
7 ~~that:~~

8 1. ~~Except as otherwise provided by this subsection, a A~~
9 prospective adoptive parent shall not be approved for placement of a
10 child if the petitioners or any other person residing in the home of
11 the petitioners has been convicted of any of the following felony
12 offenses:

13 a. ~~within~~

14 1. Within the five-year period preceding the date of the
15 petition, physical assault, domestic abuse, battery or a drug-
16 related offense, ~~except as otherwise authorized by this subsection,~~i

17 b. ~~child~~

18 2. Child abuse or neglecti

19 c. ~~a~~

20 3. A crime against a child, including, but not limited to,
21 child pornographyi and

22 d. ~~a~~

23

24

1 4. A crime involving violence, including, but not limited to,
2 rape, sexual assault or homicide, but excluding ~~physical assault or~~
3 ~~battery~~ those crimes specified in paragraph 1 of this subsection.

4 ~~2.~~ A prospective adoptive parent may be an approved placement
5 regardless of whether such parent has been convicted of any of the
6 felony offenses specified by subparagraph a of paragraph 1 of this
7 subsection, if an evaluation has been made and accepted by the court
8 which considers the nature and seriousness of the crime in relation
9 to the adoption, the time elapsed since the commission of the crime,
10 the circumstances under which the crime was committed, the degree of
11 rehabilitation, the number of crimes committed by the person
12 involved, and a showing by clear and convincing evidence that the
13 child will not be at risk by such placement.

14 E. Under no circumstances shall a child be placed in the
15 custody of an individual subject to the Oklahoma Sex Offenders
16 Registration Act or an individual who is married to or living with
17 an individual subject to the Oklahoma Sex Offenders Registration
18 Act.

19 SECTION 10. AMENDATORY 43 O.S. 2001, Section 109, is
20 amended to read as follows:

21 Section 109. A. In awarding the custody of a minor unmarried
22 child or in appointing a general guardian for said child, the court
23 shall consider what appears to be in the best interests of the
24 physical and mental and moral welfare of the child.

1 B. The court, pursuant to the provisions of subsection A of
2 this section, may grant the care, custody, and control of a child to
3 either parent or to the parents jointly.

4 For the purposes of this section, the terms joint custody and
5 joint care, custody, and control mean the sharing by parents in all
6 or some of the aspects of physical and legal care, custody, and
7 control of their children.

8 C. If either or both parents have requested joint custody, said
9 parents shall file with the court their plans for the exercise of
10 joint care, custody, and control of their child. The parents of the
11 child may submit a plan jointly, or either parent or both parents
12 may submit separate plans. Any plan shall include, but is not
13 limited to, provisions detailing the physical living arrangements
14 for the child, child support obligations, medical and dental care
15 for the child, school placement, and visitation rights. A plan
16 shall be accompanied by an affidavit signed by each parent stating
17 that said parent agrees to the plan and will abide by its terms. The
18 plan and affidavit shall be filed with the petition for a divorce or
19 legal separation or after said petition is filed.

20 D. The court shall issue a final plan for the exercise of joint
21 care, custody, and control of the child or children, based upon the
22 plan submitted by the parents, separate or jointly, with appropriate
23 changes deemed by the court to be in the best interests of the
24

1 child. The court also may reject a request for joint custody and
2 proceed as if the request for joint custody had not been made.

3 E. The parents having joint custody of the child may modify the
4 terms of the plan for joint care, custody, and control. The
5 modification to the plan shall be filed with the court and included
6 with the plan. If the court determines the modifications are in the
7 best interests of the child, the court shall approve the
8 modifications.

9 F. The court also may modify the terms of the plan for joint
10 care, custody, and control upon the request of one parent. The
11 court shall not modify the plan unless the modifications are in the
12 best interests of the child.

13 G. 1. The court may terminate a joint custody decree upon the
14 request of one or both of the parents or whenever the court
15 determines said decree is not in the best interests of the child.

16 2. Upon termination of a joint custody decree, the court shall
17 proceed and issue a modified decree for the care, custody, and
18 control of the child as if no such joint custody decree had been
19 made.

