

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 2ND CONFERENCE COMMITTEE

4 SUBSTITUTE

5 FOR ENGROSSED

6 HOUSE BILL NO. 1964

By: Bengé of the House

and

Crain of the Senate

7  
8  
9 2ND CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to children; defining terms;  
11 specifying certain procedures for the transfer of  
12 care and custody of a child in certain circumstances;  
13 providing for issuance of court order when  
14 transferring custody; providing for a relative  
15 caregiver authorization affidavit; providing for  
16 certain procedures; limiting certain liability;  
17 specifying form; amending 10 O.S. 2001, Section 7115,  
18 as last amended by Section 5, Chapter 3, O.S.L. 2008,  
19 and as renumbered by Section 207, Chapter 233, O.S.L.  
20 2009 (21 O.S. Supp. 2009, Section 843.5), which  
21 relates to child abuse; updating statutory  
22 references; providing for the presumption of custody  
23 of a child under certain circumstances; encouraging  
24 certain agreements to document custody; amending  
Section 112, Chapter 233, O.S.L. 2009 (10A O.S. Supp.  
2009, Section 1-3-102), which relates to medical care  
and treatment; designating the provision of  
psychotropic medications as routine and ordinary  
medical care and treatment; amending 10 O.S. 2001,  
Section 7004-3.2, as last amended by Section 68,  
Chapter 233, O.S.L. 2009, and as renumbered by  
Section 279, Chapter 233, O.S.L. 2009 (10A O.S. Supp.  
2009, Section 1-7-105), which relates to policies and  
procedures for children in custody of the Department;  
providing for daily access to showers and clean  
clothing; amending 30 O.S. 2001, Section 2-103, as  
amended by Section 135, Chapter 234, O.S.L. 2009 (30  
O.S. Supp. 2009, Section 2-103), which relates to the

1 appointment of guardians; updating statutory  
2 references; amending 10 O.S. 2001, Section 7202.3, as  
3 renumbered by Section 208, Chapter 233, O.S.L. 2009  
4 (43 O.S. Supp. 2009, Section 109.5), which relates to  
5 child support; updating statutory reference; amending  
6 43 O.S. 2001, Section 112, as last amended by Section  
7 137, Chapter 234, O.S.L. 2009 (43 O.S. Supp. 2009,  
8 Section 112), which relates to the care, custody, and  
9 support of minor children; updating statutory  
10 reference; re-creating the Adoption Review Task  
11 Force; providing for membership; providing for  
12 vacancies; directing travel reimbursement; providing  
13 for administrative support; specifying duties;  
14 requiring certain report; providing for codification;  
15 providing for noncodification; and declaring an  
16 emergency.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 23.1 of Title 10, unless there  
is created a duplication in numbering, reads as follows:

A. For purposes of Sections 1 through 3 of this act:

1. "Abandonment" means:

- a. the willful intent by words, actions, or omissions not  
to return for a child,
- b. the failure to maintain a significant parental  
relationship with a child through visitation or  
communication in which incidental or token visits or  
communication are not considered significant, or
- c. the failure to respond to notice of deprived  
proceedings;

1           2. "Permanent care and custody" means the right and  
2 responsibility to exercise continuing general supervision of a child  
3 and includes, but is not limited to, the right and responsibility to  
4 protect, educate, nurture and to provide the child with food,  
5 clothing, shelter, medical care and a supportive environment; and

6           3. "Relative" means a person related within the third degree of  
7 affinity or consanguinity including, but not limited to, a  
8 grandparent, great-grandparent, brother, sister, half-brother, half-  
9 sister, uncle, aunt, niece or nephew, and a spouse of such persons.

10          B. Except in accordance with an order of a court of competent  
11 jurisdiction or pursuant to the Oklahoma Children's Code, the  
12 Oklahoma Adoption Code, the Oklahoma Guardianship and  
13 Conservatorship Act, or the Oklahoma Child Care Facilities Licensing  
14 Act:

15           1. No person may accept the permanent care and custody of a  
16 child unless such person is an adult relative of the child; and

17           2. No person may surrender, assign, permanently relinquish, or  
18 otherwise transfer to another any rights and duties with respect to  
19 the permanent care and custody of a child unless it is to an adult  
20 relative of the child.

21          C. An adult relative may accept, and a parent may surrender,  
22 assign, permanently relinquish, or otherwise transfer any rights and  
23 duties with respect to the permanent care and custody of a child:  
24

1           1. Pursuant to a written relinquishment by a parent or parents  
2 of a child acknowledged before a court of competent jurisdiction  
3 which identifies the child or children relinquished;

4           2. In accordance with the provisions of the Oklahoma Children's  
5 Code, the Oklahoma Guardianship and Conservatorship Act, Section 2  
6 of this act or the Oklahoma Adoption Code; or

7           3. Without a court order and by operation of law, if the child  
8 has been abandoned by a parent or parents of a child in the physical  
9 custody of such relative pursuant to the provisions of this section.

10          D. 1. A child who has been abandoned in the physical custody  
11 of such relative by a parent or parents of the child may not be  
12 reclaimed or recovered by the parent or parents who abandoned the  
13 child except through order of a court of competent jurisdiction or  
14 by release of the child by such relative.

15          2. Upon any action to determine custody of the child pursuant  
16 to the provisions of this subsection, the court shall base its  
17 findings and determination of custody on the best interests of the  
18 child and:

19           a. the duration of the abandonment and integration of the  
20 child into the home of the relative,

21           b. the preference of the child if the child is determined  
22 to be of sufficient maturity to express a preference,

23           c. the mental and physical health of the child, and  
24

1           d.    such other factors as are necessary in the particular  
2                    circumstances.

3           3.    During the pendency of any action to determine the custody  
4 of a child pursuant to this subsection, unless it is determined not  
5 to be in the best interests of the child, the child shall remain in  
6 the custody of the relative.

7           4.    If the court orders the child be returned to the parents of  
8 the child, the court may provide for a transitional period for the  
9 return in accordance with the best interests of the child.

10          E.    An adult relative accepting permanent care and custody of a  
11 child pursuant to this section shall have the same authority as a  
12 parent to consent on behalf of a child or on behalf of a parent of  
13 the child in all cases except that such relative may not consent to  
14 an adoption of the child.

15          F.    The provisions of this section shall not apply to the  
16 transfer of the permanent care and custody of a child from one  
17 parent to the other parent of the child.

