

**THE HOUSE OF REPRESENTATIVES**  
Wednesday, February 20, 2008

**Committee Substitute for**  
**House Bill No. 2530**

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2530 - By: STEELE, BIGHORSE, SHUMATE AND PITTMAN of the House and COATES of the Senate.

An Act relating to children; amending 10 O.S. 2001, Section 601.6, as amended by Section 2, Chapter 205, O.S.L. 2006 (10 O.S. Supp. 2007, Section 601.6), which relates to the Office of Juvenile System Oversight; authorizing the copying of certain records; amending 10 O.S. 2001, Section 7003-2.4, as last amended by Section 1, Chapter 196, O.S.L. 2007 (10 O.S. Supp. 2007, Section 7003-2.4), which relates to an emergency custody hearing; providing for a specific form to be filed of record in lieu of a hearing by agreement of certain persons; amending Section 4, Chapter 351, O.S.L. 2007 (10 O.S. Supp. 2007, Section 7005-1.9), which relates to the disclosure of certain information in cases of death or near-death of a child; extending certain time limitations; amending Sections 10, 11, 12 and 13, Chapter 205, O.S.L. 2006 (10 O.S. Supp. 2007, Sections 7008-1.2, 7008-1.3, 7008-1.4 and 7008-1.5), which relate to the Oklahoma Children and Juvenile Law Reform Committee; extending duration of Committee; extending time for submission of certain draft; and declaring an emergency.

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

1           SECTION 1.    AMENDATORY    10 O.S. 2001, Section 601.6, as amended by  
2    Section 2, Chapter 205, O.S.L. 2006 (10 O.S. Supp. 2007, Section 601.6), is amended to  
3    read as follows:  
4           Section 601.6 A. The Office of Juvenile System Oversight shall have the  
5    responsibility of investigating and reporting misfeasance and malfeasance within the  
6    children and youth service system, inquiring into areas of concern, investigating

1 complaints filed with the Office of Juvenile System Oversight, and monitoring the  
2 children and youth service system to ascertain compliance with established  
3 responsibilities.

4 It shall be the duty of the Office of Juvenile System Oversight to conduct regular,  
5 periodic, but not less than semiannual, unannounced inspections of state-operated  
6 children's institutions and facilities and to review the reports of the inspections of the  
7 State Fire Marshal and the Department of Health and any agencies which accredit such  
8 institutions and facilities.

9 B. The Office of Juvenile System Oversight shall:

10 1. Have the authority to examine and copy all records and budgets pertaining to  
11 the children and youth service system and shall have access to all facilities within the  
12 children and youth service system for the purpose of conducting site visits and speaking  
13 with the residents of such facilities;

14 2. Have the authority to subpoena witnesses and hold public hearings;

15 3. Establish, in accordance with the Dispute Resolution Act, Sections 1801 through  
16 1813 of Title 12 of the Oklahoma Statutes, a voluntary program for foster parents to  
17 mediate complaints concerning the rights of foster parents, as provided for in Section  
18 7206.1 of this title, that relate to certain actions, inactions or decisions of the Department  
19 of Human Services, the Department of Juvenile Justice, or child-placing agencies that  
20 may adversely affect the safety and well-being of children in the custody of the state;

21 4. Issue reports to the Governor, Speaker of the House of Representatives,  
22 President Pro Tempore of the Senate, Chief Justice of the Supreme Court of the State of

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

1 Oklahoma, any appropriate prosecutorial agency, the director of the agency under  
2 consideration; and such other persons as necessary and appropriate; and

3 5. Provide recommendations to the Oklahoma Commission on Children and Youth  
4 on or before May 1 of each year.

5 C. The Office of Juvenile System Oversight shall not release information that  
6 would identify a person who makes a complaint to such Office, unless a court of  
7 competent jurisdiction orders release of the information for good cause shown.

8 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7003-2.4, as last amended  
9 by Section 1, Chapter 196, O.S.L. 2007 (10 O.S. Supp. 2007, Section 7003-2.4), is  
10 amended to read as follows:

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

14 2. The written notice shall:

- 15 a. inform the parents, legal guardian, or custodian that the child has  
16 been removed from the home,  
17 b. inform the parent, legal guardian, or custodian of the child that an  
18 emergency custody hearing to determine custody of the child will occur  
19 within two (2) judicial days from the date the child was removed from  
20 the home, and  
21 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 procedure which will be followed with  
5 regard to determining custody of the child, including, but not limited to:

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

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

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

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

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

15 (1) release the child to the child's parent, legal guardian or  
16 custodian or other responsible adult without conditions or under  
17 such conditions as the court finds reasonably necessary to  
18 ensure the health, safety or welfare of the child, or

19 (2) continue the child in or place the child into emergency custody if  
20 continuation of the child in the child's home is contrary to the  
21 health, safety or welfare of the child,

