

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE  
4 FOR  
5 HOUSE BILL NO. 2736

By: Peters

6 COMMITTEE SUBSTITUTE

7 An Act relating to children; amending 10A O.S. 2011,  
8 Sections 1-6-102 and 1-6-103, which relate to  
9 children's records in child welfare cases;  
10 authorizing the release of certain records to Indian  
11 tribes; specifying confidentiality shall be  
12 maintained; authorizing the inspection of certain  
13 records by tribes; specifying confidentiality shall  
14 be maintained; directing the Department of Human  
15 Services to outsource certain social services;  
16 specifying the Department shall retain certain  
17 responsibilities; defining term; providing for the  
18 selection of certain agencies; providing the  
19 Department authority to establish certain  
20 requirements; providing for the transfer or  
21 termination of certain employees; providing for the  
22 creation of a Steering Committee; providing for the  
23 appointment of Steering Committee members; providing  
24 for the selection of cochairs; directing certain  
Steering Committee members to make available certain  
resources; requiring certain staff to provide support  
to the Steering Committee; specifying requirements;  
providing for the submission of certain advisory  
plan; specifying required contents of plan;  
specifying the plan outcomes shall be based upon  
certain federal act; specifying plan shall be  
consistent with certain settlement agreement;  
directing Department to establish a quality assurance  
program; specifying requirements; requiring  
participating agencies to have certain accreditation;  
limiting services of unaccredited agencies; providing  
for codification; providing an effective date; and  
declaring an emergency.

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

2 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-6-102, is  
3 amended to read as follows:

4 Section 1-6-102. A. Except as provided by this section and  
5 except as otherwise specifically provided by state and federal laws,  
6 the following records are confidential and shall not be open to the  
7 general public or inspected or their contents disclosed:

- 8 1. Juvenile court records;
- 9 2. Agency records;
- 10 3. District attorney's records;
- 11 4. Law enforcement records;
- 12 5. Nondirectory education records; and
- 13 6. Social records.

14 B. The limitation of subsection A of this section shall not  
15 apply to statistical information and other abstract information  
16 obtained pursuant to the provisions of the Oklahoma Children's Code.

17 C. Except as authorized by Section 620.6 of Title 10 of the  
18 Oklahoma Statutes and this chapter and except as otherwise  
19 specifically provided by state and federal laws pertaining to  
20 education records, medical records, drug or alcohol treatment  
21 records, law enforcement, or social service records, the records  
22 listed in subsection A of this section shall be confidential and  
23 shall be inspected, released, disclosed, corrected or expunged only  
24 pursuant to an order of the court. A subpoena or subpoena duces

1 tecum purporting to compel testimony or disclosure of such  
2 information or record shall be invalid.

3 D. 1. In a proceeding where the child custody or visitation is  
4 at issue, the safety analysis records of the Department shall be  
5 produced to the court when a parent, legal guardian, or child who is  
6 the subject of such record obtains a court order directing the  
7 production of the records.

8 2. The person or party seeking the records shall proceed by  
9 filing a motion for production of safety analysis records which  
10 contains the following averments:

- 11 a. the movant is a parent, legal guardian, or child who  
12 is the subject of the safety analysis records,
- 13 b. child custody or visitation is at issue,
- 14 c. that upon receipt from the court, the safety analysis  
15 records shall be kept confidential and disclosed only  
16 to the movant, the attorneys of the movant, those  
17 persons employed by or acting on behalf of the movant  
18 and the attorneys of the movant whose aid is necessary  
19 to the prosecution or defense of the child custody or  
20 visitation issue, and
- 21 d. that a copy of the motion is being provided to the  
22 parties, the attorney of the child, if any, and the  
23 guardian ad litem, if any.

