

THE HOUSE OF REPRESENTATIVES  
Monday, April 16, 2007

Committee Substitute for  
ENGROSSED  
Senate Bill No. 553

COMMITTEE SUBSTITUTE FOR 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; directing courts to advise certain persons of certain information at an emergency custody hearing; directing the Department of Human Services to provide certain written notice to certain persons; providing for certain right of hearing for certain persons; requiring certain consideration for placement; directing certain inquiry; requiring identification of certain placements; clarifying those persons not approved for child placement; providing exclusion; clarifying disclosure of certain records to certain persons; specifying review of certain information during home study; changing number of years of residency required to exempt certain search; requiring the Department of Human Services to maintain a certain registry; directing the court clerk to forward certain information to the Department of Human Services in specified circumstance; authorizing certain entities to make specified inquiries; requiring the Department to furnish certain information; prohibiting the disclosure of certain information; authorizing the promulgation of rules; expanding scope of eligibility assessment required before placement; modifying exclusion; clarifying those persons not approved for child placement; providing an exception; amending 43 O.S. 2001, Sections 109, 110.1, 111.1 and Section 8, Chapter 400, O.S.L. 2002 (43 O.S. Supp. 2006, Section 112.3), which relate to child custody and visitation; providing for a rebuttable presumption in certain circumstances for custody disputes; defining terms; providing certain

considerations for determining custody; providing condition for shared parenting; deleting certain burden of proof; adding condition for visitation in a specific situation; specifying certain alternatives for visitation orders; providing conditions for termination of visitation; providing for confidentiality of certain information in certain circumstances; providing for waiver of notice of relocation under certain circumstances; providing an effective date; and declaring an emergency.

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

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

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

7           2. The written notice shall:

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

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

14                c.       contain information about the:

- 1 (1) emergency custody hearing process including, but not limited to,  
2 the date, time and place that the child was taken into protective  
3 or emergency custody,  
4 (2) nature of the allegation that led to placement of the child into  
5 protective or emergency custody,  
6 (3) address and telephone number of the local and county law  
7 enforcement agencies,  
8 (4) phone number of the local child welfare office of the Department  
9 of Human Services, and  
10 (5) right of the parent, legal guardian or custodian to contact an  
11 attorney.

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

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

1 or is in surroundings that are such as to endanger the health, safety or welfare of the  
2 child.

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

7 a. any right of the parent or legal guardian or custodian to testify and  
8 present evidence at court hearings,

9 b. the right to be represented by an attorney at court hearings as  
10 authorized by law,

11 c. the consequences of failure to attend any hearings which may be held,  
12 ~~and~~

13 d. the right to appeal and the procedure for appealing the finding of a  
14 court on custody issues as authorized by law, and

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

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

- 1 (1) release the child to the child's parent, legal guardian or  
2 custodian or other responsible adult without conditions or under  
3 such conditions as the court finds reasonably necessary to  
4 ensure the health, safety or welfare of the child, or
- 5 (2) continue the child in or place the child into emergency custody if  
6 continuation of the child in the child's home is contrary to the  
7 health, safety or welfare of the child,
- 8 (3) obtain information from the parent, legal guardian or custodian  
9 necessary to identify and locate kinship placement resources. If  
10 such information indicates that within one (1) year of the  
11 emergency custody hearing the child had resided with a  
12 grandparent for six (6) months, and that such grandparent was  
13 the primary caregiver and provided primary financial support  
14 for the child during such time, the court shall provide notice and  
15 an opportunity to be heard at future hearings to such  
16 grandparent, and
- 17 (4) require the Department to provide to any custodian or other  
18 person caring for the child information on Department of  
19 Human Services programs and services available to the child  
20 and provide written notice of any further proceedings to any  
21 foster or preadoptive parents or relatives providing care for a  
22 child.