18          SECTION 2.        NEW LAW        A new section of law to be codified  
19 in the Oklahoma Statutes as Section 23.2 of Title 10, unless there  
20 is created a duplication in numbering, reads as follows:

21          A.    1.    A judge of a district court may order a child's  
22 permanent care and custody transferred to an adult relative of the  
23 child pursuant to the provisions of this subsection, upon the  
24

1 written consent of both parents of the child or upon the consent of  
2 one parent only if:

- 3 a. the other parent is deceased,
- 4 b. the other parent has been determined by a court of law  
5 to be incompetent or incapacitated,
- 6 c. the whereabouts or identity of the other parent is  
7 unknown. This fact shall be attested to by affidavit  
8 of the consenting parent,
- 9 d. the other parent, who is eighteen (18) years of age or  
10 older, has signed a statement consenting to the  
11 transfer, executed before a notary public,
- 12 e. the parental rights of the other parent have been  
13 terminated,
- 14 f. the other parent has been or is found by the court to  
15 be unfit or unable to exercise parental rights and  
16 responsibility for the child based upon situations  
17 enumerated in Section 1-4-904 of Title 10A of the  
18 Oklahoma Statutes,
- 19 g. the other parent is or has been subject to the  
20 registration requirements of the Oklahoma Sex  
21 Offenders Registration Act or any similar act in any  
22 other state, or
- 23 h. the other parent has abandoned the child as such term  
24 is defined in Section 1 of this act, or is determined

1 by the court to be otherwise unfit to assume custody  
2 of the child for any other reason.

3 2. To be appointed as a relative guardian for the child, an  
4 adult relative shall file a petition on a form developed pursuant to  
5 the provisions of this section with the judge.

6 3. Prior to the entry of an order transferring the custody of a  
7 child, the judge may receive a home study regarding the background  
8 and home of the prospective relative guardian by a person qualified  
9 by training and experience authorized by the court. If the judge  
10 does not receive a home study, a criminal background check and a  
11 child abuse registry check pursuant to Section 7505-5.3 of Title 10  
12 of the Oklahoma Statutes shall be conducted for the prospective  
13 relative guardian and other household members eighteen (18) years of  
14 age and older.

15 4. An order entered pursuant to this subsection shall remain in  
16 full force and effect until:

- 17 a. the child reaches the age of eighteen (18) years,
- 18 b. the child marries or is legally emancipated,
- 19 c. the judge finds after evidentiary hearing:

20 (1) the child has been abused while in the care and  
21 custody of the relative, and

22 (2) it is in the best interests of the child that  
23 custody of the child be returned to a parent or  
24 the parents or other persons pursuant to the

Oklahoma Guardianship and Conservatorship Act,  
the Oklahoma Children's Code or this section,

d. the parent who consented to the transfer of the care and custody of the child petitions the judge for the recovery of the child and the judge finds after an evidentiary hearing that it is in the best interests of the child that custody of the child be returned to the parent, or custody of the child be given to another person pursuant to the Oklahoma Guardianship and Conservatorship Act, the Oklahoma Children's Code, or the provisions of this section,

e. the attorney for the child or relative guardian petitions the judge for modification of the court order transferring care and custody and the court finds after an evidentiary hearing that it is in the best interests of the child for the order to be modified and the child be returned to the parents or custody of the child be given to another person pursuant to the Oklahoma Guardianship and Conservatorship Act, the Oklahoma Children's Code, or pursuant to the provisions of this section,

f. the child is adopted, or

g. the guardianship is otherwise terminated pursuant to Section 4-803 of Title 30 of the Oklahoma Statutes.



1           5. An order providing for the transfer of the permanent care  
2 and custody of a child:

3           a. shall require that the placement be reviewed within  
4 one (1) year after transfer and may require the person  
5 to whom custody is transferred to submit any records  
6 or reports the court deems necessary for purposes of  
7 such review,

8           b. shall not require periodic reviews by the court  
9 thereafter if the parties agree with the assent of the  
10 court that such reviews are not necessary to serve the  
11 best interests of the child,

12           c. unless periodic reviews are required, may be closed by  
13 the judge, provided the order transferring the  
14 permanent care and custody of the child shall remain  
15 in full force and effect subject to the provisions of  
16 paragraph 4 of this subsection, and

17           d. shall include conditions for the care, treatment,  
18 education and welfare of the child.

19           6. A court order appointing an adult relative guardian shall  
20 award custody of the child to the relative guardian subject only to  
21 such parental rights and responsibilities as determined by the  
22 judge. The adult relative guardian of a child shall have the  
23 authority as specified by the order to consent on behalf of the  
24

1 child in all cases except that a relative guardian may not consent  
2 to an adoption of the child.

3 B. 1. A judge of a district court may order a child's  
4 permanent care and custody transferred to an adult relative guardian  
5 without the consent of the parent or parents pursuant to the  
6 provisions of this subsection.

7 2. To be appointed as a relative guardian for the child, an  
8 adult relative shall file a petition on a form developed pursuant to  
9 the provisions of this section with the judge. The petition shall  
10 allege that:

11 a. a parent or the parents of the child have placed the  
12 child with the relative pursuant to Section 1 of this  
13 act and have abandoned the child,

14 b. the child is currently residing with the relative and  
15 there exists a loving and emotional tie between the  
16 child and the relative,

17 c. the parents of the child are presently and for the  
18 foreseeable future unable to provide proper adequate  
19 care for the child, are unavailable or their  
20 whereabouts are unknown,

21 d. the child has no assets or limited assets, and

22 e. it would be in the best interests of the child for the  
23 petition to be granted.

24

1           3. Prior to the entry of an order appointing an adult relative  
2 guardian, the court may receive a home study regarding the  
3 background and home of the prospective relative guardian by a person  
4 qualified by training and experience authorized by the court.

5           4. If the judge finds that the elements of the petition have  
6 been proven based on a preponderance of the evidence, the judge  
7 shall grant the petition.

8           5. An order appointing the adult relative as guardian shall  
9 award custody of the child to the relative. The relative guardian  
10 shall have the same authority as a parent to consent on behalf of a  
11 child in all cases, except that the relative guardian may not  
12 consent to an adoption of the child.

13           6. An order entered pursuant to this subsection shall remain in  
14 full force and effect until:

- 15           a. the child reaches the age of eighteen (18) years,
- 16           b. the child is married or is legally emancipated,
- 17           c. the judge finds after evidentiary hearing:

18                   (1) the child has been abused while in the care and  
19                   custody of the relative, and

20                   (2) it is in the best interests of the child that  
21                   custody of the child be returned to a parent or  
22                   the parents or other persons pursuant to the  
23                   Oklahoma Guardianship and Conservatorship Act,  
24                   the Oklahoma Children's Code or this section,

- 1           d.    an attorney for the child or the relative petitions  
2                the judge for modification of the order transferring  
3                permanent care and custody to the relative and the  
4                judge finds after an evidentiary hearing that it is in  
5                the best interests of the child for the order to be  
6                modified and the child returned to the parents or  
7                other persons pursuant to the Oklahoma Guardianship  
8                and Conservatorship Act, the Oklahoma Children's Code,  
9                or this section,
- 10          e.    the child is adopted, or
- 11          f.    the guardianship is otherwise terminated pursuant to  
12                Section 4-803 of Title 30 of the Oklahoma Statutes.

