

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1421

By: Sparks

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5  
6 AS INTRODUCED

7 An Act relating to children; amending 10 O.S. 2001,  
8 Sections 7209, as last amended by Section 6, Chapter  
196, O.S.L. 2007, 7221 and 7206, and Section 7,  
9 Chapter 205, O.S.L. 2006 (10 O.S. Supp. 2007,  
Sections 7209 and 7004-1.8), which relate to foster  
10 care; permitting certain fingerprinting exception;  
11 permitting certain visitation exception; stating  
minimum requirement for certain visits; clarifying  
language; and providing an effective date.

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13  
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7209, as  
16 last amended by Section 6, Chapter 196, O.S.L. 2007 (10 O.S. Supp.  
17 2007, Section 7209), is amended to read as follows:

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

- 22 a. a foster parent eligibility assessment on the foster  
23 parent applicant,  
24

1           b.    a national criminal history records search based upon  
2                    submission of fingerprints for any adult residing in  
3                    the home, as required by the Oklahoma Child Care  
4                    Facilities Licensing Act and the Oklahoma Foster Care  
5                    and Out-of-Home Placement Act, and

6           c.    a check of any child abuse registry maintained by a  
7                    state in which the prospective foster parent or any  
8                    adult living in the home of the prospective foster  
9                    parent has resided in the preceding five (5) years.

10    Provided, however, the state agencies may place a child in the home  
11    of a foster parent, pending completion of the national criminal  
12    history records search, if the foster parent and every adult  
13    residing in the home of the foster parent have resided in this state  
14    for at least five (5) years immediately preceding placement. The  
15    director of such state agency or designee may authorize an exception  
16    to the fingerprinting requirement for any person residing in the  
17    home who has a severe physical condition which precludes such person  
18    from being fingerprinted.

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

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

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

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

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

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

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

23 3. The Department of Human Services, pursuant to Section 7003-  
24 5.3 of this title, and the Department of Juvenile Justice, pursuant

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

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

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

23 C. 1. Whenever a court awards custody of a child to an  
24 individual or a child-placing agency other than the Department of

1 Human Services or the Department of Juvenile Justice, for placement  
2 of the child, the court shall:

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

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

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

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

24

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

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

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

21       E. 1. Upon any voluntary out-of-home placement of a child by a  
22 parent into foster care with a child-placing agency, the child-  
23 placing agency shall conduct an assessment of the child in its  
24 custody which shall be designed to establish an appropriate plan for

1 placement of the child. Following the assessment, the child-placing  
2 agency shall establish an individual treatment and service plan for  
3 the child. A copy of each plan shall be provided to the child if  
4 the child is twelve (12) years of age or older and to the child's  
5 parent or guardian. The plan shall at a minimum:

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

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

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

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

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

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

17 2. No child shall be eligible for any reimbursement through the  
18 state Medicaid program for placement in therapeutic foster care  
19 unless such placement has been reviewed and approved pursuant to  
20 rules regarding medical necessity for therapeutic foster care  
21 placement promulgated by the Oklahoma Health Care Authority Board.

22 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7221, is  
23 amended to read as follows:

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1 Section 7221. A. In order to promote the stability and healthy  
2 growth of a foster child who has been placed in a foster family  
3 home, it is the intent of the Legislature to limit the number of  
4 times a foster child is moved within the foster family system.

5 B. If there is an allegation of abuse or neglect in a foster  
6 home, an investigation of the allegation shall be conducted as  
7 required in Section 7106 of Title 10 of the Oklahoma Statutes.

8 C. Required visitations for the foster child are to be made in  
9 the home of the foster parent, except as provided in paragraph 2 of  
10 subsection C of Section 7206 of this title. If there is good cause,  
11 other than an allegation of abuse or neglect, to believe the foster  
12 child needs to be interviewed alone without the foster parent  
13 present, then the foster parent shall provide a location in the home  
14 where the foster child can be questioned without the foster parent's  
15 being present.

16 SECTION 3. AMENDATORY 10 O.S. 2001, Section 7206, is  
17 amended to read as follows:

18 Section 7206. A. The Department of Human Services, the  
19 Department of Juvenile Justice or any child-placing agency shall,  
20 prior to any out-of-home foster placement, enter into a written  
21 contract with the foster care placement provider. The contract  
22 shall provide, at a minimum:

23 1. That the state agency and the child-placing agency shall  
24 have access at all times to the child and to the foster placement;

1           2. A listing of any specific requirements, specific duties or  
2 restrictions in providing foster care services;

3           3. That any foster child shall have access to and be accessible  
4 by any court-appointed special advocate for the foster child and the  
5 foster child's attorney;

6           4. That the foster care placement provider shall comply with  
7 performance standards required pursuant to the Oklahoma Foster Care  
8 and Out-of-Home Placement Act, the Oklahoma Children's Code, the  
9 Juvenile Justice Code, and the Oklahoma Child Care Facilities  
10 Licensing Act;