20 H. In the event of a dispute between the parents having joint
21 custody of a child as to the interpretation of a provision of said
22 plan, the court may appoint an arbitrator to resolve said dispute.
23 The arbitrator shall be a disinterested person knowledgeable in
24 domestic relations law and family counseling. The determination of

1 the arbitrator shall be final and binding on the parties to the
2 proceedings until further order of the court.

3 If a parent refuses to consent to arbitration, the court may
4 terminate the joint custody decree.

5 I. In every proceeding where there is a dispute as to the
6 custody of a minor child, a determination by the court that domestic
7 violence, stalking, or harassment has occurred raises a rebuttable
8 presumption that sole custody, joint legal or physical custody, or
9 any shared parenting plan with the perpetrator of domestic violence,
10 harassing, or stalking behavior is detrimental and not in the best
11 interest of the child, and it is in the best interest of the child
12 to reside with the parent who is not a perpetrator of domestic
13 violence.

14 1. For the purposes of this subsection:

15 a. "domestic violence" means the threat of the infliction
16 of physical injury, any act of physical harm or the
17 creation of a reasonable fear thereof, or the
18 intentional infliction of emotional distress by a
19 parent or a present or former member of the household
20 of the child, against the child or another member of
21 the household,

22 b. "stalking" means the willful, malicious, and repeated
23 following or harassing of a person by a parent that
24 would cause a reasonable person to feel frightened,

1 intimidated, harassed, threatened, or molested and
2 that actually causes the person being followed or
3 harassed to feel terrorized, frightened, intimidated,
4 threatened, harassed, or molested, and

5 c. "harassment" means a knowing and willful course or
6 pattern of conduct by a parent directed at another
7 parent which seriously alarms or is a nuisance to the
8 person and which serves no legitimate purpose
9 including, but not limited to, harassing or obscene
10 telephone calls, and fear of death or bodily injury.

11 2. If a parent is absent or relocates as a result of an act of
12 domestic violence by the other parent, the absence or relocation
13 shall not be a factor that weighs against the parent in determining
14 custody or visitation.

15 3. The court shall consider as a primary factor the safety and
16 well-being of the child and of the parent who is the victim of
17 domestic violence in addition to other facts regarding the best
18 interest of the child.

19 4. The court shall consider the history of the parent in
20 causing physical harm, bodily injury, assault, verbal threats,
21 stalking or harassing behavior, or the fear of physical harm, bodily
22 injury, or assault to another person, including the minor child, in
23 determining issues regarding custody and visitation.

1 SECTION 11. AMENDATORY 43 O.S. 2001, Section 110.1, is
2 amended to read as follows:

3 Section 110.1 It is the policy of this state to assure that
4 minor children have frequent and continuing contact with parents who
5 have shown the ability to act in the best interests of their
6 children and to encourage parents to share in the rights and
7 responsibilities of rearing their children after the parents have
8 separated or dissolved their marriage, provided that the parents
9 agree to cooperate or that domestic violence, stalking, or harassing
10 behaviors as defined in this title are not present in the parental
11 relationship. To effectuate this policy, if requested by a parent,
12 the court shall provide substantially equal access to the minor
13 children to both parents at a temporary order hearing, unless the
14 court finds that ~~such~~ the shared parenting would be detrimental to
15 ~~such~~ the child. ~~The burden of proof that such shared parenting~~
16 ~~would be detrimental to such child shall be upon the parent~~
17 ~~requesting sole custody and the reason for such determination shall~~
18 ~~be documented in the court record.~~

19 SECTION 12. AMENDATORY 43 O.S. 2001, Section 111.1, is
20 amended to read as follows:

21 Section 111.1 A. 1. Any order providing for the visitation of
22 a noncustodial parent with any of the children of ~~such~~ the
23 noncustodial parent shall provide a specified minimum amount of
24

1 visitation between the noncustodial parent and the child unless the
2 court determines otherwise.

3 2. Except for good cause shown and when in the best interests
4 of the child, the order shall encourage additional visitations of
5 the noncustodial parent and the child and in addition encourage
6 liberal telephone communications between the noncustodial parent and
7 the child.

8 3. A court may award visitation by a noncustodial parent who
9 was determined to have committed domestic violence as defined in
10 Section 109 of this title, only if the court is able to ensure the
11 safety of the child and the parent who is the victim of that
12 domestic violence.