13    7.    An order appointing a relative guardian:

- 14          a.    shall require that the placement be reviewed within  
15                one (1) year after transfer and may require the  
16                relative guardian to whom custody is transferred to  
17                submit any records or reports the court deems  
18                necessary for purposes of such review,
- 19          b.    shall not require periodic reviews by the court  
20                thereafter if the parties agree with the assent of the  
21                court that such reviews are not necessary to serve the  
22                best interests of the child, unless periodic reviews  
23                are required by the court,
- 24

1 c. unless periodic reviews are required, may be closed by  
2 the judge, provided the order transferring care and  
3 custody to a relative guardian shall remain in full  
4 force and effect subject to the provisions of  
5 paragraph 6 of this subsection, and

6 d. shall include conditions for the care, treatment,  
7 education and welfare of the child.

8 C. 1. Before making an appointment pursuant to this section,  
9 the court shall cause notice of a hearing on the petition for  
10 appointment to be given in the form required by the court to the  
11 minor, if the minor has attained the age of fourteen (14) as of the  
12 date the petition is filed. The court shall also cause notice to be  
13 sent to the then-living parents of the minor.

14 2. a. Such notice shall be mailed to each person, entitled  
15 to notice pursuant to this subsection, at that  
16 person's address as last-known to the petitioner, at  
17 least ten (10) days prior to the date set by the court  
18 for hearing on the petition. Provided the court may  
19 direct a shorter notice period if appropriate under  
20 the circumstances.

21 b. If the identity or whereabouts of a parent is unknown,  
22 the court shall determine whether the parent can be  
23 identified or located. Following an inquiry, if the  
24 court finds that the identity or whereabouts of the

1 parent cannot be ascertained, and this fact is  
2 attested to by affidavit of the petitioner, it shall  
3 order that notice be given by publication in the  
4 county in which the petition for relative guardianship  
5 is filed. The hearing shall not be held for at least  
6 fifteen (15) days after publication of the notice.

7 D. After a petition has been filed for a proceeding, pursuant  
8 to this section, the petitioner may request the court to issue a  
9 temporary order regarding child custody, child support, visitation  
10 or other relief proper in the circumstance.

11 E. The venue for a proceeding pursuant to this section is in  
12 the district court where the child resides. If the court finds that  
13 in the interest of justice a proceeding should be conducted in  
14 another court of this state, the court may transfer the proceeding  
15 to the other court.

16 F. 1. An appointment of a relative guardian made pursuant to  
17 this section is subject to only Article 1 of the Oklahoma  
18 Guardianship and Conservatorship Act and Sections 4-501, 4-503, 4-  
19 706, 4-707, 4-801, 4-802, 4-901 and 4-902 of Title 30 of the  
20 Oklahoma Statutes.

21 2. If the court determines that it is in the best interests of  
22 the child, the court may require the establishment of a guardianship  
23 or conservatorship pursuant to Title 30 of the Oklahoma Statutes.  
24

1           3. The clerk of the district court in which the application for  
2 a relative guardianship is filed shall collect as court costs a fee  
3 of Fifty Dollars (\$50.00).

4           G. 1. Any order appointing a relative guardian pursuant to  
5 this section who has a parent living or legally responsible for the  
6 support of the child shall:

7                 a. provide for the payment of child support by the  
8                     parent, and

9                 b. contain an income assignment provision pursuant to  
10                    Section 115 of Title 43 of the Oklahoma Statutes.

11           2. The provisions of this subsection shall not apply to parents  
12 whose rights and responsibilities have been terminated to the child  
13 unless the termination order requires payment of child support.

14           H. The Administrative Office of the Courts shall prepare a  
15 handbook for distribution to the district courts for appointments  
16 made pursuant to this section. The handbook shall be written in  
17 clear, simple language and shall include information about the laws  
18 and procedures which apply to relative guardians made pursuant to  
19 this section. In addition, the Office of the Administrative  
20 Director of the Courts shall develop the forms and procedures  
21 necessary to effectuate this section. The Office of the  
22 Administrative Director of the Courts shall make such forms and  
23 handbook available to the public through the offices of the clerks  
24 of the district courts in this state, in the local offices of the

1 Department of Human Services, and such other locations deemed  
2 necessary by the Administrator.

3 SECTION 3. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 23.3 of Title 10, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. Any relative who has permanent care and custody of the child  
7 pursuant to Section 1 of this act shall have the same rights to  
8 authorize medical care and dental care for the minor and to consent  
9 to school-related medical care on behalf of the minor that are given  
10 to legal guardians pursuant to Section 2 of this act, Section 1-3-  
11 101 of Title 10A of the Oklahoma Statutes, or by the Oklahoma  
12 Guardianship and Conservatorship Act. A relative as specified by  
13 this subsection may complete a relative caregiver authorization  
14 affidavit.

15 B. 1. During the period of time after a child has been  
16 willfully left in the custody of a relative, but prior to the time a  
17 child is deemed abandoned pursuant to Section 1 of this act, the  
18 relative shall have the same rights to authorize medical care and  
19 dental care for the minor and to consent to school-related medical  
20 care on behalf of the minor that are given pursuant to subsection A  
21 of this section if:

22 a. the relative completes the relative caregiver's  
23 authorization affidavit as required by this section,

24



1           b.    the child is residing full-time with the relative and  
2                the relative contributes the major degree of support  
3                for the child, and

4           c.    the parents have expressed a willful intent by words,  
5                actions or omissions not to return for the child, and  
6                the relative is unable to contact the parent, or the  
7                parent refuses to regain physical custody of the child  
8                after a written request to do so by the relative.

9           2.    Until a child is deemed abandoned pursuant to Section 1 of  
10           this act, the decision of a relative to consent to or to refuse  
11           medical or dental care for a minor pursuant to this subsection shall  
12           be superseded by any contravening decision of the parent of the  
13           minor, provided the decision of the parent of the minor does not  
14           jeopardize the life, health, or safety of the minor.

15           3.    The affidavit completed pursuant to this subsection shall  
16           not be valid for more than one (1) year after the date on which it  
17           is executed unless the relative has legal custody pursuant to  
18           subsection A of this section.

19           C.    1.   A person who acts in good faith reliance on an  
20           authorized by this section without actual knowledge of facts  
21           contrary to those stated on the affidavit, shall not be subject to  
22           criminal liability, civil liability to any person, or subject to  
23           professional disciplinary action if the applicable portions of the  
24           affidavit are completed.

1 2. A person who relies on the affidavit has no obligation to  
2 make any further inquiry or investigation.

3 3. Nothing in this section shall relieve any individual from  
4 liability for violations of other provisions of law.

5 4. If the minor stops residing with the relative, the relative  
6 shall notify any school, health care provider, or health care  
7 service plan that has been given a copy of the affidavit.