1 (3) obtain information from the parent, legal guardian or custodian  
2 necessary to identify and locate kinship placement resources. If  
3 such information indicates that within one (1) year of the  
4 emergency custody hearing the child had resided with a  
5 grandparent for six (6) months, and that such grandparent was  
6 the primary caregiver and provided primary financial support  
7 for the child during such time, the court shall provide notice and  
8 an opportunity to be heard at future hearings to such  
9 grandparent, and  
10 (4) require the Department to provide to any custodian or other  
11 person caring for the child information on Department of  
12 Human Services programs and services available to the child  
13 and provide written notice of any further proceedings to any  
14 foster or preadoptive parents or relatives providing care for a  
15 child.  
16 b. If a child has been removed from the custodial parent of the child and  
17 the court, in the best interests of the child, is unable to release the  
18 child to the custodial parent, the court shall give priority for placement  
19 of the child with the noncustodial parent of the child unless such  
20 placement would not be in the child's best interests. If the court  
21 cannot place the child with the noncustodial parent, custody shall be  
22 consistent with the provisions of Section 21.1 of this title. If custody of

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1 the child cannot be made pursuant to the provisions of Section 21.1 of  
2 this title, the reason for such determination shall be documented in the  
3 court record.

4 C. If it is determined by agreement of the district attorney and the Department of  
5 Human Services that an emergency custody hearing is not needed, the following form or  
6 a substantially similar form shall be completed and signed by the district attorney and  
7 the Department and filed of record:

8 IN THE DISTRICT COURT OF \_\_\_\_\_ COUNTY

9 STATE OF OKLAHOMA

10 IN THE MATTER OF:

11 \_\_\_\_\_

12 ALLEGED DEPRIVED CHILD(REN)

13 MEMORANDUM

14 DATE OF DECLINE:

15 CHILD WELFARE WORKER:

16 ASSISTANT DISTRICT ATTORNEY:

17 REASON FOR DECLINE:

18 \_\_\_ INVESTIGATION REVEALED ALLEGATIONS NOT CONFIRMED

19 \_\_\_ SERVICES WERE OFFERED AND ACCEPTED

20 \_\_\_ PARENT/CARETAKER HAS TAKEN APPROPRIATE STEPS TO

21 PROTECT CHILD FROM HARM

22 \_\_\_ OTHER:

1 NOTES:

2 CHILD(REN) RELEASED TO:

3

4

\_\_\_\_\_  
ASSISTANT DISTRICT ATTORNEY

5 I work for the Department of Human Services and am requesting that the District  
6 Attorney's Office release the above-mentioned child(ren) from temporary emergency  
7 custody and that a Petition not be filed for court intervention.

8

9 DHS CHILD WELFARE WORKER.

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

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

1       ~~D.~~ E. If a petition is filed within the time period specified in subsection ~~C~~ D 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.~~ F. 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.~~ G. In scheduling hearings, the court shall give priority to proceedings in which a  
13 child is in emergency custody.

14       ~~G.~~ H. 1. 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 3. AMENDATORY Section 4, Chapter 351, O.S.L. 2007 (10 O.S.  
11 Supp. 2007, Section 7005-1.9), is amended to read as follows:

12 Section 7005-1.9 A. For purposes of this section, the term “near death” means the  
13 child is in serious or critical condition, as certified by a physician, as a result of abuse or  
14 neglect.

15 B. In cases involving the death or near death of a child when a person responsible  
16 for the child has been charged by information or indictment with committing a crime  
17 resulting in the death or near death of the child, there shall be a presumption that the  
18 best interest of the public will be served by public disclosure of certain information  
19 concerning the circumstances of the investigation of the death or near death of the child  
20 and any other investigations within ~~the last~~ three (3) years of the death or near death  
21 and one (1) year after the death or near death concerning that child, or other children  
22 while living in the same household.

1 C. 1. At any time subsequent to seven (7) days, but no more than thirty (30) days,  
2 of the date the person responsible for the child has been criminally charged, the  
3 Department of Human Services, the district attorney, the district court clerk, and the  
4 judge having jurisdiction over the case, upon request, shall release certain information to  
5 the public as follows:

- 6 a. a confirmation shall be provided by the Department as to whether a  
7 report has been made concerning the alleged victim or other children  
8 while living in the same household and whether an investigation has  
9 begun,
- 10 b. confirmation shall be provided by the Department as to whether  
11 previous reports have been made and the dates thereof, a summary of  
12 those previous reports, the dates and outcome of any investigations or  
13 actions taken by the Department in response to a previous report of  
14 child abuse or neglect, and the specific recommendation made to the  
15 district attorney and any subsequent action taken by the district  
16 attorney,
- 17 c. the dates of any judicial proceedings prior to the death or near death of  
18 the child,
- 19 d. recommendations submitted by each participant in writing at the  
20 judicial proceedings including recommendations made at the hearing  
21 as they relate to custody or placement of a child, and  
22 e. the rulings of the court.

