

ENROLLED SENATE
BILL NO. 339

By: Anderson and Easley of the
Senate

and

Peters and Nelson of the
House

An Act relating to children; amending 10 O.S. 2001, Sections 7003-2.4, as last amended by Section 2, Chapter 293, O.S.L. 2008, 7003-5.3, as last amended by Section 2, Chapter 258, O.S.L. 2006, 7003-5.5, as amended by Section 3, Chapter 258, O.S.L. 2006, 7003-5.6, as last amended by Section 2, Chapter 196, O.S.L. 2007, 7003-5.6d, as last amended by Section 3, Chapter 196, O.S.L. 2007 and 7204 (10 O.S. Supp. 2008, Sections 7003-2.4, 7003-5.3, 7003-5.5, 7003-5.6 and 7003-5.6d), which relate to child placement; requiring courts to make certain determinations at specified hearings; directing courts to require completion of certain affidavit; requiring the Office of the Administrative Director of the Courts to create certain form; directing the Department of Human Services to identify relatives of children in specified circumstances; requiring certain notification; directing the Commission for Human Services to promulgate certain rules; requiring individual treatment and service plans to include a plan to ensure the educational stability of a child; requiring courts to make certain reasonable efforts rulings at certain hearings; requiring courts to determine whether certain services have been provided to certain children; requiring court to make certain rulings prior to reunification of families; updating agency designations; requiring the Department of Human Services and the Office of

Juvenile Affairs to assure that certain children are receiving appropriate education; updating agency designations; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7003-2.4, as last amended by Section 2, Chapter 293, O.S.L. 2008 (10 O.S. Supp. 2008, Section 7003-2.4), is amended to read as follows:

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

2. The written notice shall:

- a. inform the parents, legal guardian, or custodian that the child has been removed from the home,
- b. inform the parent, legal guardian, or custodian of the child that an emergency custody hearing to determine custody of the child will occur within two (2) judicial days from the date the child was removed from the home, and
- c. contain information about the:
 - (1) emergency custody hearing process including, but not limited to, the date, time and place that the child was taken into protective or emergency custody,
 - (2) nature of the allegation that led to placement of the child into protective or emergency custody,
 - (3) address and telephone number of the local and county law enforcement agencies,

- (4) phone number of the local child welfare office of the Department of Human Services, and
- (5) right of the parent, legal guardian or custodian to contact an attorney.

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

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

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

- a. any right of the parent or legal guardian or custodian to testify and present evidence at court hearings,
 - b. the right to be represented by an attorney at court hearings as authorized by law,
 - c. the consequences of failure to attend any hearings which may be held, and
 - d. the right to appeal and the procedure for appealing the finding of a court on custody issues as authorized by law.
3. a. At the emergency custody hearing, the court shall:

- (1) release the child to the child's parent, legal guardian or custodian or other responsible adult without conditions or under such conditions as the court finds reasonably necessary to ensure the health, safety or welfare of the child, or
- (2) continue the child in or place the child into emergency custody if continuation of the child in the child's home is contrary to the health, safety or welfare of the child,
- (3) obtain information from the parent, legal guardian or custodian necessary to identify and locate kinship placement resources. If such information indicates that within one (1) year of the emergency custody hearing the child had resided with a grandparent for six (6) months, and that such grandparent was the primary caregiver and provided primary financial support for the child during such time, the court shall provide notice and an opportunity to be heard at future hearings to such grandparent, ~~and~~
- (4) require the Department to provide to any custodian or other person caring for the child information on Department of Human Services programs and services available to the child and provide written notice of any further proceedings to any foster or preadoptive parents or relatives providing care for a child, and
- (5) in accordance with the safety or well-being of any child, determine whether reasonable efforts have been made to:
 - (a) place siblings, who have been removed, together in the same foster care, guardianship or adoptive placement, and
 - (b) provide for frequent visitation or other ongoing interaction in the case of siblings

who have been removed and who are not placed together.

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

C. The court shall order the parent, legal guardian, or custodian to complete an affidavit listing the names, addresses and phone numbers of any parent, whether known or alleged, grandparent, adult aunt, uncle, brother, sister, half-sibling and first cousin of the child and any comments concerning the appropriateness of the child's potential placement with such relative. If none exist, the court shall further require the parents, legal guardian or custodian to list any other adult relatives or persons with whom the child has had a substantial relationship or who may be a suitable placement for the child.

D. The Office of the Administrative Director of the Courts shall create an affidavit form and make it available to each court responsible for conducting emergency custody hearings. The affidavit form shall contain a notice to the parent, legal guardian or custodian that failure to identify a parent or relative in a timely manner may result in the child being permanently placed outside of the home of the child's parent or relative. The affidavit form shall also advise the parent, legal guardian or custodian of the penalties associated with perjury and contempt of court. The original completed affidavit shall be filed with the court clerk no later than five (5) days after the hearing or as otherwise directed by the court, and a copy shall be provided to the Department.