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

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

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

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

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

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

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

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

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

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

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

21 c. as to whether or not an absence of efforts to prevent the removal of the  
22 child from the child's home is reasonable because the removal is due to

1 an alleged emergency and is for the purpose of providing for the health,  
2 safety or welfare of the child, or

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

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

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

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

- 20 1. The conditions which caused the child to be adjudicated have been corrected;  
21 2. The parental rights of the parent are terminated and a final adoption decreed or  
22 the child is placed with a suitable custodian or kinship guardian; or

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

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

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

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

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

22           F. At each review hearing the court shall:

1           1. Determine whether:

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

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

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

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

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

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

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

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

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

20           c.       the rights of the parent of the child should be terminated and the child  
21                   placed for adoption, placed with a guardian or custodian, or provided  
22                   with another permanent arrangement, or



1       ~~3.~~ 4. Determine the safety of the child and consider fully all relevant prior and  
2 current information including, but not limited to, the report or reports submitted  
3 pursuant to Sections 7208 and 7003-5.6a of this title;

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

8       ~~5.~~ 6. Order such modification to the existing individual treatment and service plan  
9 as the court determines to be in the best interests of the child and necessary for the  
10 correction of the conditions that led to the adjudication of the child.

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

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

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

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

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

- 1           a.     the adjudication date, or  
2           b.     the date that is sixty (60) days after the date on which the child is  
3                 removed from the home.

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

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

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

1 permanency plan or if the child is age sixteen (16) or older, the independent living plan.

2 The court shall determine whether:

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

- 8 a. the parent, legal guardian or custodian has made marked progress  
9 towards reunification with the child, and has maintained a close and  
10 positive relationship with the child, and  
11 b. the parties have complied with, performed and completed those terms  
12 and conditions of the court-ordered individual treatment and service  
13 plan and have corrected those conditions which caused the child to be  
14 adjudicated which are essential and fundamental to the health, safety  
15 and welfare of the child;

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

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

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

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

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

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

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

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

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

22 ~~Consideration~~ Identification of appropriate in-state and out-of-state placements should

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

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

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

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

13 b. ~~child abuse or neglect,~~

14 c. ~~domestic abuse,~~

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

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

19 ~~2. a.~~

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

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

3 ~~(1) within~~

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

7 ~~(2) child~~

8 2. Child abuse or neglect;

9 ~~(3) domestic~~

10 3. Domestic abuse;

11 ~~(4) a~~

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

13 ~~(5) a~~

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

17 b. ~~A prospective adoptive parent or long-term placement provider may be~~  
18 ~~an approved placement regardless of whether such parent or provider~~  
19 ~~has been convicted of any of the felony offenses specified by division (1)~~  
20 ~~of subparagraph a of this paragraph, if an evaluation has been made~~  
21 ~~and accepted by the court which considers the nature and seriousness~~  
22 ~~of the crime in relation to the adoption or long-term placement, the~~

1 ~~time elapsed since the commission of the crime, the circumstances~~  
2 ~~under which the crime was committed, the degree of rehabilitation, the~~  
3 ~~number of crimes committed by the person involved, and a showing by~~  
4 ~~clear and convincing evidence that the child will not be at risk by such~~  
5 ~~placement.~~

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

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

13 3. Prior to the custody order being entered, the individual seeking custody shall  
14 respond by certified affidavit or through sworn testimony to the court and shall provide  
15 an Oklahoma criminal history record obtained pursuant to Section 150.9 of Title 74 of  
16 the Oklahoma Statutes.

17 4. For purposes of this subsection the terms:

- 18 a. “relevant misdemeanor” may include, but shall not be limited to,  
19 assault and battery, alcohol- or drug-related offenses, crimes involving  
20 domestic abuse and other offenses deemed relevant by the court, and  
21 b. “individual” shall not include a parent, legal guardian, or custodian of  
22 the child.

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

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

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

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

14 2. Employees of court-appointed special advocate programs, as defined in Section  
15 7001-1.3 of this title, in the course of their official duties pertaining to recruiting,  
16 screening, training, assigning cases, supervising and supporting volunteers in their roles  
17 as guardian ad litem, pursuant to Section 7003-3.7 of this title;

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

- 1 a. psychological and medical records,
- 2 b. placement history and information, including the names and addresses
- 3 of foster parents,
- 4 c. family assessments,
- 5 d. treatment or service plans, and
- 6 e. school records;

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

11 5. The attorney representing a child who is the subject of a proceeding pursuant to  
12 the provisions of this title, including the attorney representing a child pursuant to the  
13 provisions of subsection C of Section 7002-1.2 of this title or representing a child  
14 pursuant to the provisions of subsection A of Section 7112 of this title. Such attorney  
15 may also access other records listed in subsection A of Section 7005-1.2 of this title for  
16 use in the legal representation of the child;