1           2. Specific recommendations made and services rendered by the Department  
2 described in any progress reports of a pending case submitted to the court may be  
3 disclosed by the Department.

4           D. 1. At any time subsequent to seven (7) days, ~~but no more than thirty (30) days,~~  
5 ~~or~~ after the date the person responsible for the child has been criminally charged, the  
6 Oklahoma Commission on Children and Youth shall, upon request, release certain  
7 information to the public within sixty (60) days of the request as follows:

- 8           a. a confirmation shall be provided by the Commission as to whether a  
9 report of suspected child abuse or neglect has been made concerning  
10 the alleged victim or other children while living in the same household  
11 and whether an investigation has begun,
- 12           b. confirmation shall be provided by the Commission as to whether  
13 previous reports of suspected child abuse or neglect have been made  
14 and the dates thereof, a summary of those previous reports, the dates  
15 and outcome of any investigations or actions taken by the Department  
16 and the Commission in response to any previous report of child abuse  
17 or neglect, and the specific recommendation made to the district  
18 attorney and any subsequent action taken by the district attorney,
- 19           c. the dates of any judicial proceedings prior to the death or near death of  
20 the child,

- 1 d. recommendations submitted by the Department and the Commission  
2 shall be provided in writing including recommendations made at the  
3 hearing as they relate to custody or placement of a child, and  
4 e. the rulings of the court.

5 2. Specific recommendations made by the Commission described in any progress  
6 reports of a pending case submitted to the court may be disclosed by the Commission.

7 E. Any disclosure of information pursuant to this section shall not identify or  
8 provide an identifying description of any complainant or reporter of child abuse or  
9 neglect, and shall not identify the name of the child victim's siblings or other children  
10 living in the same household, the parent or other person responsible for the child or any  
11 other member of the household, other than the person criminally charged.

12 SECTION 4. AMENDATORY Section 10, Chapter 205, O.S.L. 2006 (10 O.S.  
13 Supp. 2007, Section 7008-1.2), is amended to read as follows:

14 Section 7008-1.2 A. The Committee shall consist of twenty (20) members appointed  
15 as follows:

16 1. One member shall be a presiding judge of a court having juvenile law  
17 jurisdiction, to be appointed by the President of the State Judicial Conference;

18 2. One member shall be a professor of law from Oklahoma City University School of  
19 Law, to be appointed by the Dean of the School of Law;

20 3. One member shall be a professor of law from the University of Tulsa College of  
21 Law, to be appointed by the Dean of the College of Law;

1           4. One member shall be a professor of law from the University of Oklahoma, to be  
2 appointed by the Dean of the College of Law;

3           5. Three members who are employees of the Department of Human Services shall  
4 be appointed by the Director of the Department of Human Services, one of which shall be  
5 an attorney;

6           6. Two members who are employees of the Office of Juvenile Affairs shall be  
7 appointed by the Executive Director of the Office of Juvenile Affairs, one of which shall  
8 be an attorney;

9           7. One member shall be appointed by the Director of the Oklahoma Commission on  
10 Children and Youth;

11          8. Three members shall be appointed by the Speaker of the House of  
12 Representatives;

13          9. Three members shall be appointed by the President Pro Tempore of the Senate;

14          10. One member shall be a judge or a justice of the Supreme Court of the State of  
15 Oklahoma, to be appointed by the justices of the Supreme Court of the State of  
16 Oklahoma;

17          11. One member shall be an attorney practicing in the area of child or juvenile law  
18 and who is an active member of the Family Law Section of the Oklahoma Bar  
19 Association, to be appointed by the President of the Oklahoma Bar Association;

20          12. One member shall be an attorney appointed by the District Attorneys Council;  
21 and

1           13. One member shall be a social worker appointed by the state chapter of the  
2 National Association of Social Workers.

3           B. Each member of the Oklahoma Children and Juvenile Law Reform Committee  
4 initially appointed shall make the appointment known to the Speaker of the House of  
5 Representatives and the President Pro Tempore of the Senate by August 1, 2006.  
6 Appointed members shall serve until June 30, ~~2008~~ 2009.

7           C. The Oklahoma Children and Juvenile Law Reform Committee may divide into  
8 subcommittees in furtherance of its purposes.

9           D. Any vacancies in the appointive membership of the Oklahoma Children and  
10 Juvenile Law Reform Committee shall be filled for the unexpired term in the same  
11 manner as the original appointment.