E. The Department shall, within thirty (30) days of a child's removal, exercise due diligence to identify adult relatives. Notice shall be provided by the Department to all grandparents and to such other adult relatives as the court directs. The Department may notify any adult relative for the purpose of assessing whether the relative may be a suitable placement for the child or to maintain the child's connection to kin or culture. The notice, ordered by the court, shall advise the relatives:

1. That the child has been or is being removed from the custody of the parent or parents of the child;

2. Of the options under applicable law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice; and

3. Of the requirements to become a foster family home and the additional services and supports available for children placed in such a home.

Relatives shall not be notified if the court determines that such notification would not be in the best interests of a child due to past or current family or domestic violence. The Commission for Human Services may promulgate rules in furtherance of the provisions of this section.

F. If it is determined by agreement of the office of the district attorney and the Department of Human Services that a child may be safely returned home prior to an emergency custody hearing, the following form or a substantially similar form shall be completed by the office of the district attorney and the Department and filed of record:

IN THE DISTRICT COURT OF _____ COUNTY

STATE OF OKLAHOMA

IN THE MATTER OF:

ALLEGED DEPRIVED CHILD (REN)

MEMORANDUM

CHILD WELFARE WORKER:

ASSISTANT DISTRICT ATTORNEY:

___ INVESTIGATION REVEALED ALLEGATIONS NOT CONFIRMED

___ SERVICES WERE OFFERED AND ACCEPTED

___ PARENT/CARETAKER HAS TAKEN APPROPRIATE STEPS TO
PROTECT CHILD FROM HARM

___ OTHER:

NOTES:

CHILD(REN) RELEASED TO:

ASSISTANT DISTRICT ATTORNEY

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

DHS CHILD WELFARE WORKER.

~~D.~~ G. 1. Except as otherwise provided by this subsection, a petition for a deprived child proceeding shall be filed and a summons issued within five (5) judicial days from the date of assumption of custody; provided, however, such time period may be extended a period of time not to exceed fifteen (15) calendar days from the date of assumption of custody of the child if, upon request of the district attorney at the emergency custody hearing, the court

determines there are compelling reasons to grant additional time for the filing of the petition for a deprived child proceeding.

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

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

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

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

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

~~G.~~ J. In scheduling hearings, the court shall give priority to proceedings in which a child is in emergency custody.

~~H.~~ K. 1. An order of the court providing for the removal of a child alleged to be deprived from the home of such child shall not be entered unless the court makes a determination:

- a. that continuation of the child in the child's home is contrary to the health, safety or welfare of the child, and
- b. as to whether or not reasonable efforts were made to prevent the need for the removal of the child from the child's home, or

- c. as to whether or not an absence of efforts to prevent the removal of the child from the child's home is reasonable because the removal is due to an alleged emergency and is for the purpose of providing for the health, safety or welfare of the child, or
- d. that reasonable efforts to provide for the return of the child to the child's home are not required pursuant to Section 7003-4.6 of this title; provided, however, upon such determination, the court shall inform the parent that a permanency hearing will be held within thirty (30) days from the determination.

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

SECTION 2. AMENDATORY 10 O.S. 2001, Section 7003-5.3, as last amended by Section 2, Chapter 258, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7003-5.3), is amended to read as follows:

Section 7003-5.3 A. An individual treatment and service plan shall be filed with the court within thirty (30) days after a child has been adjudicated to be deprived.

B. The plan shall be filed by the Department of Human Services or the agency responsible for the supervision of the case, or by the Department or the agency or licensed child-placing agency having custody of the child if the child has been removed from the custody of its lawful parent or parents.

C. The treatment and service plan shall be based upon a comprehensive assessment and evaluation of the child and family. The plan shall be:

1. Developed with the participation or input of the parent, legal guardian, or custodian of the child, the attorney of the child and the guardian ad litem of the child, if any, and, if appropriate, the child;

2. Individualized and specific to each child and the family of the child. The plan shall contain specific time frames;

3. Written in simple and clear English. If English is not the principal language of the child's parent, legal guardian, or custodian, and such person is unable to read or comprehend the English language, to the extent possible the plan shall be written in such person's principal language;

4. Subject to modification based on changing circumstances consistent with the correction of the conditions that led to the adjudication of the child; and

5. Reasonable, accurate, and in compliance with the requirements of other court orders.

D. The individual treatment and service plan shall include, but not be limited to:

1. A history of the child and family, including identification of the problems leading to the deprived child adjudication. The statement of the conditions leading to the adjudication shall include a statement of the methods to be used to correct those conditions or to achieve permanent placement of the child;

2. Identification of the specific services to be provided to the child including, but not limited to, educational, vocational educational, medical, drug or alcohol abuse treatment, or counseling or other treatment services, and identification of the services to be provided to the parent, legal guardian, custodian, stepparent, other adult person living in the home or other family members, to remediate or alleviate the conditions that led to the adjudication, including services needed to assist the family to provide safe and proper care of the child or to prevent further harm to the child;