8 D. The relative caregiver's authorization affidavit shall be in  
9 substantially the following form:

10 Relative Caregiver's Authorization Affidavit

11 Use of this affidavit is authorized by Section 23.3 of Title 10  
12 of the Oklahoma Statutes.

13 Instructions: Completion of items 1-5 and the signing of the  
14 affidavit are sufficient to authorize school-related medical care.  
15 Completion of items 6-9 is additionally required to authorize any  
16 other medical care. Print clearly.

17 The minor named below lives full-time in my home and I am 18  
18 years of age or older.

19 1. Name of minor: \_\_\_\_\_.

20 2. Minor's birth date: \_\_\_\_\_.

21 3. My name (adult giving authorization): \_\_\_\_\_.

22 4. My home address: \_\_\_\_\_

23 \_\_\_\_\_

24 \_\_\_\_\_.

1 5. ( ) I am a grandparent, aunt, uncle, or other qualified relative  
2 of the minor (see end of this form for a definition of  
3 "qualified relative").

4 6. The child has been living in my home since \_\_\_\_\_.

5 7. Check one or both (for example, if one parent was advised and  
6 the other cannot be located):

7 ( ) The child has been left in my custody and I have advised the  
8 parent(s) or other person(s) having legal custody of the  
9 minor, in writing, of my intent to authorize medical care,  
10 and have received no objection.

11 ( ) The child has been left in my custody and I am unable to  
12 contact or locate the parent(s) or other person(s) having  
13 legal custody of the minor at this time, to notify them of  
14 my intended authorization.

15 8. My date of birth: \_\_\_\_\_.

16 9. My Oklahoma driver license or identification card number:  
17 \_\_\_\_\_.

18 Warning: Do not sign this form if any of the statements above  
19 are incorrect, or you will be committing a crime punishable by a  
20 fine, imprisonment, or both.

21 I declare under penalty of perjury under the laws of the State  
22 of Oklahoma that the foregoing is true and correct.

23 Dated: \_\_\_\_\_ Signed: \_\_\_\_\_

24 \_\_\_\_\_

1 Notary Stamp

2 Procedures:

- 3 1. The signature of the relative shall be notarized.
- 4 2. This declaration does not affect the rights of the minor's  
5 parents or legal guardian regarding the care, custody, and  
6 control of the minor, and does not necessarily mean that the  
7 caregiver has legal custody of the minor.
- 8 3. A person who relies on this affidavit has no obligation to make  
9 any further inquiry or investigation.
- 10 4. Unless the relative has legal custody of the child pursuant to  
11 Section 23.1 of Title 10 of the Oklahoma Statutes, this  
12 affidavit is not valid for more than one (1) year after the date  
13 on which it is executed but may be reexecuted.

14 Additional Information:

15 TO CAREGIVERS:

- 16 1. "Qualified relative" for purposes of item 5, means a spouse of  
17 the qualified relative, parent, grandparent, great-grandparent,  
18 brother, sister, half-brother, half-sister, uncle, aunt, niece  
19 or nephew.
- 20 2. The law requires a caregiver, who is not a qualified relative of  
21 a child, to notify the Department of Human Services that a child  
22 in the caregiver's care has been abandoned. If the caregiver  
23 wishes to continue to care for the child, the law further  
24 requires that the caregiver's home be approved as a foster home.

1 A caregiver should direct any questions to the Department of  
2 Human Services.

3 3. If the child stops living with the caregiver, the caregiver is  
4 required to notify any school, health care provider or health  
5 care service plan to which an affidavit has been given that the  
6 child no longer resides with the caregiver.

7 4. If a caregiver does not have the information requested in item 9  
8 (Oklahoma driver license or identification card), the caregiver  
9 must provide another form of identification, such as a social  
10 security number.

11 TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS:

12 1. No person who acts in good faith reliance upon a caregiver's  
13 properly completed authorization affidavit to provide medical or  
14 dental care, without actual knowledge of facts contrary to those  
15 stated on the affidavit, shall be subject to criminal liability,  
16 civil liability to any person, or subject to professional  
17 disciplinary action for relying upon the affidavit to provide  
18 medical or dental care.

19 2. This affidavit does not confer dependency for health care  
20 coverage purposes.

21 E. Any person who willfully makes a statement in the relative  
22 caregiver's authorization affidavit which the person knows to be  
23 false shall, upon conviction, be guilty of a misdemeanor punishable  
24 by imprisonment in the county jail for not more than one (1) year or

1 a fine of not more than Five Hundred Dollars (\$500.00) or both such  
2 fine and imprisonment.

3 F. For purposes of this part:

4 1. "Person" includes an individual, corporation, partnership,  
5 association, the state, or any city, county, city and county, or  
6 other public entity or governmental subdivision or agency, or any  
7 other legal entity; and

8 2. "School-related medical care" means medical care that is  
9 required by state or local governmental authority as a condition for  
10 school enrollment, including immunizations, physical examinations  
11 and medical examinations conducted in schools for pupils.

12 SECTION 4. AMENDATORY 10 O.S. 2001, Section 7115, as  
13 last amended by Section 5, Chapter 3, O.S.L. 2008, and as renumbered  
14 by Section 207, Chapter 233, O.S.L. 2009 (21 O.S. Supp. 2009,  
15 Section 843.5), is amended to read as follows:

16 Section 843.5 A. Any parent or other person who shall  
17 willfully or maliciously engage in child abuse shall, upon  
18 conviction, be guilty of a felony punishable by imprisonment in the  
19 custody of the Department of Corrections not exceeding life  
20 imprisonment, or by imprisonment in a county jail not exceeding one  
21 (1) year, or by a fine of not less than Five Hundred Dollars  
22 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both  
23 such fine and imprisonment. As used in this subsection, "child  
24 abuse" means the willful or malicious abuse, as defined by paragraph

1 ~~1 of subsection B of Section 7102 1-1-105 of this title~~ Title 10A of  
2 the Oklahoma Statutes, of a child under eighteen (18) years of age  
3 by another, or the act of willfully or maliciously injuring,  
4 torturing or maiming a child under eighteen (18) years of age by  
5 another.

6 B. Any parent or other person who shall willfully or  
7 maliciously engage in enabling child abuse shall, upon conviction,  
8 be punished by imprisonment in the custody of the Department of  
9 Corrections not exceeding life imprisonment, or by imprisonment in a  
10 county jail not exceeding one (1) year, or by a fine of not less  
11 than Five Hundred Dollars (\$500.00) nor more than Five Thousand  
12 Dollars (\$5,000.00) or both such fine and imprisonment. As used in  
13 this subsection, "enabling child abuse" means the causing, procuring  
14 or permitting of a willful or malicious act of child abuse, as  
15 defined by ~~paragraph 1 of subsection B of Section 7102 1-1-105 of~~  
16 ~~this title~~ Title 10A of the Oklahoma Statutes, of a child under  
17 eighteen (18) years of age by another. As used in this subsection,  
18 "permit" means to authorize or allow for the care of a child by an  
19 individual when the person authorizing or allowing such care knows  
20 or reasonably should know that the child will be placed at risk of  
21 abuse as proscribed by this subsection.