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

20 7. Employees of a law enforcement agency of this or another state and employees of  
21 a child protective service of another state in the course of their official duties pertaining  
22 to investigations of a report of known or suspected child abuse or neglect or crimes

1 against children or for the purpose of determining whether to place a child in protective  
2 custody;

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

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

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

9 11. The Office of Juvenile Affairs;

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

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

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

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

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

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

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

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

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

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

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

21 19. An employee of any state or federal corrections or law enforcement agency in  
22 the performance of such employee's official duties concerning presentence investigations

1 or supervision of a parent of an alleged or adjudicated deprived child, or the legal  
2 guardian, custodian or any other adult member of the child's home who is responsible for  
3 the health, safety or welfare of the child; and

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

9 B. In accordance with the rules promulgated for such purpose pursuant to Section  
10 620.6 of this title, records listed in subsection A of Section 7005-1.2 of this title may be  
11 inspected and their contents disclosed without a court order to participating agencies.

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

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

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

21 1. An appropriate inquiry to determine whether the proposed home is a suitable  
22 one for the minor; and any other circumstances and conditions which may have a bearing

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

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

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

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

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

21 b. For each adoptive parent or other household member eighteen (18)  
22 years of age or older who has not maintained continuous residency in

1 the state for ~~ten (10)~~ five (5) years prior to the home study or home  
2 study update, a ~~national fingerprint-based criminal background check~~  
3 ~~shall be performed in addition to the state criminal background check~~  
4 ~~and child abuse registry check~~ shall be required from every other state  
5 in which the prospective adoptive parent or other adult has resided  
6 during such five-year period.

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

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

21 B. A home study which is being updated or brought current in accordance with  
22 subsection A of Section 7505-5.1 of this title shall document appropriate inquiry into

1 changes in the family situation since the last home study, a home visit, at least one joint  
2 interview, information on any children added to the family, experiences, if any, of the  
3 adoptive parents as parents since the last study, verification of current physical health,  
4 and three current letters of reference.

5 C. An updated home study as described in subsection B of this section shall include  
6 a review of criminal background checks and child abuse ~~registry~~ and neglect checks as  
7 described in subsection A of this section. However, when a national fingerprint  
8 background check has been done within the five (5) years previous to the completion of  
9 the updated home study and the results are available for review by the home study  
10 investigator, then a name-based search of the records of the Oklahoma State Bureau of  
11 Investigation on the adoptive parents and other household residents over the age of  
12 eighteen (18) for whom the fingerprint background check has been performed shall  
13 satisfy the requirements for a criminal background check for purposes of a home study  
14 update.

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

19 2. Such an international home study shall contain a review of a state criminal  
20 background check, a search of the Department of Corrections' files maintained pursuant  
21 to the Sex Offenders Registration Act, and a search of the child abuse and neglect ~~files~~  
22 information system and child abuse registry maintained for review by authorized entities

1 by the Department of Human Services pursuant to the Oklahoma Child Abuse Reporting  
2 and Prevention Act.

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

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

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

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

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

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

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

- 11 1. All information in the written report required by Section 7103 of this title;
- 12 2. A record of the final disposition of the report including services offered and  
13 services accepted;
- 14 3. The plan for rehabilitative treatment; and
- 15 4. Any other relevant information.

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

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

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

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

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

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

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

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

18           I. Beginning July 1, 2007, a state agency or licensed child-placing agency of this or  
19 another state responsible for placing a child in a prospective adoptive or foster home may  
20 inquire of the Department of Human Services prior to such placement as to whether the  
21 prospective foster or adoptive parent or any other person residing in the home is named  
22 in the registry established in subsection H of this section. The state agency or licensed

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

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

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

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

- 20 a. a foster parent eligibility assessment on the foster parent applicant  
21 ~~and completion of,~~



1 the national criminal history of any individual for which such a search  
2 is required pursuant to this section.

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

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

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

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

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

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

16 B. 1. A child-placing agency ~~may~~ shall not place a child who is in the custody of the  
17 agency in out-of-home placement ~~if~~ until completion of a foster parent eligibility  
18 assessment or a national criminal history records search based upon submission of  
19 fingerprints has been completed for each individual residing in the home in which the  
20 child will be placed, as required pursuant to the Oklahoma Child Care Facilities  
21 Licensing Act or the Oklahoma Foster Care and Out-of-Home Placement Act, and  
22 completion of a child abuse registry check or search of information maintained by the

1 Department of Human Services that is available for disclosure pursuant to Section 7111  
2 of this title; provided, however, the child-placing agency may place a child in a foster  
3 family home pending completion of the national criminal history records search if the  
4 foster parent and every adult residing in the home have resided in this state for at least  
5 five (5) years immediately preceding the placement. Upon the request of a child-placing  
6 agency, the directors of the state agencies or designees may authorize an exception to the  
7 fingerprinting requirement for any person residing in the foster home who has a severe  
8 physical condition which precludes such person's being fingerprinted.