3. A schedule of the frequency of services or treatment and the means by which delivery of the services or treatment will be assured or, as necessary, the proposed means by which support services or other assistance will be provided to enable the parent or the child to obtain the services or treatment;

4. The name of the social worker assigned to the case;

5. If the child is placed outside the home:

- a. the services to be provided during and after any such placement,
- b. the reasons for such placement and a statement as to the unavailability or inappropriateness of local placement, or other good cause, for any placement which is not in as close proximity as possible to the home of the child,
- c. the services to be provided to the child to ensure safe and proper care while in such placement and the projected date of discharge,
- d. the services necessary to assist the child to reintegrate with the child's family or other community-based placement and a description of acts by and conduct that is expected of the parent or parents, legal guardian, custodian, or stepparent or other adult person living in the home that would alleviate the conditions that resulted in the removal of the child before the child can be returned to a safe home,
- e. if the child is sixteen (16) years of age or older, the services necessary to make the transition from foster care or other community placement to independent living,
- f. a description of the type of safe and proper placement in which the child is to be placed,
- g. a description of the initial support obligation to the child, as determined by the court,
- h. a description of any visitation rights and obligations of the parent or parents, legal guardian, or custodian during the period the child is in care, ~~and~~
- i. a discussion of the safety and appropriateness of the child's placement, which placement is intended to be

in the least restrictive and most family-like setting available, consistent with the best interests and special needs of the child and in as close proximity as possible to the child's home, and

j. a plan for ensuring the educational stability of the child while in out-of-home placement, including:

(1) assurances that the placement of the child considers the appropriateness of the current educational setting and the proximity to the school in which the child was enrolled at the time of placement, and

(2) where appropriate, an assurance that the Department has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child was enrolled at the time of placement, or

(3) if remaining in the school in which the child was enrolled at the time of placement is not in the best interests of the child, assurances by the Department and the local educational agencies to provide immediate and appropriate enrollment in a new school with all of the educational records of the child provided to the school;

6. Performance criteria that will measure the progress of the child and family toward completion of the treatment and service plan including, but not limited to, time frames for achieving objectives and addressing the identified problems;

7. A projected date for the completion of the treatment and service plan;

8. The name and business address of the attorney representing the child;

9. The permanency goal for the child and the reason for selection of that goal; and

10. a. In the case of a child with respect to whom the permanency plan is adoption or placement in other permanent placement, documentation of the steps the Department is taking to:
 - (1) find an adoptive family or other permanent living arrangement for the child,
 - (2) place the child with an adoptive family, a fit and willing kinship relation, a legal guardian, kinship guardian, or in another planned permanent living arrangement, and
 - (3) finalize the adoption or guardianship, kinship guardianship or other permanent placement.
- b. Such documentation shall include, at a minimum, child-specific recruitment efforts such as the use of state, regional and national adoption exchanges, including electronic exchange systems.

E. Each treatment plan shall specifically provide for the safety of the child, in accordance with state and federal law, and clearly define what actions or precautions will, or may, be necessary to provide for the safety and protection of the child.

F. The individual treatment and service plan shall include the following statement:

TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. ITS PURPOSE IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE HOME WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE HOME, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU.

G. Whenever a child who is subject to the provisions of this section is committed for inpatient mental health or substance abuse treatment pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act, the individual treatment and service plan shall be amended as necessary and appropriate, including, but not limited to, identification of the treatment and services to be

provided to the child and the child's family upon discharge of the child from inpatient mental health or substance abuse treatment.

H. In addition to the information required pursuant to subsection A of this section, when a child, who at birth tested positive for alcohol or a controlled dangerous substance and who was determined to be at risk for future exposure to such substances, has been removed from the home, the Department of Human Services, subject to court approval:

1. May require, as part of the treatment and service plan, that the mother of such child complete a treatment program approved by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority prior to the return of the child to a safe home;

2. May require, as part of the treatment and service plan, that the father of the child, legal guardian, custodian, stepparent or other adult person living in the home who is an alcohol-dependent or a drug-dependent person, as such terms are defined by Section 3-403 of Title 43A of the Oklahoma Statutes, and whose conduct has contributed to the dependency of such child or mother on alcohol or drugs, or to the conditions which caused the child to be adjudicated deprived, complete a treatment program approved by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority prior to the return of the child to the safe home; and

3. May require testing for substance abuse of the mother, father, legal guardian, custodian, stepparent or other adult person living in the home, on a monthly basis for a twelve-month period following completion of the substance abuse program and after return of the child to a safe home. A positive test of any such person shall be presented to the Department of Human Services and the district attorney.

I. Testing ordered by the court pursuant to subsection H of this section shall be admissible only for the purposes of deprived child and custody proceedings.

