ENGROSSED SENATE
BILL NO. 553 By: Sparks of the Senate

and

Peters of the House

An Act relating to children; amending 10 O.S. 2001, Sections 7003-2.4, as amended by Section 1, Chapter 120, O.S.L. 2005, 7003-5.6, as last amended by Section 2, Chapter 452, O.S.L. 2004, 7003-5.6d, as last amended by Section 3, Chapter 452, O.S.L. 2004, 7003-8.1, 7005-1.3, as amended by Section 1, Chapter 153, O.S.L. 2005, 7505-5.3, 7111, 7209, as last amended by Section 2, Chapter 213, O.S.L. 2003 and 7505-5.1 (10 O.S. Supp. 2006, Sections 7003-2.4, 7003-5.6, 7003-5.6d, 7005.1.3 and 7209), which relate to the placement of children; modifying language; directing a court to advise certain persons about a specified procedure in certain circumstance; directing the Department of Human Services to provide certain written notice; adding certain right; requiring certain consideration for placement; directing certain inquiry; requiring identification of certain placements; deleting certain language related to placement of children with persons convicted of specified felonies; providing exclusion; clarifying list of authorized persons for certain purpose; mandating certain background checks and searches in specified circumstances; changing number of years of residency required to exempt certain search; requiring the Department to maintain a certain registry; directing the court clerk to forward certain information to the Department in specified circumstance; authorizing certain entities to make specified inquiries; requiring the Department to furnish certain information; prohibiting the disclosure of certain information; expanding scope of eligibility assessment required before placement; modifying exclusion; deleting provision authorizing certain persons to be approved for placement in

specified circumstance; providing an effective date; and declaring an emergency.

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,

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

c. contain information about the:

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

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

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

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

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

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

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

2. At the emergency custody hearing, the court shall advise the parent, legal guardian or custodian of the child in writing of <u>the following information and rights and</u> the procedure which will be

followed with regard to determining custody 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, and

e. that if the child is found to be deprived or if parental rights are terminated due to a judicial finding that the parent has committed child abuse or neglect, the parent's name and the judicial finding shall be included in the child abuse registry and that information may subsequently be disclosed pursuant to Section 7111 of this title should the parent apply to become a foster parent or to adopt a child.

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

(4) require the Department to provide to any custodian or other person caring for the child information on Department of Human Services programs and services available to the child <u>and provide written notice of any further proceedings to any foster or preadoptive parents or relatives providing care for a child</u>.

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

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

2. If the petition is not filed as required by this subsection, then the emergency custody order shall expire. The district

attorney shall submit for filing in the court record a written record specifying the reasons why the petition was not filed and specifying to whom the child was released.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

F. At each review hearing the court shall:

1. Determine whether:

a. the child should be returned to the child's parent or placed with willing and suitable kinship relations. Before a return to the child's parent is ordered, the court must find that the parties:

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

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

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

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

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

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

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

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

c. the rights of the parent of the child should be terminated and the child placed for adoption, placed

with a guardian or custodian, or provided with another permanent arrangement, or

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

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

3. Make a determination as to whether:

a. reasonable efforts have been made to provide for the safe return of the child to the child's own home. In determining reasonable efforts, the child's health, safety or welfare shall be the paramount concern. If the court determines or has previously determined that reasonable efforts are not required, pursuant to the provisions of Section 7003-4.6 of this title, or that continuation of reasonable efforts to reunite the child with the child's family is inconsistent with the permanency plan for the child, the court shall determine if reasonable efforts are being made to place the child in a timely manner in accordance with the permanency plan and to complete steps necessary to finalize permanent placement for the child, and

b. where appropriate, when the child is sixteen (16) years of age or older, services are being provided

that will assist the child in making the transition from foster care to independent living, and shall also inquire, or cause inquiry to be made of the child, regarding any proposed independent living plan;

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

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

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

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

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

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

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

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

a. the adjudication date, or

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

B. A permanency hearing may be held concurrently with a dispositional or review hearing. All permanency decisions must be in writing and in accordance with the health, safety or welfare of the child and the long-term best interests of the child. In the case of a child who will not be returned to the parent, the hearing shall consider in-state and out-of-state permanent placement options.

C. In addition to the parties, adequate prior written notice of permanency hearings~~, as determined by the Department of Human Services, pursuant to rules promulgated by the Commission for Human Services,~~ shall be provided by the Department pursuant to rules promulgated by the Commission for Human Services to the current foster parents ~~and an opportunity~~ and to any preadoptive parent or

relative providing care for the child. A right to be heard at such hearing shall be provided by the court to the current foster parents of a child, the child's guardian ad litem, and to any preadoptive parent or relative providing care for the child. Such notice and ~~opportunity~~ right to be heard shall not be construed as requiring any foster parent, preadoptive parent or relative to be made a party to such action.

