

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL 553

By: Sparks of the Senate

and

Peters of the House

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7
8
9 CONFERENCE 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, 7505-5.3, 7209, as last amended by Section
16 2, Chapter 213, O.S.L. 2003 and 7505-5.1 (10 O.S.
17 Supp. 2006, Sections 7003-2.4, 7003-5.6, 7003-5.6d
18 and 7209), which relate to the placement of children;
19 directing courts to advise certain persons of certain
20 information at an emergency custody hearing;
21 directing the Department of Human Services to provide
22 certain written notice to certain persons; providing
23 for certain right of hearing for certain persons;
24 requiring certain consideration for placement;
directing certain inquiry; requiring identification
of certain placements; clarifying those persons not
approved for child placement; providing exclusion;
specifying review of certain information during home
study; changing number of years of residency required
to exempt certain search; expanding scope of
eligibility assessment required before placement;
deleting certain exemption; modifying exclusion;
clarifying those persons not approved for child
placement; providing an exception; providing an
effective date; and declaring an emergency.

1
2 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

10 2. The written notice shall:

- 11 a. inform the parents, legal guardian, or custodian that
12 the child has been removed from the home,
- 13 b. inform the parent, legal guardian, or custodian of the
14 child that an emergency custody hearing to determine
15 custody of the child will occur within two (2)
16 judicial days from the date the child was removed from
17 the home, and
- 18 c. contain information about the:
- 19 (1) emergency custody hearing process including, but
20 not limited to, the date, time and place that the
21 child was taken into protective or emergency
22 custody,
- 23 (2) nature of the allegation that led to placement of
24 the child into protective or emergency custody,

- 1 (3) address and telephone number of the local and
- 2 county law enforcement agencies,
- 3 (4) phone number of the local child welfare office of
- 4 the Department of Human Services, and
- 5 (5) right of the parent, legal guardian or custodian
- 6 to contact an attorney.

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

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

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

- a. any right of the parent or legal guardian or custodian to testify and present evidence at court hearings,
- b. the right to be represented by an attorney at court hearings as authorized by law,
- c. the consequences of failure to attend any hearings which may be held, and
- d. the right to appeal and the procedure for appealing the finding of a court on custody issues as authorized by law.

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

- (1) release the child to the child's parent, legal guardian or custodian or other responsible adult without conditions or under such conditions as the court finds reasonably necessary to ensure the health, safety or welfare of the child, or
- (2) continue the child in or place the child into emergency custody if continuation of the child in the child's home is contrary to the health, safety or welfare of the child,
- (3) obtain information from the parent, legal guardian or custodian necessary to identify and locate kinship placement resources. If such information indicates that within one (1) year of the emergency custody hearing the child had

1 resided with a grandparent for six (6) months,
2 and that such grandparent was the primary
3 caregiver and provided primary financial support
4 for the child during such time, the court shall
5 provide notice and an opportunity to be heard at
6 future hearings to such grandparent, and

7 (4) require the Department to provide to any
8 custodian or other person caring for the child
9 information on Department of Human Services
10 programs and services available to the child and
11 provide written notice of any further proceedings
12 to any foster or preadoptive parents or relatives
13 providing care for a child.

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

1 title, the reason for such determination shall be
2 documented in the court record.

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

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

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

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

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

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

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

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

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

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

19 c. as to whether or not an absence of efforts to prevent
20 the removal of the child from the child's home is
21 reasonable because the removal is due to an alleged
22 emergency and is for the purpose of providing for the
23 health, safety or welfare of the child, or
24

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

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

10 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7003-5.6, as
11 last amended by Section 2, Chapter 452, O.S.L. 2004 (10 O.S. Supp.
12 2006, Section 7003-5.6), is amended to read as follows:

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

23 1. The conditions which caused the child to be adjudicated have
24 been corrected;

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

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

5 B. The provisions of this section shall also apply to a child
6 who has been removed from the home of the parent or parents, legal
7 guardian or custodian of the child after the child has been returned
8 to that home.

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

13 D. In addition to the parties, adequate prior written notice of
14 review hearings, ~~as determined by the Department pursuant to rules~~
15 ~~promulgated by the Commission for Human Services,~~ shall be provided
16 by the Department pursuant to rules promulgated by the Commission
17 for Human Services to the current foster parents, ~~and an opportunity~~
18 preadoptive parent, or relative providing care for the child. A
19 right to be heard at such hearings shall be provided by the court to
20 the current foster parent of a child, the child's guardian ad litem,
21 and to any preadoptive parent or relative providing care for the
22 child. Such notice and ~~opportunity~~ right to be heard shall not be
23 construed as requiring any foster parent, preadoptive parent or
24

1 relative to be made a party to such deprived proceedings if not
2 currently a party to the action.