J. The services delineated in the individual treatment and service plan shall be designed to improve the conditions in the family home and aid in maintaining the child in a safe home, to

facilitate the return of the child to the family home, or to facilitate the permanent placement of the child. The plan shall focus on clearly defined objectives and shall provide the most efficient path to quick reunification or permanent placement. To the extent possible, the plan shall contain outcome-based evaluation criteria that measure success in the reunification or permanent placement process.

K. In the event that the parent or parents are unwilling to participate in the development or implementation of the individual treatment and service plan, the Department shall document such unwillingness in writing to the parent or parents and shall file the document with the court.

L. The parents, any foster parents of the child, the child's attorney and the guardian ad litem of the child, if any, shall be each provided a copy of the treatment and service plan approved by the court.

SECTION 3. AMENDATORY 10 O.S. 2001, Section 7003-5.5, as amended by Section 3, Chapter 258, O.S.L. 2006 (10 O.S. Supp. 2008, Section 7003-5.5), is amended to read as follows:

Section 7003-5.5 A. 1. When a child has been adjudicated deprived pursuant to the provisions of Section 7003-4.5 of this title, the court may enter a dispositional order on the same day, but in any event the court shall hold a dispositional hearing and enter such order within forty (40) days of such adjudication unless the court finds on the record that the best interests of the child will be served by granting a delay.

2. If the court grants a delay, the court shall state why the delay is necessary and shall state the minimum amount of time needed to resolve any such reasons for the delay. The court shall schedule the dispositional hearing at the earliest possible time following the delay.

B. If the child is removed from the custody of the child's parent, the court or the Department of Human Services, as applicable, shall immediately consider concurrent permanency planning, so that permanency may occur at the earliest opportunity. Consideration should be given so that if reunification fails or is

delayed, the placement made is the best available placement to provide permanency for the child.

C. The following kinds of orders of disposition may be made in respect to wards of the court pursuant to a deprived child proceeding:

1. a. The court may place the child under supervision by the Department of Human Services in the child's own home, or in the custody of a suitable person elsewhere. If a child has been removed from the custodial parent of the child and the court, in the best interests of the child, is unable to release the child to the custodial parent, the court shall give priority for placement of the child with the noncustodial parent of the child unless such placement would not be in the child's best interests. If the court cannot place the child with the noncustodial parent, custody shall be consistent with the provisions of Section 21.1 of this title. If custody of the child cannot be made pursuant to the provisions of Section 21.1 of this title, the reason for such determination shall be documented in the court record. The court may require the parent or other person to comply with such conditions as the court may require and to give security by bond, with surety or sureties approved by the court, for compliance with such order.
- b. If it is consistent with the welfare of the child, the child shall be returned to the child's parent, legal guardian or custodian. Provided, that if it appears to the court that the conduct of the parent, legal guardian, custodian, or that a stepparent or other adult person living in the home has contributed to such deprivation, the court may issue a written order specifying conduct to be followed by such parent, legal guardian, custodian, stepparent or other adult person living in the home with respect to such child. The conduct specified shall be such as would reasonably prevent the child from becoming or continuing to be deprived.

- c. The order placing the child under supervision by the Department in the child's own home shall remain in effect for a period of not more than one (1) year, to be specified by the court, and the order may be extended or renewed by the court.

2. The court may place the child in the custody of a suitable individual subject to the conditions and restrictions specified in Section 7003-8.1 of this title.

3. The court may place the child in the custody of a private institution or agency, including any institution established and operated by the county, authorized to care for children or to place them in family homes. In placing a child in a private institution or agency, the court shall select one that is licensed by the Department or any other state department supervising or licensing private institutions and agencies; or, if such institution or agency is in another state, by the analogous department of that state. Whenever the court shall place a child in any institution or agency, it shall transmit with the order of commitment a summary of its information concerning the child, and such institution or agency shall give to the court such information concerning the child as the court may at any time require.

4. The court may order the child to receive counseling or other community-based services as necessary.

5. The court may place the child in the custody of the Department.

6. If the child has been placed outside the home, and it appears to the court that the parent, legal guardian, custodian, stepparent, or other adult person living in the home has contributed to the deprivation of the child, the court may order that the parent, legal guardian, custodian, stepparent, or other adult living in the home be made subject to any treatment or placement plan prescribed by the Department or other person or agency receiving custody of the child.