22 C. Any parent or other person who shall willfully or  
23 maliciously engage in child neglect shall, upon conviction, be  
24 punished by imprisonment in the custody of the Department of

1 Corrections not exceeding life imprisonment, or by imprisonment in a  
2 county jail not exceeding one (1) year, or by a fine of not less  
3 than Five Hundred Dollars (\$500.00) nor more than Five Thousand  
4 Dollars (\$5,000.00), or both such fine and imprisonment. As used in  
5 this subsection, "child neglect" means the willful or malicious  
6 neglect, as defined by ~~paragraph 3 of subsection B of Section 7102~~  
7 1-1-105 of this title Title 10A of the Oklahoma Statutes, of a child  
8 under eighteen (18) years of age by another.

9 D. Any parent or other person who shall willfully or  
10 maliciously engage in enabling child neglect shall, upon conviction,  
11 be punished by imprisonment in the custody of the Department of  
12 Corrections not exceeding life imprisonment, or by imprisonment in a  
13 county jail not exceeding one (1) year, or by a fine of not less  
14 than Five Hundred Dollars (\$500.00) nor more than Five Thousand  
15 Dollars (\$5,000.00), or both such fine and imprisonment. As used in  
16 this subsection, "enabling child neglect" means the causing,  
17 procuring or permitting of a willful or malicious act of child  
18 neglect, as defined by ~~paragraph 3 of subsection B of Section 7102~~  
19 1-1-105 of this title Title 10A of the Oklahoma Statutes, of a child  
20 under eighteen (18) years of age by another. As used in this  
21 subsection, "permit" means to authorize or allow for the care of a  
22 child by an individual when the person authorizing or allowing such  
23 care knows or reasonably should know that the child will be placed  
24 at risk of neglect as proscribed by this subsection.



1 E. Any parent or other person who shall willfully or  
2 maliciously engage in child sexual abuse shall, upon conviction, be  
3 punished by imprisonment in the custody of the Department of  
4 Corrections not exceeding life imprisonment, or by imprisonment in a  
5 county jail not exceeding one (1) year, or by a fine of not less  
6 than Five Hundred Dollars (\$500.00) nor more than Five Thousand  
7 Dollars (\$5,000.00), or both such fine and imprisonment, except as  
8 provided in Section 51.1a of Title 21 of the Oklahoma Statutes or as  
9 otherwise provided in subsection F of this section for a child  
10 victim under twelve (12) years of age. Except for persons sentenced  
11 to life or life without parole, any person sentenced to imprisonment  
12 for two (2) years or more for a violation of this subsection shall  
13 be required to serve a term of postimprisonment supervision pursuant  
14 to subparagraph f of paragraph 1 of subsection A of Section 991a of  
15 Title 22 of the Oklahoma Statutes under conditions determined by the  
16 Department of Corrections. The jury shall be advised that the  
17 mandatory postimprisonment supervision shall be in addition to the  
18 actual imprisonment. As used in this section, "child sexual abuse"  
19 means the willful or malicious sexual abuse, as defined by ~~paragraph~~  
20 ~~6 of subsection B of Section 7102~~ 1-1-105 of this title Title 10A of  
21 the Oklahoma Statutes, of a child under eighteen (18) years of age  
22 by another.

23 F. Any parent or other person who shall willfully or  
24 maliciously engage in sexual abuse to a child under twelve (12)

1 years of age shall, upon conviction, be punished by imprisonment in  
2 the custody of the Department of Corrections for not less than  
3 twenty-five (25) years nor more than life imprisonment, and by a  
4 fine of not less than Five Hundred Dollars (\$500.00) nor more than  
5 Five Thousand Dollars (\$5,000.00).

6 G. Any parent or other person who shall willfully or  
7 maliciously engage in enabling child sexual abuse shall, upon  
8 conviction, be punished by imprisonment in the custody of the  
9 Department of Corrections not exceeding life imprisonment, or by  
10 imprisonment in a county jail not exceeding one (1) year, or by a  
11 fine of not less than Five Hundred Dollars (\$500.00) nor more than  
12 Five Thousand Dollars (\$5,000.00), or both such fine and  
13 imprisonment. As used in this subsection, "enabling child sexual  
14 abuse" means the causing, procuring or permitting of a willful or  
15 malicious act of child sexual abuse, as defined by ~~paragraph 6 of~~  
16 ~~subsection B of~~ Section ~~7102~~ 1-1-105 of ~~this title~~ Title 10A of the  
17 Oklahoma Statutes, of a child under the age of eighteen (18) by  
18 another. As used in this subsection, "permit" means to authorize or  
19 allow for the care of a child by an individual when the person  
20 authorizing or allowing such care knows or reasonably should know  
21 that the child will be placed at risk of sexual abuse as proscribed  
22 by this subsection.

23 H. Any parent or other person who shall willfully or  
24 maliciously engage in child sexual exploitation shall, upon

1 conviction, be punished by imprisonment in the custody of the  
2 Department of Corrections not exceeding life imprisonment, or by  
3 imprisonment in a county jail not exceeding one (1) year, or by a  
4 fine of not less than Five Hundred Dollars (\$500.00) nor more than  
5 Five Thousand Dollars (\$5,000.00), or both such fine and  
6 imprisonment except as provided in subsection I of this section for  
7 a child victim under twelve (12) years of age. Except for persons  
8 sentenced to life or life without parole, any person sentenced to  
9 imprisonment for two (2) years or more for a violation of this  
10 subsection shall be required to serve a term of postimprisonment  
11 supervision pursuant to subparagraph f of paragraph 1 of subsection  
12 A of Section 991a of Title 22 of the Oklahoma Statutes under  
13 conditions determined by the Department of Corrections. The jury  
14 shall be advised that the mandatory postimprisonment supervision  
15 shall be in addition to the actual imprisonment. As used in this  
16 subsection, "child sexual exploitation" means the willful or  
17 malicious sexual exploitation, as defined by ~~paragraph 7 of~~  
18 ~~subsection B of Section 7102~~ 1-1-105 of this title Title 10A of the  
19 Oklahoma Statutes, of a child under eighteen (18) years of age by  
20 another.

21 I. Any parent or other person who shall willfully or  
22 maliciously engage in sexual exploitation of a child under twelve  
23 (12) years of age shall, upon conviction, be punished by  
24 imprisonment in the custody of the Department of Corrections for not

1 less than twenty-five (25) years nor more than life imprisonment,  
2 and by a fine of not less than Five Hundred Dollars (\$500.00) nor  
3 more than Five Thousand Dollars (\$5,000.00).