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

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

a. the parent, legal guardian or custodian has made marked progress towards reunification with the child,

and has maintained a close and positive relationship with the child, and

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

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

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

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

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

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

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

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

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

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

D. ~~For purposes of this subsection, the State of Oklahoma elects to make subparagraph (A) of paragraph 20 of subsection 3 of Section 471(a) of the Social Security Act (Public Law 105-89)~~

~~inapplicable to Oklahoma. Instead, the State of Oklahoma requires that:~~

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

~~a. within the five-year period preceding the application date, physical assault, battery or a drug related offense,~~

~~b. child abuse or neglect,~~

~~c. domestic abuse,~~

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

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

~~2. a.~~

A prospective foster or adoptive parent ~~or guardian or kinship guardian or other long-term placement provider~~ shall not be an approved placement for ~~the~~ a child if the ~~person~~ prospective foster or adoptive parent or any other person residing in the home of the

prospective foster or adoptive parent has been convicted of any of the following felony offenses:

~~(1) within~~

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

~~(2) child~~

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

~~(3) domestic~~

3. Domestic abuse~~,~~;

~~(4) a~~

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

~~(5) a~~

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

~~b. A prospective adoptive parent or long term placement 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 sworn testimony to the court and shall provide an Oklahoma criminal history record obtained pursuant to Section 150.9 of Title 74 of the Oklahoma Statutes.

4. For purposes of this subsection the terms:

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

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

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

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

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

1. The court having the child currently before it in any proceeding pursuant to this title, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, and court-appointed special advocates;

2. Employees of court-appointed special advocate programs, as defined in Section 7001-1.3 of this title, in the course of their

official duties pertaining to recruiting, screening, training, assigning cases, supervising and supporting volunteers in their roles as guardian ad litem, pursuant to Section 7003-3.7 of this title;

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

a. psychological and medical records,

b. placement history and information, including the names and addresses of foster parents,

c. family assessments,

d. treatment or service plans, and

e. school records;

4. A district attorney, United States Attorney, or Attorney General of this or another state and the employees of such offices in the course of their official duties pursuant to this title or the prosecution of crimes against children, or upon their request in their official capacity as advisor in a grand jury proceeding;

5. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of this title, including the attorney representing a child pursuant to the provisions of

subsection C of Section 7002-1.2 of this title or representing a child pursuant to the provisions of subsection A of Section 7112 of this title. Such attorney may also access other records listed in subsection A of Section 7005-1.2 of this title for use in the legal representation of the child;

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

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

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

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

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

11. The Office of Juvenile Affairs;

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

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

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

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

c. the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

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

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

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

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

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

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

19. An employee of any state or federal corrections or law enforcement agency in the performance of such employee's official duties concerning presentence investigations or supervision of a parent of an alleged or adjudicated deprived child, or the legal

guardian, custodian or any other adult member of the child's home who is responsible for the health, safety or welfare of the child; and

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

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

C. Records and their contents disclosed without an order of the court as provided by this section shall remain confidential. The use of such information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for commercial, political or any other unauthorized purpose.

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

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

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

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

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

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

a. A background check shall be required for adoptive parents and all other household members eighteen (18) years of age and older, consisting of a review of ~~the state~~ a national fingerprint-based criminal background check, a search of the Department of Corrections' files maintained pursuant to the Sex Offenders

Registration Act, and a search of the child abuse and neglect ~~files~~ information system and the child abuse registry maintained for review by authorized entities by the Department of Human Services ~~pursuant to the Oklahoma Child Abuse Reporting and Prevention Act~~.

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

c. Each prospective adoptive parent or other household member eighteen (18) years of age or older shall be required to cooperate with the requirements of the Department of Human Services and the Oklahoma State Bureau of Investigation with regard to the criminal background check and child abuse check, including but not limited to signing a release of information allowing the release of the results of any search to

the agency or person conducting the home study or home study update.

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

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

C. An updated home study as described in subsection B of this section shall include a review of criminal background checks and child abuse ~~registry~~ and neglect checks as described in subsection A of this section. However, when a national fingerprint background check has been done within the five (5) years previous to the completion of the updated home study and the results are available

for review by the home study investigator, then a name-based search of the records of the Oklahoma State Bureau of Investigation on the adoptive parents and other household residents over the age of eighteen (18) for whom the fingerprint background check has been performed shall satisfy the requirements for a criminal background check for purposes of a home study update.

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

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

3. An international home study or home study update as described in this section must include a statement that the home study recommendation is for international adoption purposes only and may not be used as the basis for a domestic adoption without the addition of a review of the results of a national fingerprint-based

criminal background search if such would be required by subparagraph b of paragraph 4 of subsection A of this section.

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

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

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

Section 7111. A. There is hereby established within the Department of Human Services an information system for the

maintenance of all reports of child abuse, sexual abuse, and neglect made pursuant to the provisions of the Oklahoma Child Abuse Reporting and Prevention Act.

