

THE HOUSE OF REPRESENTATIVES
Tuesday, February 26, 2008

House Bill No. 3201

HOUSE BILL NO. 3201 - By: DENNEY AND PITTMAN of the House and ALDRIDGE of the Senate.

An Act relating to children; amending 10 O.S. 2001, Section 7004-1.1, which relates to duties and powers of the Oklahoma Department of Human Services; requiring the photographing and fingerprinting of children in custody of the Department; specifying time for retention of records; and providing an effective date.

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

1 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7004-1.1, is amended to
2 read as follows:

3 Section 7004-1.1 A. In addition to the other powers and duties prescribed by law,
4 the Department of Human Services shall have the power and duty to:

5 1. Provide for the temporary care and treatment of children taken into protective or
6 emergency custody pursuant to the provisions of Article III of the Oklahoma Children's
7 Code, and placed in the Department's custody by an order of the juvenile court.

8 In providing for the temporary care and treatment of an alleged deprived child
9 placed in the Department's custody, the Department shall:

10 a. place such children in a children's shelter, a foster home or a relative's
11 home. In determining any placement for a child who has been
12 removed from the custody of a custodial parent and placed with the

1 Department in emergency or protective custody, priority shall be given
2 by the Department to the placement of such child with the
3 noncustodial parent of the child unless such placement is not in the
4 best interests of the child. If it is determined by the Department that
5 placement with the noncustodial parent is not in the best interests of
6 the child, custody shall be consistent with the provisions of Section
7 21.1 of this title. If custody of the child cannot be made pursuant to
8 the provisions of Section 21.1 of this title, the reason for such
9 determination shall be specified in the agency records concerning the
10 child. In addition, such reasons shall be made known to the court by
11 the Department,

12 b. if ordered by the court, provide supervision of children alleged to be
13 deprived who are placed by the court in the custody of a parent,
14 relative or other responsible person. Such supervision shall, in
15 accordance with standards established by rules promulgated by the
16 Commission for Human Services, consist of periodic visitation with the
17 child, the child's custodian, and such other persons as may be
18 necessary to assess the safety of the child and to offer voluntary
19 services. Such supervision shall not exceed the period allowed for the
20 filing of a petition or, if a petition is filed, the period authorized by the
21 court,

- 1 c. admit an alleged deprived child in the Department's emergency
2 custody to a hospital or mental health facility as provided in Section 5-
3 507 of Title 43A of the Oklahoma Statutes and shall, if such child is
4 found by the court to be a child in need of mental health treatment,
5 place the child, as provided in paragraph 2 of subsection D of Section 5-
6 512 of Title 43A of the Oklahoma Statutes,
- 7 d. provide such outpatient mental health care and treatment as may be
8 necessary to preserve the health and safety of an alleged deprived
9 child in emergency custody and as prescribed by a qualified mental
10 health professional. Each child placed in the Department's emergency
11 custody shall receive, as soon as practicable, educational instruction
12 through enrollment in a public school or an alternative program
13 consistent with the needs and abilities of the child,
- 14 e. provide or prescribe treatment services for the family of an alleged
15 deprived child placed in the Department's emergency custody if such
16 services are voluntarily requested and the family is otherwise eligible
17 under application law and rules promulgated by the Commission for
18 the services offered, and
- 19 f. provide for each child placed in the Department's emergency custody to
20 receive, as soon as practicable after the filing of the petition, an initial
21 health screening to identify any health problems that require
22 immediate treatment, to diagnose infections and communicable

1 diseases and to evaluate injuries or other signs of neglect or abuse.