4 J. Any parent or other person who shall willfully or  
5 maliciously engage in enabling child sexual exploitation shall, upon  
6 conviction, be punished by imprisonment in the custody of the  
7 Department of Corrections not exceeding life imprisonment, or by  
8 imprisonment in a county jail not exceeding one (1) year, or by a  
9 fine of not less than Five Hundred Dollars (\$500.00) nor more than  
10 Five Thousand Dollars (\$5,000.00), or both such fine and  
11 imprisonment. As used in this subsection, "enabling child sexual  
12 exploitation" means the causing, procuring or permitting of a  
13 willful or malicious act of child sexual exploitation, as defined by  
14 ~~paragraph 7 of subsection B of Section 7102 1-1-105 of this title~~  
15 Title 10A of the Oklahoma Statutes, of a child under eighteen (18)  
16 years of age by another. As used in this subsection, "permit" means  
17 to authorize or allow for the care of a child by an individual when  
18 the person authorizing or allowing such care knows or reasonably  
19 should know that the child will be placed at risk of sexual  
20 exploitation as proscribed by this subsection.

21 K. Notwithstanding any other provision of law, any parent or  
22 other person convicted of forcible anal or oral sodomy, rape, rape  
23 by instrumentation, or lewd molestation of a child under fourteen  
24 (14) years of age subsequent to a previous conviction for any

1 offense of forcible anal or oral sodomy, rape, rape by  
2 instrumentation, or lewd molestation of a child under fourteen (14)  
3 years of age shall be punished by death or by imprisonment for life  
4 without parole.

5 SECTION 5. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 7800 of Title 10, unless there  
7 is created a duplication in numbering, reads as follows:

8 The mother of a child whose paternity has not been established  
9 is presumed to have custody of the child until such time as the  
10 paternity of the child has been established pursuant to Sections  
11 7700-101 through 7700-902 of Title 10 of the Oklahoma Statutes. The  
12 parents of a child whose paternity is established are presumed to  
13 each have custody of the child until determined otherwise by a  
14 court. Until otherwise ordered by a court, written agreements,  
15 preferably agreements that are the result of mediation, are  
16 encouraged to document the scope of the legal and physical custody  
17 of the respective parents.

18 SECTION 6. AMENDATORY Section 112, Chapter 233, O.S.L.  
19 2009 (10A O.S. Supp. 2009, Section 1-3-102), is amended to read as  
20 follows:

21 Section 1-3-102. A. For purposes of this section:

22 1. "Routine and ordinary medical care and treatment" includes  
23 any necessary medical and dental examinations and treatment, medical  
24 screenings, clinical laboratory tests, blood testing, preventative

1 care, health assessments, physical examinations, immunizations,  
2 contagious or infectious disease screenings or tests and care  
3 required for treatment of illness and injury, including x-rays,  
4 stitches and casts, or the provision of psychotropic medications but  
5 does not include any type of extraordinary care; and

6 2. "Extraordinary medical care and treatment" includes, but is  
7 not limited to, surgery, general anesthesia, blood transfusions, or  
8 ~~invasive or experimental procedures or the provision of psychotropic~~  
9 ~~medications.~~

10 B. If a child taken into protective custody without a court  
11 order requires emergency medical care prior to the emergency custody  
12 hearing, and either the treatment is related to the suspected abuse  
13 or neglect or the parent or legal guardian is unavailable or  
14 unwilling to consent to treatment recommended by a physician, a  
15 peace officer, court employee or the court may authorize such  
16 treatment as is necessary to safeguard the health or life of the  
17 child. Before a peace officer, court employee or the court  
18 authorizes treatment based on unavailability of the parent or legal  
19 guardian, law enforcement shall exercise diligence in locating the  
20 parent or guardian, if known.

21 C. 1. If a child has been placed in the custody of the  
22 Department of Human Services, the Department shall have the  
23 authority to consent to routine and ordinary medical care and  
24 treatment. The Department shall make reasonable attempts to notify

1 the child's parent or legal guardian of the provision of routine and  
2 ordinary medical care and treatment and to keep the parent or legal  
3 guardian involved in such care.

4 2. In no case shall the Department consent to a child's  
5 abortion, sterilization, termination of life support or a "Do Not  
6 Resuscitate" order. The court may authorize the withdrawal of life-  
7 sustaining medical treatment or the denial of the administration of  
8 cardiopulmonary resuscitation on behalf of a child in the  
9 Department's custody upon the written recommendation of a licensed  
10 physician, after notice to the parties and a hearing.

11 3. Nothing herein shall prevent the Department from  
12 authorizing, in writing, any person, foster parent or administrator  
13 of a facility into whose care a child in its custody has been  
14 entrusted, to consent to routine and ordinary medical care and  
15 treatment to be rendered to a child upon the advice of a licensed  
16 physician, including the continuation of psychotropic medication.

17 D. Consent for a child's extraordinary medical care and  
18 treatment shall be obtained from the parent or legal guardian unless  
19 the treatment is either related to the abuse or neglect or the  
20 parent or legal guardian is unavailable or refuses to consent to  
21 such care, in which case in an emergency, based upon recommendation  
22 of a physician, the court may enter an ex parte order authorizing  
23 such treatment or procedure in order to safeguard the child's health  
24 or life. If the recommended extraordinary medical care and

1 treatment is not an emergency, the court shall hold a hearing, upon  
2 application by the district attorney and notice to all parties, and  
3 may authorize such recommended extraordinary care.

4 E. If a child has been placed in the custody of a person, other  
5 than a parent or legal guardian, or an institution or agency other  
6 than the Department, the court shall determine the authority of the  
7 person, institution, or agency to consent to medical care including  
8 routine and ordinary medical care and treatment and extraordinary  
9 care. The parent, legal guardian, or person having legal custody  
10 shall be responsible for the costs of medical care as determined by  
11 the court.

12 SECTION 7. AMENDATORY 10 O.S. 2001, Section 7004-3.2, as  
13 last amended by Section 68, Chapter 233, O.S.L. 2009, and as  
14 renumbered by Section 279, Chapter 233, O.S.L. 2009 (10A O.S. Supp.  
15 2009, Section 1-7-105), is amended to read as follows:

16 Section 1-7-105. A. The Department of Human Services shall  
17 promulgate written rules, policies, and procedures governing the  
18 operation of those facilities operated by or under contract with the  
19 Department wherein children may be placed.