3 E. The court shall receive all evidence helpful in deciding the
4 issues before the court including, but not limited to, oral and
5 written reports, which may be admitted and relied upon to the extent
6 of their probative value, even though not competent for purposes of
7 an adjudicatory hearing.

8 F. At each review hearing the court shall:

9 1. Determine whether:

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

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

14 (1) have complied with, performed, and completed the
15 terms and conditions of the individual treatment
16 and service plan which are essential and
17 fundamental to the health, safety or welfare of
18 the child as determined by the court,

19 (2) have corrected those conditions which caused the
20 child to be adjudicated and which the court
21 determines to be essential and fundamental to the
22 health, safety or welfare of the child,

23 (3) have made marked progress towards reunification
24 with the child, and

1 (4) have maintained a close and positive relationship
2 with the child,

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

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

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

9 (3) placed for adoption, or other permanent
10 arrangement,

11 c. the rights of the parent of the child should be
12 terminated and the child placed for adoption, placed
13 with a guardian or custodian, or provided with another
14 permanent arrangement, or

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

18 2. Consider in-state and out-of-state placement options for the
19 child;

20 3. Make a determination as to whether:

21 a. reasonable efforts have been made to provide for the
22 safe return of the child to the child's own home. In
23 determining reasonable efforts, the child's health,
24 safety or welfare shall be the paramount concern. If

1 the court determines or has previously determined that
2 reasonable efforts are not required, pursuant to the
3 provisions of Section 7003-4.6 of this title, or that
4 continuation of reasonable efforts to reunite the
5 child with the child's family is inconsistent with the
6 permanency plan for the child, the court shall
7 determine if reasonable efforts are being made to
8 place the child in a timely manner in accordance with
9 the permanency plan and to complete steps necessary to
10 finalize permanent placement for the child, and

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

17 ~~3.~~ 4. Determine the safety of the child and consider fully all
18 relevant prior and current information including, but not limited
19 to, the report or reports submitted pursuant to Sections 7208 and
20 7003-5.6a of this title;

21 ~~4.~~ 5. Inquire as to the nature and extent of services being
22 provided the child and parent or parents of the child and shall
23 direct that additional services be provided if necessary to ensure
24 the safety of the child and to protect the child from further

1 physical, mental, or emotional harm, or to correct the conditions
2 that led to the adjudication; and

3 ~~5.~~ 6. Order such modification to the existing individual
4 treatment and service plan as the court determines to be in the best
5 interests of the child and necessary for the correction of the
6 conditions that led to the adjudication of the child.

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

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

- 12 a. six (6) months after placing the child in out-of-home
13 placement and every six (6) months thereafter, and
14 b. thirty (30) days after a determination by the court
15 that reasonable efforts are not required pursuant to
16 the provisions of Section 7003-4.6 of this title and
17 every six (6) months thereafter.

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

- 20 a. the adjudication date, or
21 b. the date that is sixty (60) days after the date on
22 which the child is removed from the home.

23 B. A permanency hearing may be held concurrently with a
24 dispositional or review hearing. All permanency decisions must be

1 in writing and in accordance with the health, safety or welfare of
2 the child and the long-term best interests of the child. In the
3 case of a child who will not be returned to the parent, the hearing
4 shall consider in-state and out-of-state permanent placement
5 options.

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

19 D. At the hearing, the court shall determine the most suitable
20 permanency plan based on the child's need for a permanent placement
21 as indicated by the recommended permanency plan or other evidence
22 submitted and shall also, in an age-appropriate manner, inquire or
23 cause inquiry to be made of the child regarding the proposed
24

1 permanency plan and if the child is age sixteen (16) or older, the
2 independent living plan. The court shall determine whether:

3 1. The child should be returned home immediately or by a
4 specified date not to exceed three (3) months. An order entered
5 pursuant to the provisions of this paragraph shall enumerate the
6 specific factors, conditions, or expected behavioral changes which
7 must occur by the specified date before the child may be returned
8 home. Before a child may be returned home, the court must find
9 that:

10 a. the parent, legal guardian or custodian has made
11 marked progress towards reunification with the child,
12 and has maintained a close and positive relationship
13 with the child, and

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

20 2. A plan for the guardianship or kinship guardianship of the
21 child should be approved;

22 3. The child should be placed in a planned permanent living
23 arrangement if the Department has documented a compelling reason for
24 the court to determine that it would not be in the best interests of

1 the child to return home, or to be placed for adoption or with a fit
2 and willing relative or a legal guardian;

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

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

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

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

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

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

24

1 C. If the child is removed from the custody of the child's
2 parent, the court or the Department of Human Services, as
3 applicable, shall immediately consider concurrent permanency
4 planning, so that permanency may occur at the earliest opportunity.
5 ~~Consideration~~ Identification of appropriate in-state and out-of-
6 state placements should be ~~given~~ made so that if reunification fails
7 or is delayed, the placement made is the best available placement to
8 provide permanency for the child.