2 The Department shall provide such medical care as is necessary to
3 preserve the child's health and protect the health of others in contact
4 with the child;

5 2. Provide for the care and treatment of an adjudicated deprived child placed in the
6 Department's custody by an order of the juvenile court. In providing for the care and
7 treatment of an adjudicated deprived child placed in the Department's custody, the
8 Department:

- 9 a. shall review and assess each deprived child placed in its custody to
10 determine the type of placement and services consistent with the needs
11 of the child in the nearest geographic proximity to the home of the
12 child. Such review and assessment shall include an investigation of
13 the personal and family history of the child and the child's
14 environment, and any necessary physical or mental examination. In
15 making such review, the Department may use any facilities, public or
16 private, which offer to aid in the determination of the correct
17 placement of the child,
- 18 b. shall develop and, upon approval by the court, implement an
19 individual treatment and service plan for each deprived child placed in
20 the Department's custody in accord with the requirements of Section
21 7003-5.1 et seq. of this title,

- 1 c. may place a deprived child in the home of the child with prior approval
2 of the court pursuant to subsection B of Section 7003-7.1 of this title, in
3 the home of a relative of the child, in a foster home, in a public or
4 private children's shelter, in a group home, in an independent living
5 program, or in any licensed facility established for the care of deprived
6 children. No deprived child shall be placed in an institution operated
7 by the Department,
- 8 d. may admit a deprived child in the Department's custody to a hospital
9 or mental health facility as provided in Section 5-507 of Title 43A of
10 the Oklahoma Statutes and shall, if such child is found by the court to
11 be a child in need of mental health treatment, place the child as
12 provided in paragraph 2 of subsection D of Section 5-512 of Title 43A of
13 the Oklahoma Statutes,
- 14 e. may provide such outpatient mental health care and treatment as may
15 be necessary to meet the treatment needs of a deprived child in the
16 Department's custody and as prescribed by a qualified mental health
17 professional, and
- 18 f. shall, if ordered by the court, provide supervision of children
19 adjudicated deprived who are placed by the court in the custody of a
20 parent, relative or other responsible person. Such supervision shall, in
21 accordance with standards established in rules promulgated by the
22 Commission, consist of periodic visitation with the child, the child's

1 custodian, and such other persons as may be necessary to determine
2 compliance with the court-approved individual treatment and service
3 plan. Such supervision shall not exceed a period of six (6) months
4 unless extended by the court for good cause shown;

5 3. Transfer any child in its custody from any authorized placement to another
6 authorized placement if such transfer is consistent with the treatment needs of the child
7 or as may be required in an emergency, subject to the provisions of Section 7003-5.4a of
8 this title;

9 4. In providing for the outpatient mental health care and treatment of children in
10 its custody, utilize, to the maximum extent possible and appropriate, the services
11 available through:

- 12 a. the guidance centers operated by the State Department of Health,
- 13 b. the Department of Mental Health and Substance Abuse Services, and
- 14 c. community-based private nonprofit agencies and organizations; and

15 5. Provide, when voluntarily requested by a parent, legal guardian or custodian
16 pursuant to rules promulgated by the Commission, family preservation or other services
17 aimed at the prevention of child abuse or neglect.

18 B. The Department shall:

19 1. Provide for the photographing and fingerprinting of each child under its custody
20 no later than two (2) months after the Department assumes custody of the child. A child
21 who is under the custody of the Department on November 1, 2008, shall be photographed
22 and fingerprinted for the purposes of this subsection no later than November 1, 2009;

1 2. Update the photograph of each child taken pursuant to paragraph 1 of this
2 subsection at least every two (2) years; and

3 3. Retain the fingerprint information and photograph of each child for whom these
4 records are taken for at least one (1) year after the date that the child is no longer under
5 the custody of the Department.

6 C. The Department may participate in federal programs relating to deprived
7 children and services for such children; and apply for, receive, use and administer federal
8 funds for such purposes.

9 ~~C.~~ D. The Department shall receive interest earnings on the investment by the
10 State Treasurer of monies, to be credited to an agency special account, for the benefit of
11 and held in trust for persons placed in the custody of the Department or in residence at
12 facilities maintained by the Department.

13 SECTION 2. This act shall become effective November 1, 2008.

14 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 02-25-08 -
15 DO PASS, As Coauthored.