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

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

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

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

3. The plan for rehabilitative treatment; and

4. Any other relevant information.

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

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

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

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

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

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

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

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

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

Department of Human Services prior to such placement as to whether the prospective foster or adoptive parent is named in the registry established in subsection H of this section. The state agency or licensed child placing agency may further request the Department search its records to ascertain whether a court has made a finding of child abuse or neglect as described in this subsection in the five (5) years preceding November 1, 2007. Within thirty (30) days of such inquiry, the Department shall furnish to the requesting agency a summary of the facts and circumstances which caused the prospective adoptive or foster parent to be listed on the registry. The summary shall not include information which does or could be reasonably used to identify any individual other than the perpetrator, except as such information has been previously disclosed or authorized for disclosure by a court.

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

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

Section 7209. A. 1. Except as otherwise provided by law, the Department of Human Services or the Department of Juvenile Justice

shall not place a child in out-of-home placement prior to completion of a foster parent eligibility assessment on the foster parent applicant, ~~and~~ completion of a national criminal history records search based upon submission of fingerprints for any adult residing in the home, as required by the Oklahoma Child Care Facilities Licensing Act and the Oklahoma Foster Care and Out-of-Home Placement Act and a child abuse registry check or search of information maintained by the Department of Human Services that is available for disclosure pursuant to Section 7111 of this title; provided, however, the state agencies may place a child in the home of a foster parent, pending completion of the national criminal history records search, if the foster parent and every adult residing in the home of the foster parent have resided in this state for at least five (5) years immediately preceding placement. The director of such state agency or designee may authorize an exception to the fingerprinting requirement for any person residing in the home who has a severe physical condition which precludes such person's being fingerprinted.

2. a. The Department of Human Services shall be the lead agency for disseminating fingerprint cards to courts and child-placing agencies for obtaining and requesting a national criminal history records search based upon submission of fingerprints from the Oklahoma State Bureau of Investigation. The

Department of Juvenile Justice may directly request national criminal history records searches as defined by Section 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State Bureau of Investigation for the purpose of obtaining the national criminal history of any individual for which such a search is required pursuant to this section.

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

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

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

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

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

3. The Department of Human Services, pursuant to Section 7003-5.3 of this title, and the Department of Juvenile Justice, pursuant

to Section 7303-5.2 of this title, shall conduct an assessment of each child in its custody which shall be designed to establish an appropriate treatment and service plan for the child.

B. 1. A child-placing agency ~~may~~ shall not place a child who is in the custody of the agency in out-of-home placement ~~if~~ until completion of a foster parent eligibility assessment or a national criminal history records search based upon submission of fingerprints has been completed for each individual residing in the home in which the child will be placed, as required pursuant to the Oklahoma Child Care Facilities Licensing Act or the Oklahoma Foster Care and Out-of-Home Placement Act, and completion of a child abuse registry check or search of information maintained by the Department of Human Services that is available for disclosure pursuant to Section 7111 of this title; provided, however, the child-placing agency may place a child in a foster family home pending completion of the national criminal history records search if the foster parent and every adult residing in the home have resided in this state for at least five (5) years immediately preceding the placement. Upon the request of a child-placing agency, the directors of the state agencies or designees may authorize an exception to the fingerprinting requirement for any person residing in the foster home who has a severe physical condition which precludes such person's being fingerprinted.

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

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

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

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

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

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

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

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

2. The Department of Human Services and the Department of Juvenile Justice shall be responsible for the completion of and costs of the foster parent eligibility assessment and any national criminal history records search based upon submission of fingerprints, preparation of a treatment and service plan, and the medical examination required by this subsection only for the children placed in the custody of the state agency. The state agency may provide for reimbursement of such expenses, costs and charges so incurred pursuant to the Oklahoma Children's Code and the Juvenile Justice Code, as applicable.

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

a. be specific,

b. be in writing,

c. be prepared by the agency in conference with the child's parents,

d. state appropriate deadlines,

e. state specific goals for the treatment of the child,

f. describe the conditions or circumstances causing the child to be placed in foster care,

g. describe the services that are necessary to remedy and that have a reasonable expectation of remedying the conditions or circumstances causing the child to be placed in foster care,

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

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

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

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

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

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

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

2. No child shall be eligible for any reimbursement through the state Medicaid program for placement in therapeutic foster care unless such placement has been reviewed and approved pursuant to

rules regarding medical necessity for therapeutic foster care placement promulgated by the Oklahoma Health Care Authority Board.

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

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

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

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

D. ~~For purposes of this subsection, the State of Oklahoma elects to make subparagraph (A) of paragraph 20 of subsection 3 of Section 471(a) of the Social Security Act (Public Law 105-89)~~

~~inapplicable to Oklahoma. Instead, the State of Oklahoma requires that:~~

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

~~a. within~~

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

~~b. child~~

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

~~c. a~~

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

~~d. a~~

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

~~2. A prospective adoptive parent may be an approved placement regardless of whether such parent has been convicted of any of the felony offenses specified by subparagraph a of paragraph 1 of this subsection, 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, 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. 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.

SECTION 10. This act shall become effective July 1, 2007.

SECTION 11. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 8th day of March, 2007.

_____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2007.

_____
Presiding Officer of the House of Representatives