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

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

- 20 a. ~~within the five year period preceding the application~~
- 21 ~~date, physical assault, battery or a drug related~~
- 22 ~~offense,~~
- 23 b. ~~child abuse or neglect,~~
- 24 c. ~~domestic abuse,~~

1 d. ~~a crime against a child, including, but not limited~~
2 ~~to, child pornography, or~~

3 e. ~~a crime involving violence, including, but not limited~~
4 ~~to, rape, sexual assault or homicide, but excluding~~
5 ~~physical assault or battery; and~~

6 ~~2. a.~~

7 A prospective foster or adoptive parent ~~or guardian or kinship~~
8 ~~guardian or other long term placement provider~~ shall not be an
9 approved placement for ~~the~~ a child if the ~~person~~ prospective foster
10 or adoptive parent or any other person residing in the home of the
11 prospective foster or adoptive parent has been convicted of any of
12 the following felony offenses:

13 ~~(1) within~~

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

17 ~~(2) child~~

18 2. Child abuse or neglect~~;~~i

19 ~~(3) domestic~~

20 3. Domestic abuse~~;~~i

21 ~~(4) a~~

22 4. A crime against a child, including, but not limited to,
23 child pornography~~;~~i and

24 ~~(5) a~~

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

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

23 2. In addition, prior to placing a child in the custody of an
24 individual, the court shall inquire as to whether the individual has

1 | been previously convicted of any other felony or a relevant
2 | misdemeanor or has any felony or relevant misdemeanor charges
3 | pending.

4 | 3. Prior to the custody order being entered, the individual
5 | seeking custody shall respond by certified affidavit or through
6 | sworn testimony to the court and shall provide an Oklahoma criminal
7 | history record obtained pursuant to Section 150.9 of Title 74 of the
8 | Oklahoma Statutes.

9 | 4. For purposes of this subsection the terms:

- 10 | a. "relevant misdemeanor" may include, but shall not be
11 | limited to, assault and battery, alcohol- or drug-
12 | related offenses, crimes involving domestic abuse and
13 | other offenses deemed relevant by the court, and
14 | b. "individual" shall not include a parent, legal
15 | guardian, or custodian of the child.

16 | F. The provisions of this section shall not apply in any
17 | paternity or domestic relations case, unless otherwise ordered by
18 | the court.

19 | SECTION 5. AMENDATORY 10 O.S. 2001, Section 7505-5.3, is
20 | amended to read as follows:

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

- 23 | 1. An appropriate inquiry to determine whether the proposed
24 | home is a suitable one for the minor; and any other circumstances

1 and conditions which may have a bearing on the adoption and of which
2 the court should have knowledge; and in this entire matter of
3 investigation, the court is specifically authorized to exercise
4 judicial knowledge and discretion;

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

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

12 4. A review of a criminal background check and a child abuse
13 and neglect information system check.

14 a. A background check shall be required for adoptive
15 parents and all other household members eighteen (18)
16 years of age and older, consisting of a review of ~~the~~
17 ~~state~~ a national fingerprint-based criminal background
18 check, a search of the Department of Corrections'
19 files maintained pursuant to the Sex Offenders
20 Registration Act, and a search of the child abuse and
21 neglect files information system maintained for review
22 by authorized entities by the Department of Human
23 Services ~~pursuant to the Oklahoma Child Abuse~~
24 ~~Reporting and Prevention Act.~~

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

12 c. Each prospective adoptive parent or other household
13 member eighteen (18) years of age or older shall be
14 required to cooperate with the requirements of the
15 Department of Human Services and the Oklahoma State
16 Bureau of Investigation with regard to the criminal
17 background check and child abuse check, including but
18 not limited to signing a release of information
19 allowing the release of the results of any search to
20 the agency or person conducting the home study or home
21 study update.

22 d. Upon completion of the criminal record checks and
23 child abuse and neglect checks, the Department of
24 Human Services and the Oklahoma State Bureau of

1 Investigation shall forward all information obtained
2 to the agency or other person authorized in Section
3 7505-5.4 of this title to conduct home study
4 investigations who has requested the background
5 searches.

6 B. A home study which is being updated or brought current in
7 accordance with subsection A of Section 7505-5.1 of this title shall
8 document appropriate inquiry into changes in the family situation
9 since the last home study, a home visit, at least one joint
10 interview, information on any children added to the family,
11 experiences, if any, of the adoptive parents as parents since the
12 last study, verification of current physical health, and three
13 current letters of reference.