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

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

- 14 a. require that when custody is placed with an individual, a foster family  
15 eligibility assessment be conducted for the foster parents prior to  
16 placement of the child, and  
17 b. require that if custody is awarded to a child-placing agency, a foster  
18 family eligibility assessment be conducted as required by the  
19 Oklahoma Child Care Facilities Licensing Act.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

21 a. ~~within~~

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

4                   ~~b.     child~~

5           2. Child abuse or neglect;

6                   ~~e.     a~~

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

8                   ~~d.     a~~

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

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

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

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

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

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

8 For the purposes of this section, the terms joint custody and joint care, custody, and  
9 control mean the sharing by parents in all or some of the aspects of physical and legal  
10 care, custody, and control of their children.

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

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

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

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

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

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

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

16 H. In the event of a dispute between the parents having joint custody of a child as  
17 to the interpretation of a provision of said plan, the court may appoint an arbitrator to  
18 resolve said dispute. The arbitrator shall be a disinterested person knowledgeable in  
19 domestic relations law and family counseling. The determination of the arbitrator shall  
20 be final and binding on the parties to the proceedings until further order of the court.

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

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

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

8 1. For the purposes of this subsection:

9 a. “domestic violence” means the threat of the infliction of physical injury,  
10 any act of physical harm or the creation of a reasonable fear thereof, or  
11 the intentional infliction of emotional distress by a parent or a present  
12 or former member of the household of the child, against the child or  
13 another member of the household,

14 b. “stalking” means the willful, malicious, and repeated following or  
15 harassing of a person by a parent that would cause a reasonable  
16 person to feel frightened, intimidated, harassed, threatened, or  
17 molested and that actually causes the person being followed or  
18 harassed to feel terrorized, frightened, intimidated, threatened,  
19 harassed, or molested, and

20 c. “harassment” means a knowing and willful course or pattern of  
21 conduct by a parent directed at another parent which seriously alarms  
22 or is a nuisance to the person and which serves no legitimate purpose

1                    including, but not limited to, harassing or obscene telephone calls, and  
2                    fear of death or bodily injury.

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

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

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

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

15                    Section 110.1 It is the policy of this state to assure that minor children have  
16 frequent and continuing contact with parents who have shown the ability to act in the  
17 best interests of their children and to encourage parents to share in the rights and  
18 responsibilities of rearing their children after the parents have separated or dissolved  
19 their marriage, provided that the parents agree to cooperate or that domestic violence,  
20 stalking, or harassing behaviors as defined in this title are not present in the parental  
21 relationship. To effectuate this policy, if requested by a parent, the court shall provide  
22 substantially equal access to the minor children to both parents at a temporary order

1 hearing, unless the court finds that ~~such~~ the shared parenting would be detrimental to  
2 ~~such~~ the child. ~~The burden of proof that such shared parenting would be detrimental to~~  
3 ~~such child shall be upon the parent requesting sole custody and the reason for such~~  
4 ~~determination shall be documented in the court record.~~

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

7 Section 111.1 A. 1. Any order providing for the visitation of a noncustodial parent  
8 with any of the children of ~~such~~ the noncustodial parent shall provide a specified  
9 minimum amount of visitation between the noncustodial parent and the child unless the  
10 court determines otherwise.

11 2. Except for good cause shown and when in the best interests of the child, the  
12 order shall encourage additional visitations of the noncustodial parent and the child and  
13 in addition encourage liberal telephone communications between the noncustodial parent  
14 and the child.