13 4. In a visitation order, a court shall provide for the safety
14 of the minor child and victim of domestic violence, stalking, or
15 harassment as defined in Section 109 of this title, and subject to
16 the provisions of Section 109 of this title, may:

17 a. order the exchange of a child to be facilitated by a
18 third party where the parents do not have any contact
19 with each other,

20 b. order an exchange of a child to occur in a protected
21 setting,

22 c. order visitation supervised by another person or
23 agency,

24

- 1 d. order the abusive, stalking, or harassing parent to
2 pay a fee to help defray the costs of supervised
3 visitation or other costs of child exchanges including
4 compensating third parties,
- 5 e. order the abusive, stalking, or harassing parent to
6 attend and complete, to the satisfaction of the court,
7 a batterers intervention program certified by the
8 Office of the Attorney General,
- 9 f. prohibit unsupervised or overnight visitation until
10 the abusive, stalking, or harassing parent has
11 successfully completed a specialized program for
12 abusers and the parent has neither threatened nor
13 exhibited violence for a substantial period of time,
- 14 g. order the abusive, stalking, or harassing parent to
15 abstain from the possession or consumption of alcohol
16 or controlled substances during the visitation and for
17 twenty-four (24) hours preceding visitation,
- 18 h. order the abusive, stalking, or harassing parent to
19 complete a danger/lethality assessment by a qualified
20 mental health professional, and
- 21 i. impose any other condition that is deemed necessary to
22 provide for the safety of the child, the victim of
23 domestic violence, stalking, or harassing behavior, or
24 another household member.

1 5. Visitation shall be terminated if:

2 a. the abusive, stalking, or harassing parent repeatedly
3 violates the terms and conditions of visitation,

4 b. the child becomes severely distressed in response to
5 visitation, including the determination by a mental
6 health professional or certified domestic violence
7 specialist that visitation with the abusive, stalking,
8 or harassing parent is causing the child severe
9 distress which is not in the best interest of the
10 child, or

11 c. there are clear indications that the abusive,
12 stalking, or harassing parent has threatened to either
13 harm or flee with the child, or has threatened to harm
14 the custodial parent.

15 6. Whether or not visitation is allowed, the court shall order
16 the address of the child and the victim of domestic violence,
17 stalking, or harassing behavior to be kept confidential if
18 requested.

19 a. The court may order that the victim of domestic
20 violence, stalking, or harassing behavior participate
21 in the address confidentiality program available
22 pursuant to Section 60.14 of Title 22 of the Oklahoma
23 Statutes.

1 b. The abusive, stalking, or harassing parent may be
2 denied access to the medical and educational records
3 of the child if those records may be used to determine
4 the location of the child.

5 B. 1. Except for good cause shown, when a noncustodial parent
6 who is ordered to pay child support and who is awarded visitation
7 rights fails to pay child support, the custodial parent shall not
8 refuse to honor the ~~noncustodial parent's~~ visitation rights of the
9 noncustodial parent.

10 2. When a custodial parent refuses to honor ~~a noncustodial~~
11 ~~parent's~~ the visitation rights of a noncustodial parent, the
12 noncustodial parent shall not fail to pay any ordered child support
13 or alimony.

14 C. 1. Violation of an order providing for the payment of child
15 support or providing for the visitation of a noncustodial parent
16 with any of the children of such noncustodial parent may be
17 prosecuted as indirect civil contempt pursuant to Section 566 of
18 Title 21 of the Oklahoma Statutes or as otherwise deemed appropriate
19 by the court.

20 2. Unless good cause is shown for the noncompliance, the
21 prevailing party shall be entitled to recover court costs and
22 attorney fees expended in enforcing the order and any other
23 reasonable costs and expenses incurred in connection with the denied
24 child support or denied visitation as authorized by the court.