20 B. The policies prescribed shall, at a minimum, ensure that:

21 1. A child shall not be punished by physical force, deprivation  
22 of nutritious meals or family visits, or solitary confinement;

23 2. A child shall have the opportunity to participate in  
24 physical exercise each day;



1       3. A child shall be allowed daily access to showers;

2       4. A child shall be allowed his or her own clothing or  
3 individualized clothing which is clean;

4       ~~4.~~ 5. A child shall have constant access to writing materials  
5 and may send mail without limitation, censorship, or prior reading,  
6 and may receive mail without prior reading, except that mail may be  
7 opened in the presence of the child, without being read, to inspect  
8 for contraband or if authorized by the court for the protection of  
9 the child;

10       ~~5.~~ 6. A child shall have a right to communicate and to visit  
11 with his or her family on a regular basis, and to communicate with  
12 persons in the community provided the communication or visitation is  
13 in the best interests of the child;

14       ~~6.~~ 7. A child shall have timely access to medical care as  
15 needed;

16       ~~7.~~ 8. A child in the custody or care of the Department shall be  
17 provided access to an education including teaching, educational  
18 materials, and books;

19       ~~8.~~ 9. A child shall have a right to access to the child's  
20 attorney;

21       ~~9.~~ 10. A child shall be afforded a grievance procedure,  
22 including an appeal procedure;

23       ~~10.~~ 11. A child's behavioral health needs shall be met,  
24 protected, and served through provision of guidance, counseling, and

1 treatment programs, staffed by competent, professionally qualified  
2 persons; and

3 ~~11.~~ 12. Use of physical force, when authorized, shall be the  
4 least force necessary under the circumstances and shall be permitted  
5 only under the following circumstances:

- 6 a. for self-protection,
- 7 b. to separate children who are fighting,
- 8 c. to restrain children in danger of inflicting harm to  
9 themselves or others, or
- 10 d. to deter children who are in the process of leaving  
11 the facility without authorization.

12 C. Any contract or agreement entered into by the Department for  
13 the residential care and treatment of children in the custody of the  
14 Department shall provide that the contractor comply with the  
15 provisions of subsections A and B of this section.

16 SECTION 8. AMENDATORY 30 O.S. 2001, Section 2-103, as  
17 amended by Section 135, Chapter 234, O.S.L. 2009 (30 O.S. Supp.  
18 2009, Section 2-103), is amended to read as follows:

19 Section 2-103. A. If the minor is under the age of fourteen  
20 (14) years, the court may name and appoint his guardian. If the  
21 minor has attained the age of fourteen (14) years, the minor may  
22 nominate his own guardian, who, if approved by the court, must be  
23 appointed accordingly.

24

1 B. The court, in appointing a guardian for a minor, is to be  
2 guided by Section ~~112.4~~ 112.5 of Title 43 of the Oklahoma Statutes.

3 SECTION 9. AMENDATORY 10 O.S. 2001, Section 7202.3, as  
4 renumbered by Section 208, Chapter 233, O.S.L. 2009 (43 O.S. Supp.  
5 2009, Section 109.5), is amended to read as follows:

6 Section 109.5 When an order has been entered which provides for  
7 payment of child support and the legal custodian places physical  
8 custody of the child with any person, subject to the provisions of  
9 ~~Section 45~~ of the Oklahoma Children's Code or this act title,  
10 without obtaining a modification of the order to change legal  
11 custody, the placement of the physical custody, by operation of law,  
12 shall create a presumption that such person with whom the child was  
13 placed has legal physical custody of the child for the purposes of  
14 the payment of child support and the obligee shall remit such child  
15 support obligation to the person with whom the placement was made.

16 SECTION 10. AMENDATORY 43 O.S. 2001, Section 112, as  
17 last amended by Section 137, Chapter 234, O.S.L. 2009 (43 O.S. Supp.  
18 2009, Section 112), is amended to read as follows:

19 Section 112. A. A petition or cross-petition for a divorce,  
20 legal separation, or annulment must state whether or not the parties  
21 have minor children of the marriage. If there are minor children of  
22 the marriage, the court:

23 1. Shall make provision for guardianship, custody, medical  
24 care, support and education of the children;

1           2. Unless not in the best interests of the children, may  
2 provide for the visitation of the noncustodial parent with any of  
3 the children of the noncustodial parent; and

4           3. May modify or change any order whenever circumstances render  
5 the change proper either before or after final judgment in the  
6 action; provided, that the amount of the periodic child support  
7 payment shall not be modified retroactively or payment of all or a  
8 portion of the past due amount waived, except by mutual agreement of  
9 the obligor and obligee, or if the obligee has assigned child  
10 support rights to the Department of Human Services or other entity,  
11 by agreement of the Department or other entity. Unless the parties  
12 agree to the contrary, a completed child support computation form  
13 provided for in Section 120 of this title shall be required to be  
14 filed with the child support order.

15           The social security numbers of both parents and the child shall  
16 be included on the child support order summary form provided for in  
17 Section 120 of this title, which shall be submitted to the Central  
18 Case Registry as provided for in Section 112A of this title with all  
19 child support or paternity orders.

20           B. In any action in which there are minor unmarried children in  
21 awarding or modifying the custody of the child or in appointing a  
22 general guardian for the child, the court shall be guided by the  
23 provisions of Section ~~112.4~~ 112.5 of this title and shall consider  
24 what appears to be in the best interests of the child.

1 C. 1. When it is in the best interests of a minor unmarried  
2 child, the court shall:

3 a. assure children of frequent and continuing contact  
4 with both parents after the parents have separated or  
5 dissolved their marriage, and

6 b. encourage parents to share the rights and  
7 responsibilities of child rearing in order to effect  
8 this policy.

9 2. There shall be neither a legal preference nor a presumption  
10 for or against joint legal custody, joint physical custody, or sole  
11 custody.

12 3. When in the best interests of the child, custody shall be  
13 awarded in a way which assures the frequent and continuing contact  
14 of the child with both parents. When awarding custody to either  
15 parent, the court:

16 a. shall consider, among other facts, which parent is  
17 more likely to allow the child or children frequent  
18 and continuing contact with the noncustodial parent,  
19 and

20 b. shall not prefer a parent as a custodian of the child  
21 because of the gender of that parent.

22 4. In any action, there shall be neither a legal preference or  
23 a presumption for or against private or public school or home-

24

1 schooling in awarding the custody of a child, or in appointing a  
2 general guardian for the child.

3 5. Notwithstanding any custody determination made pursuant to  
4 the Oklahoma Children's Code, when a custodial parent of a child is  
5 required to be separated from a child due to military service, a  
6 court shall not enter a final order modifying an existing custody  
7 order until such time as the custodial parent has completed the term  
8 of duty requiring separation. For purposes of this paragraph:

9 a. in the case of a parent who is a member of the Army,  
10 Navy, Air Force, Marine Corps or Coast Guard, the term  
11 "military service" means a combat deployment,  
12 contingency operation, or natural disaster requiring  
13 the use of orders that do not permit any family member  
14 to accompany the member, and

15 b. in the case of a parent who is a member of the  
16 National Guard, the term "military service" means  
17 service under a call to active service authorized by  
18 the President of the United States or the Secretary of  
19 Defense for a period of more than thirty (30)  
20 consecutive days under 32 U.S.C. 502(f) for purposes  
21 of responding to a national emergency declared by the  
22 President and supported by federal funds. "Military  
23 service" shall include any period during which a  
24

1 member is absent from duty on account of sickness,  
2 wounds, leave or other lawful cause.

3 6. In making an order for custody, the court shall require  
4 compliance with Section 112.3 of this title.