24

1           3. Upon filing the motion for production of safety analysis  
2 records, the court may, in its discretion, enter an ex parte order  
3 for production of safety analysis records that shall be  
4 substantially in the following form:

5                   CONFIDENTIAL RECORDS DISCLOSURE AND PROTECTIVE ORDER

6 NOW on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the court finds that child  
7 custody or visitation is at issue in the above styled and numbered  
8 proceeding and the disclosure of the safety analysis records of the  
9 Oklahoma Department of Human Services pursuant to Section 1-6-102 of  
10 this title is necessary and relevant to the court's determination of  
11 the child's best interests. The court therefore orders as follows:

- 12           a. The Oklahoma Department of Human Services  
13               ("Department" or "DHS") shall produce a copy of its  
14               safety analysis records to this court on or before \_\_\_\_  
15               day of \_\_\_\_\_, 20\_\_.
- 16           b. The Department shall be permitted to redact or omit  
17               information in its safety analysis records which may  
18               identify the reporter of alleged child abuse or  
19               neglect.
- 20           c. All information contained in the safety analysis  
21               records of the Department is confidential under  
22               Oklahoma law and shall be disclosed only to the  
23               parties, the attorneys of the parties, and those  
24               persons employed by or acting on behalf of the parties

1 and the attorneys of the parties whose aid is  
2 necessary to the prosecution or defense of the child  
3 custody or visitation issue.

4 d. No confidential information whether contained in  
5 pleadings, briefs, discovery, or other documents shall  
6 be filed except under seal with the legend "THIS  
7 DOCUMENT CONTAINS CONFIDENTIAL INFORMATION AND IS  
8 SUBJECT TO A PROTECTIVE ORDER OF THE COURT".

9 e. No person or entity shall utilize any information  
10 contained in the safety analysis records for any  
11 purpose other than the prosecution or defense of the  
12 child custody or visitation issues in this case.

13 f. The release by counsel or any other person for any  
14 reason of identifiers such as social security or tax  
15 ID numbers that may be contained in the Department  
16 records and which belong to any person or entity is  
17 strictly prohibited.

18 g. Any violation of this order shall be subject to  
19 prosecution for contempt of court.

20 IT IS SO ORDERED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

21 4. This subsection shall not apply to:

22 a. deprived child proceedings brought pursuant to the  
23 Oklahoma Children's Code,  
24

- 1           b.    discovery of safety analysis records by a person or  
2                    entity who is not the subject of those records, or  
3           c.    discovery of safety analysis records in criminal,  
4                    other civil, or administrative proceedings.

5           5.    The party who has obtained a court order for the safety  
6 analysis records of the Department shall provide the Department with  
7 the names and other identifying information concerning the subjects  
8 of the safety analysis records.

9           6.    Upon receipt of a court order to produce its safety analysis  
10 records, the Department shall be given a minimum of five (5)  
11 judicial days to deliver the records to the court.

12           7.    The safety analysis records provided by the Department to  
13 the court pursuant to this subsection shall not be subject to  
14 judicial review and shall be released by the court only to the  
15 litigants in the case under a protective order.

16           8.    A court order entered pursuant to this subsection which  
17 purports to require the Department to produce all agency records  
18 shall be deemed to require only the production of the safety  
19 analysis records of the Department.

20           9.    An employee of the Department shall not be compelled to  
21 testify about the safety analysis records except upon a court order  
22 directing such testimony. Any subpoena or subpoena duces tecum  
23 purporting to compel disclosure of safety analysis records or  
24

1 testimony concerning such records without a court order shall be  
2 invalid.

3 10. Except as provided by this subsection or other law,  
4 confidential records may be inspected, released, disclosed,  
5 corrected, or expunged only by the procedure set forth in subsection  
6 E of this section.

7 E. When confidential records may be relevant in a criminal,  
8 civil, or administrative proceeding, an order of the court  
9 authorizing the inspection, release, disclosure, correction, or  
10 expungement of confidential records shall be entered by the court  
11 only after a judicial review of the records and a determination of  
12 necessity pursuant to the following procedure:

13 1. A petition or motion shall be filed with the court  
14 describing with specificity the confidential records being sought  
15 and setting forth in detail the compelling reason why the  
16 inspection, release, disclosure, correction, or expungement of  
17 confidential records should be ordered by the court. A petition or  
18 motion that does not contain the required specificity or detail may  
19 be subject to dismissal by the court;