1 SECTION 13. AMENDATORY Section 8, Chapter 400, O.S.L.
2 2002 (43 O.S. Supp. 2006, Section 112.3), is amended to read as
3 follows:

4 Section 112.3 A. As used in this section:

5 1. "Change of residence address" means a change in the primary
6 residence of an adult;

7 2. "Child" means a child under the age of eighteen (18) who has
8 not been judicially emancipated;

9 3. "Person entitled to custody of or visitation with a child"
10 means a person so entitled by virtue of a court order or by an
11 express agreement that is subject to court enforcement;

12 4. "Principal residence of a child" means:

13 a. the location designated by a court to be the primary
14 residence of the child,

15 b. in the absence of a court order, the location at which
16 the parties have expressly agreed that the child will
17 primarily reside, or

18 c. in the absence of a court order or an express
19 agreement, the location, if any, at which the child,
20 preceding the time involved, lived with the child's
21 parents, a parent, or a person acting as parent for at
22 least six (6) consecutive months and, in the case of a
23 child less than six (6) months old, the location at
24 which the child lived from birth with any of the

1 persons mentioned. Periods of temporary absence of
2 any of the named persons are counted as part of the
3 six-month or other period; and

4 5. "Relocation" means a change in the principal residence of a
5 child over seventy-five (75) miles from the child's principal
6 residence for a period of sixty (60) days or more, but does not
7 include a temporary absence from the principal residence.

8 B. 1. Except as otherwise provided by this section, a person
9 who has the right to establish the principal residence of the child
10 shall notify every other person entitled to visitation with the
11 child of a proposed relocation of the child's principal residence as
12 required by this section.

13 2. Except as otherwise provided by this section, an adult
14 entitled to visitation with a child shall notify every other person
15 entitled to custody of or visitation with the child of an intended
16 change in the primary residence address of the adult as required by
17 this section.

18 C. 1. Except as provided by this section, notice of a proposed
19 relocation of the principal residence of a child or notice of an
20 intended change of the primary residence address of an adult must be
21 given:

- 22 a. by mail to the last-known address of the person to be
23 notified, and
- 24 b. no later than:

- 1 (1) the sixtieth day before the date of the intended
2 move or proposed relocation, or
- 3 (2) the tenth day after the date that the person
4 knows the information required to be furnished
5 pursuant to this subsection, if the person did
6 not know and could not reasonably have known the
7 information in sufficient time to comply with the
8 sixty-day notice, and it is not reasonably
9 possible to extend the time for relocation of the
10 child.

11 2. Except as provided by this section, the following
12 information, if available, must be included with the notice of
13 intended relocation of the child or change of primary residence of
14 an adult:

- 15 a. the intended new residence, including the specific
16 address, if known,
- 17 b. the mailing address, if not the same,
- 18 c. the home telephone number, if known,
- 19 d. the date of the intended move or proposed relocation,
- 20 e. a brief statement of the specific reasons for the
21 proposed relocation of a child, if applicable,
- 22 f. a proposal for a revised schedule of visitation with
23 the child, if any, and
24

1 g. a warning to the nonrelocating parent that an
2 objection to the relocation must be made within thirty
3 (30) days or the relocation will be permitted.

4 3. A person required to give notice of a proposed relocation or
5 change of residence address under this subsection has a continuing
6 duty to provide a change in or addition to the information required
7 by this subsection as that information becomes known.

8 D. After the effective date of this act, an order issued by a
9 court directed to a person entitled to custody of or visitation with
10 a child shall include the following or substantially similar terms:

11 "You, as a party in this action, are ordered to notify every
12 other party to this action of a proposed relocation of the child,
13 change of your primary residence address, and the following
14 information:

15 1. The intended new residence, including the specific address,
16 if known;

17 2. The mailing address, if not the same;

18 3. The home telephone number, if known;

19 4. The date of the intended move or proposed relocation;

20 5. A brief statement of the specific reasons for the proposed
21 relocation of a child, if applicable; and

22 6. A proposal for a revised schedule of visitation with the
23 child, if any.

1 You are further ordered to give notice of the proposed
2 relocation or change of residence address on or before the sixtieth
3 day before a proposed change. If you do not know and could not have
4 reasonably known of the change in sufficient time to provide a
5 sixty-day notice, you are ordered to give notice of the change on or
6 before the tenth day after the date that you know of the change.

7 Your obligation to furnish this information to every other party
8 continues as long as you, or any other person, by virtue of this
9 order, are entitled to custody of or visitation with a child covered
10 by this order.