5 D. 1. Except for good cause shown, a pattern of failure to  
6 allow court-ordered visitation may be determined to be contrary to  
7 the best interests of the child and as such may be grounds for  
8 modification of the child custody order.

9 2. For any action brought pursuant to the provisions of this  
10 section which the court determines to be contrary to the best  
11 interests of the child, the prevailing party shall be entitled to  
12 recover court costs, attorney fees and any other reasonable costs  
13 and expenses incurred with the action.

14 E. Except as otherwise provided by Section 112.1A of this  
15 title, any child shall be entitled to support by the parents until  
16 the child reaches eighteen (18) years of age. If a child is  
17 regularly enrolled in and attending high school, as set forth in  
18 Section 11-103.6 of Title 70 of the Oklahoma Statutes, other means  
19 of high school education, or an alternative high school education  
20 program as a full-time student, the child shall be entitled to  
21 support by the parents until the child graduates from high school or  
22 until the age of twenty (20) years, whichever occurs first. Full-  
23 time attendance shall include regularly scheduled breaks from the  
24 school year. No hearing or further order is required to extend

1 support pursuant to this subsection after the child reaches the age  
2 of eighteen (18) years.

3 F. In any case in which provision is made for the custody or  
4 support of a minor child or enforcement of such order and before  
5 hearing the matter or signing any orders, the court shall inquire  
6 whether public assistance money or medical support has been provided  
7 by the Department of Human Services, hereafter referred to as the  
8 Department, for the benefit of each child. If public assistance  
9 money, medical support, or child support services under the state  
10 child support plan as provided in Section 237 of Title 56 of the  
11 Oklahoma Statutes have been provided for the benefit of the child,  
12 the Department shall be a necessary party for the adjudication of  
13 the debt due to the State of Oklahoma, as defined in Section 238 of  
14 Title 56 of the Oklahoma Statutes, and for the adjudication of  
15 paternity, child support, and medical insurance coverage for the  
16 minor children in accordance with federal regulations. When an  
17 action is filed, the petitioner shall give the Department notice of  
18 the action according to Section 2004 of Title 12 of the Oklahoma  
19 Statutes. The Department shall not be required to intervene in the  
20 action to have standing to appear and participate in the action.  
21 When the Department is a necessary party to the action, any orders  
22 concerning paternity, child support, medical support, or the debt  
23 due to the State of Oklahoma shall be approved and signed by the  
24 Department.



1 G. In any case in which a child support order or custody order  
2 or both is entered, enforced or modified, the court may make a  
3 determination of the arrearages of child support.

4 SECTION 11. NEW LAW A new section of law not to be  
5 codified in the Oklahoma Statutes reads as follows:

6 A. There is hereby re-created, to continue until June 1, 2011,  
7 the "Adoption Review Task Force".

8 B. The Task Force shall consist of thirteen (13) members:

9 1. Four members shall be appointed by the Governor as follows:

- 10 a. one member shall be a presiding judge of a court  
11 having adoption law jurisdiction from a rural county,
- 12 b. one member shall be a presiding judge of a court  
13 having adoption law jurisdiction from an urban county,
- 14 c. one member shall be a law professor from one of the  
15 law schools in this state, and
- 16 d. one member shall have specialized knowledge of  
17 information systems and technology;

18 2. Four members shall be appointed by the Speaker of the  
19 Oklahoma House of Representatives as follows:

- 20 a. one member shall be a licensed mental health  
21 professional with specialized knowledge of adoption  
22 issues, foster care, and social work,
- 23 b. one member shall be from an adoption advocacy group,

24

- 1 c. one member shall be an attorney practicing in the area  
2 of adoption law who is an active member of the Family  
3 Law Section of the Oklahoma Bar Association, and  
4 d. one member shall be from the Oklahoma House of  
5 Representatives;

6 3. Four members shall be appointed by the President Pro Tempore  
7 of the Senate as follows:

- 8 a. two members shall be directors of licensed child-  
9 placing agencies,  
10 b. one member shall be a public defender, and  
11 c. one member shall be from the Senate; and

12 4. The Director of the Department of Human Services, or a  
13 designee.

14 C. The membership of the Task Force shall consist of the same  
15 members appointed to the Adoption Review Task Force pursuant to  
16 Section 1, Chapter 44, O.S.L. 2008, and serving on the Task Force at  
17 the time it terminated. Vacancies of members on the Task Force  
18 shall be filled by the original appointing authority.

19 D. A majority of the members of the Task Force shall constitute  
20 a quorum and a majority of the members present at a meeting may act  
21 for the Task Force. The Task Force shall meet as often as  
22 necessary.

23 E. Nonlegislative members of the Task Force shall be reimbursed  
24 by their respective agencies for necessary travel expenses incurred

1 in the performance of duties pursuant to the provisions of the State  
2 Travel Reimbursement Act. Legislative members of the Task Force  
3 shall be reimbursed for necessary travel expenses incurred in the  
4 performance of duties in accordance with the provisions of Section  
5 456 of Title 74 of the Oklahoma Statutes.

6 F. Administrative support for the Task Force including, but not  
7 limited to, personnel necessary to ensure the proper performance of  
8 the duties and responsibilities of the Task Force shall be provided  
9 by the Department of Human Services to be supplemented, if  
10 necessary, by the state agencies involved in the Task Force, and the  
11 staff of the Oklahoma House of Representatives and the Senate. All  
12 participating state agencies shall provide for any administrative  
13 support requested by the Task Force.

14 G. The Task Force shall study and make recommendations  
15 concerning the laws and practices relating to adoption. The Task  
16 Force shall review and make recommendations regarding:

17 1. Allowable expenses paid by adoptive parents for the benefit  
18 of the birth parents;

19 2. Documentation evidencing a detailed accounting and full  
20 disclosure of all monies expended for adoptions including, but not  
21 limited to:

- 22 a. birth mother expenses,
- 23 b. agency fees,
- 24 c. social services fees, and

1 d. attorney fees;

2 3. Procedures concerning the approval of expenses including,  
3 but not limited to:

4 a. a mandatory hearing for uncommon expenses paid, and

5 b. a time limit for the approval of expenses;

6 4. The potential role of public defenders in adoption  
7 proceedings;

8 5. Procedures to ensure accuracy in the assessment of whether a  
9 child has Native American blood;

10 6. Information that should be required to be given to all  
11 parties involved in the adoption;

12 7. The standardization of the reporting of the number of  
13 adoptions finalized in Oklahoma;

14 8. Jurisdictional issues with respect to adoptions;

15 9. The use of technology to aid in the facilitation of  
16 adoptions;

17 10. The appointment of an advocate for the birth mother;

18 11. Confidentiality considerations; and

19 12. Industry advertising practices.

20 H. The Task Force shall publish a final report of findings and  
21 recommendations by January 1, 2011, including recommendations for  
22 any resulting legislation.

23 SECTION 12. It being immediately necessary for the preservation  
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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