12           SECTION 5. AMENDATORY Section 11, Chapter 205, O.S.L. 2006 (10 O.S.  
13 Supp. 2007, Section 7008-1.3), is amended to read as follows:

14           Section 7008-1.3 A. The purposes of the Oklahoma Children and Juvenile Law  
15 Reform Committee shall be to conduct a systematic review and study of all laws and  
16 procedures in ~~Title 10 of the Oklahoma Statutes~~ this title and prepare a recommended  
17 draft to reclassify, update, reform and recodify the statutes. The duties of the Committee  
18 in preparing recommendations shall be as follows:

- 19           1. To consolidate similar statutes;
- 20           2. To renumber children and juvenile law statutes;
- 21           3. To repeal obsolete or duplicate statutes or any statutes which have been declared  
22 unconstitutional by court decision;

1           4. To create a recommended Children’s Code Article in ~~Title 10 of the Oklahoma~~  
2 ~~Statutes~~ this title;

3           5. To incorporate into the Children’s Code Article as many existing statutes  
4 relating to children and juvenile law procedure found throughout the Oklahoma Statutes  
5 as is practicable;

6           6. To update statutory references within each section relating to children and  
7 juvenile law procedure;

8           7. To clarify and update existing statutory language;

9           8. To recodify those sections of law which relate to children and juvenile law  
10 procedure when the move will improve the location, use, application and appropriateness  
11 of the section; and

12           9. To perform any other act necessary to complete the purposes of the Committee.

13           B. The Oklahoma Children and Juvenile Law Reform Committee shall be  
14 responsible for drafting recommended legislation in accordance with the current  
15 legislative drafting procedures.

16           C. 1. The Oklahoma Children and Juvenile Law Reform Committee shall prepare a  
17 final draft of a recommended Children’s Code Article, and shall submit the recommended  
18 Article to the Speaker of the House of Representatives and the President Pro Tempore of  
19 the Senate by November 1, ~~2007~~ 2008.

20           2. If, after the Committee submits the recommended Article, the Committee  
21 determines the Article needs additional revisions, the revisions shall be submitted as one  
22 final amendment. The recommended Article amendment shall be submitted to the

1 Speaker of the House of Representatives and the President Pro Tempore of the Senate  
2 not later than March 1, ~~2008~~ 2009.

3 3. The Oklahoma Children and Juvenile Law Reform Committee shall submit a  
4 summary of every recommended change and addition to existing laws at the time the  
5 recommended Children’s Code Article and any amendments are presented to the Speaker  
6 of the House of Representatives and the President Pro Tempore of the Senate.

7 D. The Oklahoma Children and Juvenile Law Reform Committee shall cease to  
8 function June 30, ~~2008~~ 2009.

9 SECTION 6. AMENDATORY Section 12, Chapter 205, O.S.L. 2006 (10 O.S.  
10 Supp. 2007, Section 7008-1.4), is amended to read as follows:

11 Section 7008-1.4 A. Within fifteen (15) days from the initial appointment of  
12 membership for the Oklahoma Children and Juvenile Law Reform Committee, the  
13 Speaker of the House of Representatives and the President Pro Tempore of the Senate  
14 shall each appoint one member of the Committee to serve as cochairs. If a vacancy  
15 occurs in such office, a new cochair shall be appointed from the Committee in the same  
16 manner as the original appointment, who shall serve until June 30, ~~2008~~ 2009.

17 B. Other officers may be elected to serve the Committee for terms of office as may  
18 be designated by the Committee members. The cochairs of the Committee or their  
19 designees shall preside at meetings.

20 C. The Committee may meet at least one time per month and at such other times  
21 as may be set by the cochairs of the Committee.

1 D. Members of the Committee shall receive no salary; however, all members of the  
2 Committee shall be reimbursed for their actual and necessary travel expenses as follows:

3 1. Legislative members of the Committee shall receive reimbursement from the  
4 house in which they serve as provided in the State Travel Reimbursement Act, except  
5 when the Legislature is in session and the meeting is held in Oklahoma City;

6 2. Nonlegislative Committee members employed by the state shall be reimbursed  
7 by their respective employing agency pursuant to the State Travel Reimbursement Act;  
8 and

9 3. Any other Committee member shall receive reimbursement pursuant to the  
10 State Travel Reimbursement Act.

11 E. A majority of the members appointed to the Committee shall constitute a  
12 quorum and a majority present may act for the Committee.

13 SECTION 7. AMENDATORY Section 13, Chapter 205, O.S.L. 2006 (10 O.S.  
14 Supp. 2007, Section 7008-1.5), is amended to read as follows:

15 Section 7008-1.5 The Oklahoma Children and Juvenile Law Reform Committee  
16 shall provide a written progress report to the President Pro Tempore of the Senate and  
17 the Speaker of the House of Representatives on or before ~~March~~ August 1, 2007 2008.

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

21 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 02-19-08 -  
22 DO PASS, As Amended and Coauthored.