7. a. The court may order a child's permanent care and custody transferred to another person, subject to residual parental rights and responsibilities and

subject to such orders of the court as deemed necessary for the health, safety or welfare of the child pursuant to the provisions of this paragraph, upon the written consent of both parents of the child or upon the consent of one parent only if:

- (1) the other parent is deceased,
 - (2) the other parent has been determined by a court of law to be incompetent or incapacitated,
 - (3) the other parent's whereabouts or identity is unknown. This fact shall be attested to by an affidavit of the consenting parent,
 - (4) the other parent who is eighteen (18) years of age or older, has signed a statement consenting to the transfer, executed before a notary public,
 - (5) the parental rights of the other parent has been terminated,
 - (6) the other parent has been or is found by the court of law to be unfit or unable to exercise parental rights and responsibilities for the child based upon situations enumerated in Section 7006-1.1 of this title,
 - (7) is or has been subject to the registration requirements of the Oklahoma Sex Offenders Registration Act or any similar act in any other state, or
 - (8) has abandoned the child or is determined by the court to be otherwise unfit to assume custody of the child for any other reason.
- b. Prior to the entry of an order transferring the permanent care and custody of a child, the court shall receive an investigation and report regarding the background and home of the prospective custodian. Such investigation and report of the prospective

custodian shall be made pursuant to the requirements of the Oklahoma Adoption Code. The Department of Human Services shall only be required by the court to make the home study and report as specified by this paragraph in the following circumstances:

- (1) the Department has previously conducted a home study on the prospective custodian within the past three (3) years, or
 - (2) the child is in the custody or under the legal supervision of the Department.
- c. Upon the entry of an order providing for the transfer of the permanent care and custody of a child, the order shall remain in full force and effect until:
- (1) the child reaches the age of eighteen (18) years,
 - (2) the child marries or is legally emancipated, or
 - (3) the parent who consented to the transfer of the permanent care and custody of the child petitions the court for the recovery of the child and the court finds after evidentiary hearing:
 - (a) the child has been abused or neglected while in the care and custody of the custodian, and
 - (b) it is in the best interests of the child that custody of the child be returned to the parents,
 - (4) the district attorney, attorney for the child, or custodian petitions the court for modification of the order transferring permanent care and custody and the court finds after evidentiary hearing that it is in the best interests of the child for the order to be modified and the custody of the child be given to another person, pursuant to the

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

- (5) the order terminates because of the death or incapacity of the custodian or the death of the child, or
 - (6) the child is adopted.
- d. An order providing for the transfer of the permanent care and custody of a child:
- (1) shall require that the placement be reviewed within one (1) year after transfer and may require the person to whom custody is transferred to submit any records or reports the court deems necessary for purposes of such review. Such order shall not require the Department to supervise the placement during such period,
 - (2) shall not require periodic reviews by the court thereafter if the parties agree with the assent of the court that such reviews are not necessary to serve the best interests of the child, and
 - (3) unless periodic reviews are required pursuant to this subparagraph, the court may close the case, provided the order transferring the permanent care and custody of the child shall remain in full force and effect subject to the provisions of subparagraph b of this paragraph.
8. a. When reunification of the family is not recommended or possible, as determined by the court, the court may order a child's permanent care and custody transferred to a kinship guardian subject to residual parental rights and responsibilities and subject to such orders of the court as deemed necessary for the health, safety or welfare of the child. Kinship guardianship shall include, but not be limited to, the following parental responsibilities with respect to a child:

- (1) protection,
 - (2) education,
 - (3) care and control,
 - (4) custody, and
 - (5) decision making.
- b. A kinship foster parent may file a petition with the court to be appointed as kinship guardian for a child.
- c. The petition for kinship guardianship shall allege that:
- (1) the child is in the legal custody of the Department,
 - (2) more than twelve (12) months have passed since the date of the dispositional order placing such child in the legal custody of the Department,
 - (3) the parents of the child are presently and for the foreseeable future unable to provide proper and adequate care for the child,
 - (4) the prospective kinship guardian consents to the appointment,
 - (5) the child has resided with the kinship foster parent and there exists a loving and emotional tie between the child and the kinship foster parent, and
 - (6) it would be in the best interests of the child for the petition to be granted.
- d. Notice of the petition and a copy of the petition shall be served upon the parties, the Department, and the guardian ad litem of the child, if any.

- e. Prior to the entry of an order appointing a kinship guardian, the court shall receive the most recent report regarding the background and home of the prospective kinship guardian.
- f. If the court finds that the elements of the petition have been proven based on clear and convincing evidence, or upon the consent of all parties, the court shall grant the petition.
- g. An order appointing a person as a kinship guardian shall award custody of the child to the kinship guardian. A kinship guardian shall have the same authority as a parent to consent on behalf of a child, except that a kinship guardian shall not consent to the adoption or surrender of a child.
- h. Upon the entry of an order providing for the transfer of the permanent care and custody of a child to a kinship guardian, the order shall remain in full force and effect until:
 - (1) the child reaches the age of eighteen (18) years,
 - (2) the child is married or legally emancipated,
 - (3) the court finds after evidentiary hearing:
 - (a) the child has been abused or neglected while in the care and custody of the kinship guardian, and
 - (b) it is in the best interests of the child that custody of the child be returned to the parents,
 - (4) the district attorney, an attorney for the child, or the kinship guardian petitions the court for modification of the order transferring permanent care and custody to a kinship guardian and the court finds after evidentiary hearing that it is in the best interests of the child for the order

to be modified and the custody of the child be given to another person, pursuant to the Oklahoma Guardianship and Conservatorship Act or the Oklahoma Children's Code,