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

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

- 1           a. order the exchange of a child to be facilitated by a third party where  
2                           the parents do not have any contact with each other,
- 3           b. order an exchange of a child to occur in a protected setting,
- 4           c. order visitation supervised by another person or agency,
- 5           d. order the abusive, stalking, or harassing parent to pay a fee to help  
6                           defray the costs of supervised visitation or other costs of child  
7                           exchanges including compensating third parties,
- 8           e. order the abusive, stalking, or harassing parent to attend and  
9                           complete, to the satisfaction of the court, a batterers intervention  
10                          program certified by the Office of the Attorney General,
- 11           f. prohibit unsupervised or overnight visitation until the abusive,  
12                           stalking, or harassing parent has successfully completed a specialized  
13                           program for abusers and the parent has neither threatened nor  
14                           exhibited violence for a substantial period of time,
- 15           g. order the abusive, stalking, or harassing parent to abstain from the  
16                           possession or consumption of alcohol or controlled substances during  
17                           the visitation and for twenty-four (24) hours preceding visitation,
- 18           h. order the abusive, stalking, or harassing parent to complete a  
19                           danger/lethality assessment by a qualified mental health professional,  
20                           and

1 i. impose any other condition that is deemed necessary to provide for the  
2 safety of the child, the victim of domestic violence, stalking, or  
3 harassing behavior, or another household member.

4 5. Visitation shall be terminated if:

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

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

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

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

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



- 1           1. “Change of residence address” means a change in the primary residence of an  
2 adult;
- 3           2. “Child” means a child under the age of eighteen (18) who has not been judicially  
4 emancipated;
- 5           3. “Person entitled to custody of or visitation with a child” means a person so  
6 entitled by virtue of a court order or by an express agreement that is subject to court  
7 enforcement;
- 8           4. “Principal residence of a child” means:
- 9           a.     the location designated by a court to be the primary residence of the  
10 child,
- 11           b.     in the absence of a court order, the location at which the parties have  
12 expressly agreed that the child will primarily reside, or
- 13           c.     in the absence of a court order or an express agreement, the location, if  
14 any, at which the child, preceding the time involved, lived with the  
15 child’s parents, a parent, or a person acting as parent for at least six  
16 (6) consecutive months and, in the case of a child less than six (6)  
17 months old, the location at which the child lived from birth with any of  
18 the persons mentioned. Periods of temporary absence of any of the  
19 named persons are counted as part of the six-month or other period;  
20 and

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

4           B. 1. Except as otherwise provided by this section, a person who has the right to  
5 establish the principal residence of the child shall notify every other person entitled to  
6 visitation with the child of a proposed relocation of the child’s principal residence as  
7 required by this section.

8           2. Except as otherwise provided by this section, an adult entitled to visitation with  
9 a child shall notify every other person entitled to custody of or visitation with the child of  
10 an intended change in the primary residence address of the adult as required by this  
11 section.

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

15           a. by mail to the last-known address of the person to be notified, and

16           b. no later than:

17                   (1) the sixtieth day before the date of the intended move or  
18                   proposed relocation, or

19                   (2) the tenth day after the date that the person knows the  
20                   information required to be furnished pursuant to this  
21                   subsection, if the person did not know and could not reasonably  
22                   have known the information in sufficient time to comply with

1 the sixty-day notice, and it is not reasonably possible to extend  
2 the time for relocation of the child.

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

- 6 a. the intended new residence, including the specific address, if known,
- 7 b. the mailing address, if not the same,
- 8 c. the home telephone number, if known,
- 9 d. the date of the intended move or proposed relocation,
- 10 e. a brief statement of the specific reasons for the proposed relocation of a  
11 child, if applicable,
- 12 f. a proposal for a revised schedule of visitation with the child, if any,
- 13 and
- 14 g. a warning to the nonrelocating parent that an objection to the  
15 relocation must be made within thirty (30) days or the relocation will  
16 be permitted.

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

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

1 “You, as a party in this action, are ordered to notify every other party to this action  
2 of a proposed relocation of the child, change of your primary residence address, and the  
3 following information:

- 4 1. The intended new residence, including the specific address, if known;
- 5 2. The mailing address, if not the same;
- 6 3. The home telephone number, if known;
- 7 4. The date of the intended move or proposed relocation;
- 8 5. A brief statement of the specific reasons for the proposed relocation of a child, if  
9 applicable; and
- 10 6. A proposal for a revised schedule of visitation with the child, if any.

11 You are further ordered to give notice of the proposed relocation or change of  
12 residence address on or before the sixtieth day before a proposed change. If you do not  
13 know and could not have reasonably known of the change in sufficient time to provide a  
14 sixty-day notice, you are ordered to give notice of the change on or before the tenth day  
15 after the date that you know of the change.