11           5. Information regarding the amount of payments to be made for  
12 foster care services, including but not limited to a description of  
13 the process involved in receiving payments, including projected time  
14 frames, information related to reimbursements for eligible costs and  
15 expenses for which the foster parent may be reimbursed and any  
16 information concerning the accessibility and availability of funds  
17 for foster parents;

18           6. That any foster child placed with a foster care placement  
19 provider shall be released to the state agency or the child-placing  
20 agency whenever, in the opinion of the state agency or the child-  
21 placing agency, the best interests of the deprived child require  
22 such release, or the best interests of the delinquent child or the  
23 child in need of supervision, consistent with the state's interest  
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1 in the protection of the public, require such release pursuant to  
2 the Oklahoma Foster Care and Out-of-Home Placement Act; and

3 7. Such other information required by the state agency and the  
4 child-placing agency.

5 B. The state agency or child-placing agency shall provide the  
6 following information to the foster parent at the time of placement,  
7 along with a copy of the written contract required pursuant to  
8 subsection A of this section:

9 1. The names and telephone numbers of the child's case worker,  
10 the foster parents' case worker, the case workers' supervisors, and  
11 the contact within the state agency central office, or the name and  
12 telephone number of the contact person within the child-placing  
13 agency and any other medical, psychological, social or other  
14 pertinent information relating to foster care;

15 2. A copy of the grievance procedure established by the state  
16 agency or the child-placing agency pursuant to the Oklahoma Foster  
17 Care and Out-of-Home Placement Act;

18 3. The name and telephone number of any foster parent  
19 association in the county of residence of the foster parent;

20 4. For foster parents of deprived children, the name and  
21 telephone number of any postadjudication review board established in  
22 the county of residence of the foster parent or the nearest  
23 postadjudication review board and the court having jurisdiction over  
24 the child;

1 5. A copy of the statement of foster parent rights;

2 6. Information detailing the foster parents' ability to submit  
3 written reports to the court, or to petition the court directly for  
4 review of a decision by the state agency or the child-placing agency  
5 to remove a foster child who has been placed with the foster parent,  
6 in accordance with the limitations and requirements of Section 7208  
7 of this title; and

8 7. A copy of the policies and procedures of the Department or  
9 child-placing agency which pertain to placement operations of the  
10 agency, and which may be necessary to properly inform the out-of-  
11 home placement providers of the duties, rights and responsibilities  
12 of the out-of-home placement providers and the Department.

13 C. 1. In addition to other requirements made pursuant to the  
14 Oklahoma Child Care Facilities Licensing Act, each child-placing  
15 agency shall maintain supervision of all children placed by the  
16 agency in foster placement and shall maintain supervision of and  
17 make regular visits to such foster placements.

18 2. The child-placing agency shall visit each foster ~~placement~~  
19 child no less than once every month with no less than two (2) visits  
20 per quarter in the foster placement.

21 3. The child-placing agency shall prepare and maintain a  
22 written report of its findings for each visit.

23 4. a. A complete written review of the placement, well-being  
24 and progress of any foster child in foster care with a

1 child-placing agency shall be made by the child-  
2 placing agency as required by the state agency with  
3 which the child-placing agency has a contract.

4 b. If a child-placing agency is providing foster care  
5 services for a child pursuant to a written agreement  
6 or contract with the parents or guardian of a child,  
7 the child-placing agency shall provide a copy of the  
8 written review to the parents or guardian of the  
9 child. The written agreement or contract shall  
10 specify how often the review shall be conducted.

11 SECTION 4. AMENDATORY Section 7, Chapter 205, O.S.L.  
12 2006 (10 O.S. Supp. 2007, Section 7004-1.8), is amended to read as  
13 follows:

14 Section 7004-1.8 On or before January 1, 2007, the Department  
15 of Human Services shall establish a performance-based incentive  
16 compensation program for employees exclusively working as child  
17 welfare specialists. All full-time child welfare specialists shall  
18 be eligible to participate in the performance-based incentive  
19 compensation program. Eligibility factors shall include, but not be  
20 limited to, child welfare specialists who have met or exceeded the  
21 suggested federal child welfare outcomes, received ~~above-average~~  
22 "exceeds standards" employee evaluations, as defined by the Office  
23 of Personnel Management, completed Department-sponsored field  
24 training, and obtained an advanced higher education degree in social

1 work or closely related field. The eligibility of a child welfare  
2 specialist shall not be based upon the level of seniority that has  
3 been obtained by the child welfare specialist. The Oklahoma  
4 Commission for Human Services shall promulgate rules as necessary to  
5 implement the provisions of this section.

6 SECTION 5. This act shall become effective November 1, 2008.

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