- (5) the order terminates because of the death or incapacity of the kinship guardian or the death of the child, or
- (6) the child is adopted.

i. An order appointing a kinship guardian shall:

- (1) require that the placement be reviewed within one (1) year after transfer and may require the kinship guardian to whom custody is transferred to submit any records or reports the court deems necessary for purposes of such review. Such order shall not require the Department to supervise the placement during such period,
- (2) not require periodic reviews by the court thereafter if the parties agree with the assent of the court that such reviews are not necessary to serve the best interests of the child, unless periodic reviews are otherwise required by the court, and
- (3) unless periodic reviews are required, the court may close the case, provided the order transferring permanent care and custody to a kinship guardian shall remain in full force and effect subject to the provisions of this subparagraph.

j. Except as otherwise provided by the court, the appointment of a kinship guardian shall not affect or impair the visitation rights of a parent.

9. Except as otherwise provided by law, the court may dismiss the petition and terminate its jurisdiction at any time for good cause shown when doing so is in the best interests of the child.

D. Any order entered pursuant to this section shall include a statement informing the child's parent that the consequences of noncompliance with the requirement of the court may include termination of the parent's rights with respect to the child or shall include a statement informing the child's legal guardian or custodian that the consequences of noncompliance with the requirement of the court may include removal of the child from the custody of the legal guardian or custodian.

E. 1. Except as otherwise provided in subsection F of this section, in any dispositional order removing a child from the home of the child, the court shall make a determination as to whether, in accordance with the best interests of the child:

- a. reasonable efforts have been made to provide for the safe return of the child to the child's own home, or
- b. reasonable efforts to reunite the family are not feasible, and reasonable efforts are being made to secure an alternate permanent placement for the child.

2. In determining reasonable efforts to be made with respect to a child and in making such reasonable efforts, the child's health, safety or welfare shall be the paramount concern.

F. 1. At any hearing held pursuant to the provisions of this section, if the court finds that continuation of reasonable efforts to return the child home are inconsistent with the permanency plan for a child, the court shall determine whether reasonable efforts have been made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child.

2. Reasonable efforts to reunite the child with the child's family shall not be required however, pursuant to the provisions of Section 7003-4.6 of this title.

G. 1. If it is consistent with the welfare of the child, in cases where the child has been adjudicated to be deprived due to repeated absence from school, the court may order counseling and treatment for the child and the parents of the child to be provided

by the local school district, the county, the Department or a private individual or entity.

2. Prior to final disposition, the court shall require that it be shown by the appropriate school district that a child found to be truant has been evaluated for literacy, learning disabilities, mental retardation, and hearing and visual impairments and other impediments which could constitute an educational handicap. The results of such tests shall be made available to the court for use by the court in determining the disposition of the case.

3. No child who has been adjudicated deprived upon the basis of noncompliance with the mandatory school attendance law alone may be placed in a public or private institutional facility or be removed from the custody of the lawful parent, legal guardian or custodian of the child.

4. A deprived adjudication based solely upon repeated absence from school shall not constitute a ground for termination of parental rights.

H. In any dispositional order involving a child sixteen (16) years of age or older, the court shall make a determination, where appropriate, of the services needed to assist the child to make the transition from out-of-home care to independent living.

I. In accordance with the safety or well-being of any child, the court shall determine in any dispositional hearing whether reasonable efforts have been made to:

1. Place siblings, who have been removed, together in the same foster care, guardianship or adoptive placement; and

2. Provide for frequent visitation or other ongoing interaction in the case of siblings who have been removed and who are not placed together.

J. 1. If reasonable efforts are required for the return of the child to the child's home, the court shall allow the parent of the child not less than three (3) months to correct conditions which led to the adjudication of the child as a deprived child prior to

terminating the parental rights of the parent pursuant to the provisions of Section 7006-1.1 of this title.

2. The court shall not terminate the rights of a parent who has not been notified that the parental rights might be terminated.

3. If the court terminates the rights of a parent and places the child with an individual or agency, the court may invest in such individual or agency authority to consent to the adoption of the child. Provided, that where the court places the child with the Department, it shall vest the Department with authority to place the child and, upon notice to the court that an adoption petition has been filed concerning such child, invest the Department with authority to consent to the adoption of the child, and the jurisdiction of the committing court shall terminate upon final decree of adoption.

~~J.~~ K. 1. When the juvenile court assumes jurisdiction over a child pursuant to Article III of this Code, an order concerning child support or the legal custody of the child that has been previously entered in any other administrative or district court proceeding shall be subject to modification by the juvenile court during the pendency of the deprived action. When the juvenile court terminates its jurisdiction over the child in the deprived action, the most recent order which determines child support or awards legal custody of the child to a parent or other person shall remain in full force and effect and shall control over any prior custody or child support order entered in an administrative or district court action.