14 C. An updated home study as described in subsection B of this
15 section shall include a review of criminal background checks and
16 child abuse ~~registry~~ and neglect checks as described in subsection A
17 of this section. However, when a national fingerprint background
18 check has been done within the five (5) years previous to the
19 completion of the updated home study and the results are available
20 for review by the home study investigator, then a name-based search
21 of the records of the Oklahoma State Bureau of Investigation on the
22 adoptive parents and other household residents over the age of
23 eighteen (18) for whom the fingerprint background check has been
24

1 performed shall satisfy the requirements for a criminal background
2 check for purposes of a home study update.

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

8 2. Such an international home study shall contain a review of a
9 state criminal background check, a search of the Department of
10 Corrections' files maintained pursuant to the Sex Offenders
11 Registration Act, and a search of the child abuse and neglect ~~files~~
12 information system maintained for review by authorized entities by
13 the Department of Human Services ~~pursuant to the Oklahoma Child~~
14 ~~Abuse Reporting and Prevention Act.~~

15 3. An international home study or home study update as
16 described in this section must include a statement that the home
17 study recommendation is for international adoption purposes only and
18 may not be used as the basis for a domestic adoption without the
19 addition of a review of the results of a national fingerprint-based
20 criminal background search if such would be required by subparagraph
21 b of paragraph 4 of subsection A of this section.

22 E. The report of such home study or home study update shall
23 become a part of the files in the case and shall contain a definite
24

1 recommendation for or against the proposed adoption and the reasons
2 therefor.

3 F. Following issuance of an interlocutory decree of adoption,
4 or if the interlocutory decree is waived, prior to issuance of a
5 final decree, the investigator conducting the home study or another
6 investigator who meets the qualifications specified in Section 7505-
7 5.4 of this title, shall observe the minor in the proposed adoptive
8 home and report in writing to the court on any circumstances or
9 conditions which may have a bearing on the granting of a final
10 adoption decree. If the interlocutory decree was not waived, the
11 investigator must certify that the final examination described in
12 this subsection has been made since the granting of the
13 interlocutory order. This supplemental report shall include a
14 determination as to the legal availability or status of the minor
15 for adoption and shall be filed prior to the final decree of
16 adoption.

17 SECTION 6. AMENDATORY 10 O.S. 2001, Section 7209, as
18 last amended by Section 2, Chapter 213, O.S.L. 2003 (10 O.S. Supp.
19 2006, Section 7209), is amended to read as follows:

20 Section 7209. A. 1. Except as otherwise provided by law, the
21 Department of Human Services or the Department of Juvenile Justice
22 shall not place a child in out-of-home placement prior to completion
23 of:
24

1 based upon submission of fingerprints from the
2 Oklahoma State Bureau of Investigation. The
3 Department of Juvenile Justice may directly request
4 national criminal history records searches as defined
5 by Section 150.9 of Title 74 of the Oklahoma Statutes
6 from the Oklahoma State Bureau of Investigation for
7 the purpose of obtaining the national criminal history
8 of any individual for which such a search is required
9 pursuant to this section.

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

21 c. Either the Department of Human Services or the Office
22 of Juvenile Affairs, whichever is applicable, shall
23 contract with the Oklahoma State Bureau of
24 Investigation to obtain national criminal history

1 records searches based upon submission of
2 fingerprints.

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

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

19 e. Upon request for a national criminal history records
20 search based upon submission of fingerprints, the
21 Oklahoma State Bureau of Investigation shall forward
22 one set of fingerprints to the Federal Bureau of
23 Investigation for the purpose of conducting such a
24 national criminal history records search.

1 3. The Department of Human Services, pursuant to Section 7003-
2 5.3 of this title, and the Department of Juvenile Justice, pursuant
3 to Section 7303-5.2 of this title, shall conduct an assessment of
4 each child in its custody which shall be designed to establish an
5 appropriate treatment and service plan for the child.

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

24

1 ~~person residing in the foster home who has a severe physical~~
2 ~~condition which precludes such person's being fingerprinted.~~

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,
- 24

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

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

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

20 C. A preplacement home study is not required if a parent or
21 guardian places a minor directly with a relative of the minor for
22 purposes of adoption, but a home study of the relative is required
23 during the pendency of a proceeding for adoption.

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

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

11 a. ~~within~~

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

15 b. ~~child~~

16 2. Child abuse or neglecti

17 c. ~~a~~

18 3. A crime against a child, including, but not limited to,
19 child pornographyi and

20 d. ~~a~~

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

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

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

16 SECTION 8. This act shall become effective July 1, 2007.

17 SECTION 9. It being immediately necessary for the preservation
18 of the public peace, health and safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

21

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