11 Your failure to obey the order of this court to provide every
12 other party with notice of information regarding the proposed
13 relocation or change of residence address may result in further
14 litigation to enforce the order, including contempt of court.

15 In addition, your failure to notify of a relocation of the child
16 may be taken into account in a modification of custody of,
17 visitation with, possession of or access to the child. Reasonable
18 costs and attorney fees also may be assessed against you if you fail
19 to give the required notice.

20 If you, as the nonrelocating parent, do not file a proceeding
21 seeking a temporary or permanent order to prevent the relocation
22 within thirty (30) days after receipt of notice of the intent of the
23 other party to relocate the residence of the child, relocation is
24 authorized."

1 E. 1. On a finding by the court that the health, safety, or
2 liberty of a person or a child would be unreasonably put at risk by
3 the disclosure of the required identifying information in
4 conjunction with a proposed relocation of the child or change of
5 residence of an adult, the court may order that:

- 6 a. the specific residence address and telephone number of
7 the child or of the adult and other identifying
8 information shall not be disclosed in the pleadings,
9 other documents filed in the proceeding, or the final
10 order, except for an in camera disclosure,
11 b. the notice requirements provided by this article be
12 waived to the extent necessary to protect
13 confidentiality and the health, safety or liberty of a
14 person or child, and
15 c. any other remedial action that the court considers
16 necessary to facilitate the legitimate needs of the
17 parties and the best interest of the child.

18 2. If appropriate, the court may conduct an ex parte hearing
19 pursuant to this subsection.

20 3. The finding of domestic violence creates a presumption that
21 the custodial parent and child will be put at risk by the disclosure
22 of information required by this section and is sufficient to waive
23 all requirements of this section. It is the policy of this state
24 that a child should reside with a nonviolent parent and that parent

1 should be free to make a choice about a safe, secure place of
2 residence, even if it means relocation to another city or state
3 without disclosure to the violent parent.

4 F. 1. The court may consider a failure to provide notice of a
5 proposed relocation of a child as provided by this section as:

6 a. a factor in making its determination regarding the
7 relocation of a child,

8 b. a factor in determining whether custody or visitation
9 should be modified,

10 c. a basis for ordering the return of the child if the
11 relocation has taken place without notice, and

12 d. sufficient cause to order the person seeking to
13 relocate the child to pay reasonable expenses and
14 attorney fees incurred by the person objecting to the
15 relocation.

16 2. In addition to the sanctions provided by this subsection,
17 the court may make a finding of contempt if a party violates the
18 notice requirement required by this section and may impose the
19 sanctions authorized for contempt of a court order.

20 G. 1. The person entitled to custody of a child may relocate
21 the principal residence of a child after providing notice as
22 provided by this section unless a parent entitled to notice files a
23 proceeding seeking a temporary or permanent order to prevent the
24 relocation within thirty (30) days after receipt of the notice.

1 2. A parent entitled by court order or written agreement to
2 visitation with a child may file a proceeding objecting to a
3 proposed relocation of the principal residence of a child and seek a
4 temporary or permanent order to prevent the relocation.

5 3. If relocation of the child is proposed, a nonparent entitled
6 by court order or written agreement to visitation with a child may
7 file a proceeding to obtain a revised schedule of visitation, but
8 may not object to the proposed relocation or seek a temporary or
9 permanent order to prevent the relocation.

10 4. A proceeding filed pursuant to this subsection must be filed
11 within thirty (30) days of receipt of notice of a proposed
12 relocation.

13 H. 1. The court may grant a temporary order restraining the
14 relocation of a child, or ordering return of the child if a
15 relocation has previously taken place, if the court finds:

16 a. the required notice of a proposed relocation of a
17 child as provided by this section was not provided in
18 a timely manner and the parties have not presented an
19 agreed-upon revised schedule for visitation with the
20 child for the court's approval,

21 b. the child already has been relocated without notice,
22 agreement of the parties, or court approval, or

23 c. from an examination of the evidence presented at the
24 temporary hearing there is a likelihood that on final

1 hearing the court will not approve the relocation of
2 the primary residence of the child.