2. The surviving custody or child support order from the deprived action may be docketed and filed in the prior existing or pending administrative or district court action; provided, however, if there is no administrative or district court action then in existence, the surviving order may be used as the sole basis for opening a new administrative or district court action in the same county where the deprived action was pending or in the county where the legal custodian of the child resides. When applicable, the clerk of the juvenile court shall transmit the surviving order to the clerk of the district court of the county where the order is to be filed along with the names and last-known addresses of the parents of the child. The clerk of the district court shall

immediately upon receipt open a file without a filing fee, assign a new case number and, when applicable, file the order and send by first-class mail a copy of the order with the new or prior existing case number back to the juvenile court and to the parents of the child at their last-known address. The order shall not be confidential and may be enforced or modified after being docketed and filed in the prior existing or new administrative or district court action.

SECTION 4. AMENDATORY 10 O.S. 2001, Section 7003-5.6, as last amended by Section 2, Chapter 196, O.S.L. 2007 (10 O.S. Supp. 2008, Section 7003-5.6), is amended to read as follows:

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

1. The conditions which caused the child to be adjudicated have been corrected;
2. The parental rights of the parent are terminated and a final adoption decreed or the child is placed with a suitable custodian or kinship guardian; or
3. The court otherwise terminates jurisdiction.

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

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

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

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

F. At each review hearing the court shall:

1. Determine whether:

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

- (1) have complied with, performed, and completed the terms and conditions of the individual treatment and service plan which are essential and fundamental to the health, safety or welfare of the child as determined by the court,
- (2) have corrected those conditions which caused the child to be adjudicated and which the court determines to be essential and fundamental to the health, safety or welfare of the child,
- (3) have made marked progress towards reunification with the child, and

- (4) have maintained a close and positive relationship with the child,
 - b. the child should continue in out-of-home placement for a specified period. The court shall project a likely date by which the child may be:
 - (1) returned to and safely maintained in the home,
 - (2) placed with a willing and suitable guardian or custodian, or
 - (3) placed for adoption, or other permanent arrangement,
 - c. the rights of the parent of the child should be terminated and the child placed for adoption, placed with a guardian or custodian, or provided with another permanent arrangement, or
 - d. the child, because of exceptional circumstances, should remain in long-term out-of-home placement as a permanent plan or with a goal of independent living;
- 2. Consider in-state and out-of-state placement options for the child;
- 3. Make a determination as to whether:
 - a. reasonable efforts have been made to provide for the safe return of the child to the child's own home. In determining reasonable efforts, the child's health, safety or welfare shall be the paramount concern. If the court determines or has previously determined that reasonable efforts are not required, pursuant to the provisions of Section 7003-4.6 of this title, or that continuation of reasonable efforts to reunite the child with the child's family is inconsistent with the permanency plan for the child, the court shall determine if reasonable efforts are being made to place the child in a timely manner in accordance with

the permanency plan and to complete steps necessary to finalize permanent placement for the child, ~~and~~

- b. where appropriate, when the child is sixteen (16) years of age or older, services are being provided that will assist the child in making the transition from foster care to independent living, and shall also inquire, or cause inquiry to be made of the child, regarding any proposed independent living plan,
- c. in accordance with the safety or well-being of any child, reasonable efforts have been made to:
 - (1) place siblings, who have been removed, together in the same foster care, guardianship or adoptive placement, and
 - (2) provide for frequent visitation or other ongoing interaction in the case of siblings who have been removed and who are not placed together, and
- d. during the ninety-day period immediately prior to the date on which the child in the Department's custody will attain eighteen (18) years of age, the Department, and, as appropriate, other representatives of the child, is providing the child with assistance and support in developing an appropriate transition plan that is personalized at the direction of the child, that includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services and workforce supports and employment services, and that is as detailed as the child may elect;

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

5. Inquire as to the nature and extent of services being provided the child and parent or parents of the child and shall direct that additional services be provided if necessary to ensure

the safety of the child and to protect the child from further physical, mental, or emotional harm, or to correct the conditions that led to the adjudication; and

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

SECTION 5. AMENDATORY 10 O.S. 2001, Section 7003-5.6d, as last amended by Section 3, Chapter 196, O.S.L. 2007 (10 O.S. Supp. 2008, Section 7003-5.6d), is amended to read as follows:

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

- a. six (6) months after placing the child in out-of-home placement and every six (6) months thereafter, and
- b. thirty (30) days after a determination by the court that reasonable efforts are not required pursuant to the provisions of Section 7003-4.6 of this title and every six (6) months thereafter.

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

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

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

C. In addition to the parties, adequate prior written notice of permanency hearings shall be provided by the Department pursuant to

rules promulgated by the Commission for Human Services to the current foster parents and to any preadoptive parent or relative providing care for the child. A right to be heard at such hearing shall be provided by the court to the current foster parents of a child, the child's guardian ad litem, and to any preadoptive parent or relative providing care for the child. Such notice and right to be heard shall not be construed as requiring any foster parent, preadoptive parent or relative to be made a party to such action.