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

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

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

5 If you, as the nonrelocating parent, do not file a proceeding seeking a temporary or  
6 permanent order to prevent the relocation within thirty (30) days after receipt of notice of  
7 the intent of the other party to relocate the residence of the child, relocation is  
8 authorized.”

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

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

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

3           3. The finding of domestic violence creates a presumption that the custodial parent  
4 and child will be put at risk by the disclosure of information required by this section and  
5 is sufficient to waive all requirements of this section. It is the policy of this state that a  
6 child should reside with a nonviolent parent and that parent should be free to make a  
7 choice about a safe, secure place of residence, even if it means relocation to another city  
8 or state without disclosure to the violent parent.

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

- 11           a. a factor in making its determination regarding the relocation of a child,
- 12           b. a factor in determining whether custody or visitation should be  
13           modified,
- 14           c. a basis for ordering the return of the child if the relocation has taken  
15           place without notice, and
- 16           d. sufficient cause to order the person seeking to relocate the child to pay  
17           reasonable expenses and attorney fees incurred by the person objecting  
18           to the relocation.

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

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

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

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

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

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

- 17 a. the required notice of a proposed relocation of a child as provided by  
18 this section was not provided in a timely manner and the parties have  
19 not presented an agreed-upon revised schedule for visitation with the  
20 child for the court's approval,  
21 b. the child already has been relocated without notice, agreement of the  
22 parties, or court approval, or

1 c. from an examination of the evidence presented at the temporary  
2 hearing there is a likelihood that on final hearing the court will not  
3 approve the relocation of the primary residence of the child.

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

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

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

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

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

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

21 b. the age, developmental stage, needs of the child, and the likely impact  
22 the relocation will have on the child's physical, educational, and

- 1 emotional development, taking into consideration any special needs of  
2 the child,
- 3 c. the feasibility of preserving the relationship between the nonrelocating  
4 person and the child through suitable visitation arrangements,  
5 considering the logistics and financial circumstances of the parties,
- 6 d. the ~~child's~~ preference of the child, taking into consideration the age  
7 and maturity of the child,
- 8 e. whether there is an established pattern of conduct of the person  
9 seeking the relocation, either to promote or thwart the relationship of  
10 the child and the nonrelocating person,
- 11 f. whether the relocation of the child will enhance the general quality of  
12 life for both the custodial party seeking the relocation and the child,  
13 including but not limited to financial or emotional benefit or  
14 educational opportunity,
- 15 g. the reasons of each person for seeking or opposing the relocation, and  
16 h. any other factor affecting the best interest of the child.
- 17 2. The court may not:
- 18 a. give undue weight to the temporary relocation as a factor in reaching  
19 its final decision, if the court has issued a temporary order authorizing  
20 a party seeking to relocate a child to move before final judgment is  
21 issued, or

1           b.     consider whether the person seeking relocation of the child has  
2                   declared that he or she will not relocate if relocation of the child is  
3                   denied.

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

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

- 11           a.     to harass a person or to cause unnecessary delay or needless increase  
12                   in the cost of litigation,
- 13           b.     without being warranted by existing law or was based on frivolous  
14                   argument, or
- 15           c.     based on allegations and other factual contentions which had no  
16                   evidentiary support or, if specifically so identified, could not have been  
17                   reasonably believed to be likely to have evidentiary support after  
18                   further investigation.

19           2. A sanction imposed under this subsection shall be limited to what is sufficient to  
20 deter repetition of such conduct or comparable conduct by others similarly situated. The  
21 sanction may include directives of a nonmonetary nature, an order to pay a penalty into  
22 court, or, if imposed on motion and warranted for effective deterrence, an order directing

1 payment to the other party of some or all of the reasonable attorney fees and other  
2 expenses incurred as a direct result of the violation.

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

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

8 a. after the effective date of this act, and

9 b. before the effective date of this act, if the existing custody order or  
10 enforceable agreement does not expressly govern the relocation of the  
11 child or there is a change in the primary residence address of an adult  
12 affected by the order.

13 2. To the extent that a provision of this section conflicts with an existing custody  
14 order or enforceable agreement, this section does not apply to the terms of that order or  
15 agreement that govern relocation of the child or a change in the primary residence  
16 address of an adult.

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

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

1 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 04-12-07 -  
2 DO PASS, As Amended.