3 2. The court may grant a temporary order permitting the
4 relocation of the child pending final hearing if the court:

5 a. finds that the required notice of a proposed
6 relocation of a child as provided by this section was
7 provided in a timely manner and issues an order for a
8 revised schedule for temporary visitation with the
9 child, and

10 b. finds from an examination of the evidence presented at
11 the temporary hearing there is a likelihood that on
12 final hearing the court will approve the relocation of
13 the primary residence of the child.

14 I. A proposed relocation of a child may be a factor in
15 considering a change of custody.

16 J. 1. In reaching its decision regarding a proposed
17 relocation, the court shall consider the following factors:

18 a. the nature, quality, extent of involvement, and
19 duration of the child's relationship with the person
20 proposing to relocate and with the nonrelocating
21 person, siblings, and other significant persons in the
22 child's life,

23 b. the age, developmental stage, needs of the child, and
24 the likely impact the relocation will have on the

1 child's physical, educational, and emotional
2 development, taking into consideration any special
3 needs of the child,

- 4 c. the feasibility of preserving the relationship between
5 the nonrelocating person and the child through
6 suitable visitation arrangements, considering the
7 logistics and financial circumstances of the parties,
8 d. the ~~child's~~ preference of the child, taking into
9 consideration the age and maturity of the child,
10 e. whether there is an established pattern of conduct of
11 the person seeking the relocation, either to promote
12 or thwart the relationship of the child and the
13 nonrelocating person,
14 f. whether the relocation of the child will enhance the
15 general quality of life for both the custodial party
16 seeking the relocation and the child, including but
17 not limited to financial or emotional benefit or
18 educational opportunity,
19 g. the reasons of each person for seeking or opposing the
20 relocation, and
21 h. any other factor affecting the best interest of the
22 child.

23 2. The court may not:
24

1 a. give undue weight to the temporary relocation as a
2 factor in reaching its final decision, if the court
3 has issued a temporary order authorizing a party
4 seeking to relocate a child to move before final
5 judgment is issued, or

6 b. consider whether the person seeking relocation of the
7 child has declared that he or she will not relocate if
8 relocation of the child is denied.

9 K. The relocating person has the burden of proof that the
10 proposed relocation is made in good faith. If that burden of proof
11 is met, the burden shifts to the nonrelocating person to show that
12 the proposed relocation is not in the best interest of the child.

13 L. 1. After notice and a reasonable opportunity to respond,
14 the court may impose a sanction on a person proposing a relocation
15 of the child or objecting to a proposed relocation of a child if it
16 determines that the proposal was made or the objection was filed:

17 a. to harass a person or to cause unnecessary delay or
18 needless increase in the cost of litigation,

19 b. without being warranted by existing law or was based
20 on frivolous argument, or

21 c. based on allegations and other factual contentions
22 which had no evidentiary support or, if specifically
23 so identified, could not have been reasonably believed
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1 to be likely to have evidentiary support after further
2 investigation.

3 2. A sanction imposed under this subsection shall be limited to
4 what is sufficient to deter repetition of such conduct or comparable
5 conduct by others similarly situated. The sanction may include
6 directives of a nonmonetary nature, an order to pay a penalty into
7 court, or, if imposed on motion and warranted for effective
8 deterrence, an order directing payment to the other party of some or
9 all of the reasonable attorney fees and other expenses incurred as a
10 direct result of the violation.

11 M. If the issue of relocation is presented at the initial
12 hearing to determine custody of and visitation with a child, the
13 court shall apply the factors set forth in this section in making
14 its initial determination.

15 N. 1. The provisions of this section apply to an order
16 regarding custody of or visitation with a child issued:

- 17 a. after the effective date of this act, and
- 18 b. before the effective date of this act, if the existing
19 custody order or enforceable agreement does not
20 expressly govern the relocation of the child or there
21 is a change in the primary residence address of an
22 adult affected by the order.

23 2. To the extent that a provision of this section conflicts
24 with an existing custody order or enforceable agreement, this

1 section does not apply to the terms of that order or agreement that
2 govern relocation of the child or a change in the primary residence
3 address of an adult.

4 SECTION 14. This act shall become effective July 1, 2007.

5 SECTION 15. It being immediately necessary for the preservation
6 of the public peace, health and safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

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