D. At the hearing, the court shall determine the most suitable permanency plan based on the child's need for a permanent placement as indicated by the recommended permanency plan or other evidence submitted and shall also, in an age-appropriate manner, inquire or cause inquiry to be made of the child regarding the proposed permanency plan and if the child is age sixteen (16) or older, the independent living plan. The court shall determine whether:

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

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

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

3. The child should be placed in a planned permanent living arrangement if the Department has documented a compelling reason for

the court to determine that it would not be in the best interests of the child to return home, or to be placed for adoption or with a fit and willing relative or a legal guardian;

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

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

E. In accordance with the safety or well-being of any child, the court shall determine whether reasonable efforts have been made to:

1. Place siblings, who have been removed, together in the same foster care, guardianship or adoptive placement; and

2. Provide for frequent visitation or other ongoing interaction in the case of siblings who have been removed and who are not placed together.

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

SECTION 6. AMENDATORY 10 O.S. 2001, Section 7204, is amended to read as follows:

Section 7204. A. The Department of Human Services and the ~~Department of Juvenile Justice~~ Office of Juvenile Affairs shall each establish a program of foster care for children in the custody of the state agency.

B. Each ~~Department~~ agency, in implementing the foster care program within its jurisdictional area, shall:

1. Recruit their respective foster families for children in the custody of the state agency;

2. Contract with foster parents and child-placing agencies to provide foster care services to children within the custody of the state agency;

3. Exercise supervision over all foster placements with whom the state agency has a contract for foster care services;

4. Exercise oversight of all foster children within the custody of the state agency who are in out-of-home placement, including, but not limited to, foster children placed in foster homes by a child-placing agency;

5. Advise and cooperate with the governing boards of all child-placing agencies and with foster parents;

6. Assist the staff of all child-placing agencies, foster parents and foster families by advising them on methods and procedures relating to child care, parental substitute authority, behavioral management techniques, and improvement of services;

7. Establish rules and standards for providing foster care services in addition to those required by the Oklahoma Child Care Facilities Licensing Act;

8. Require initial and ongoing foster parent training and education programs related to the area of parental substitute authority and behavioral management techniques, including, but not limited to, restraining and holding techniques, parent-child conflict resolution techniques, stress management, and any other appropriate technique to teach a foster parent how to control potentially violent behavior in a manner appropriate to the age and development of a foster child;

9. Provide foster parents with a statewide, toll-free telephone number, titled the Foster Parent Hotline, for obtaining information related to foster care services and for the filing of any complaints or grievances;

10. Cooperate, collaborate and assist postadjudication review boards in the review of the placement of each child in foster care in order to achieve the goals in the treatment and service plan required for each child by this title;

11. Provide for insurance coverage pursuant to the provisions of the Oklahoma Foster Care and Out-of-Home Placement Act;

12. Provide for collection, through assignment, attachment, garnishment, liens, or other legal process, of the cost for out-of-home placement services provided through the state agency from the parents, guardian, or other person responsible for the care and support of a child in the custody of the state agency;

13. Cooperate and work with a foster parent in integrating a foster child into a foster family setting. The state agency shall provide a foster parent with information, on an ongoing basis, pertinent to the care, guidance, supervision and rearing of a foster child;

14. Apprise the foster family of changes in laws, rules and policy changes on a timely basis;

15. Cooperate with and help promote foster parent associations. The state agency shall provide foster parent associations with data, information and guidelines on the obligations, responsibilities and opportunities of foster parenting and shall keep the associations and members apprised of changes in laws and rules relevant to foster parenting;

16. Through the individualized service planning process, develop a permanency plan for each child in custody who is placed in foster care with the goal of placement of the child in a home environment that can be reasonably expected to be stable and permanent; ~~and~~

17. Assure that each child who has attained the minimum age for compulsory school attendance and is eligible for a foster care payment under Title IV-E of the Social Security Act (42 U.S.C. 670 et seq.) is:

- a. enrolled in an institution which provides elementary or secondary education as determined under the law of the state or other jurisdiction in which the institution is located,
- b. instructed in elementary or secondary education in any legally authorized education program,

- c. in an independent study elementary or secondary education program in accordance with the law of the state or other jurisdiction in which the program is located which is administered by the local school or school district, or
- d. incapable of attending school on a full-time basis due to a documented medical condition supported by regular updates; and

18. Exercise and perform such other acts as may be necessary to implement the Oklahoma Foster Care and Out-of-Home Placement Act.

C. The Department of Human Services and the ~~Department of Juvenile Justice~~ Office of Juvenile Affairs shall not be liable for any costs or expenses expended voluntarily by a foster parent for a foster child which are in excess of the funds authorized for providing foster care services to the foster child.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 4th day of May, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the 14th day of April, 2009.

Presiding Officer of the House
of Representatives