20 2. Upon the filing of the petition or motion, the court shall  
21 set a date for a hearing and shall require notice of not less than  
22 twenty (20) days to the agency or person holding the records and the  
23 person who is the subject of the record if such person is eighteen  
24 (18) years of age or older or to the parents of a child less than

1 | eighteen (18) years of age who is the subject of the record, to the  
2 | attorneys, if any, of such person, child or parents and any other  
3 | interested party as ordered by the court. The court may also enter  
4 | an ex parte order compelling the person or agency holding the  
5 | records to either produce the records to the court on or before the  
6 | date set for hearing or file an objection or appear for the hearing.  
7 | The court may shorten the time allowed for notice due to exigent  
8 | circumstances;

9 |       3. At the hearing, should the court find that a compelling  
10 | reason does not exist for the confidential records to be judicially  
11 | reviewed, the matter shall be dismissed; otherwise, the court shall  
12 | order that the records be produced for a judicial review. The  
13 | hearing may be closed at the discretion of the court; and

14 |       4. The judicial review of the records shall include a  
15 | determination, with due regard for the confidentiality of the  
16 | records and the privacy of persons identified in the records, as to  
17 | whether an order should be entered authorizing the inspection,  
18 | release, disclosure, correction, or expungement of the records based  
19 | upon the need for the protection of a legitimate public or private  
20 | interest.

21 |       F. The court may, for good cause shown, prohibit the release of  
22 | such confidential records or testimony or authorize a release of the  
23 | confidential information or testimony upon such conditions as the  
24 |

1 court deems necessary and appropriate, subject to the provisions of  
2 this section.

3 G. Any public or private agency, entity, or professional person  
4 required to produce confidential records pursuant to this section  
5 may require payment of fees from the party seeking the records prior  
6 to any records being produced, including a research fee not  
7 exceeding Twenty Dollars (\$20.00) per hour and a copy fee not to  
8 exceed fifty cents (\$0.50) per page and Five Dollars (\$5.00) per  
9 copy of each video tape or disk; provided, the court may waive such  
10 costs in a criminal action based upon indigence of a defendant. The  
11 Department shall not be permitted to assess fees for records  
12 produced pursuant to subsection D of this section.

13 H. Nothing in Section 620.6 of Title 10 of the Oklahoma  
14 Statutes and this chapter shall be construed as:

15 1. Authorizing the inspection of records or the disclosure of  
16 information contained in records relating to the provision of  
17 benefits or services funded, in whole or in part, with federal  
18 funds, except in accord with federal statutes and regulations  
19 governing the receipt or use of such funds;

20 2. Authorizing the disclosure of papers, records, books or  
21 other information relating to the adoption of a child required to be  
22 kept confidential. The disclosure of such information shall be  
23 governed by the provisions of the Oklahoma Adoption Code;

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1       3. Abrogating any privilege, including the attorney-client  
2 privilege, or affecting any limitation on such privilege found in  
3 any other statutes;

4       4. Limiting or otherwise affecting access of parties to a  
5 deprived proceeding to records filed with or submitted to the court;

6       5. Limiting or otherwise affecting access of agencies to  
7 information subject to disclosure, review, or inspection by contract  
8 or as a condition for the receipt of public funds or participation  
9 in any program administered by the agency;

10       6. Prohibiting the Department of Human Services from  
11 summarizing the outcome of an investigation to the person who  
12 reported a known or suspected instance of child abuse or neglect or  
13 to any person providing services to a child who is or is alleged to  
14 be a victim of child abuse;

15       7. Authorizing the disclosure of information which identifies  
16 any person who has reported an allegation of known or suspected  
17 child abuse or neglect unless such disclosure is specifically  
18 ordered by the court;

19       8. Prohibiting the Department of Human Services from providing  
20 a summary of allegations and findings of an investigation involving  
21 a child care facility that does not disclose identities but that  
22 permits parents to evaluate the facility;

23       9. Prohibiting the disclosure of confidential information to  
24 any educational institution, facility, or educator to the extent

1 necessary to enable the educator to better provide educational  
2 services and activities for a child and provide for the safety of  
3 students; ~~or~~

4 10. Prohibiting the Department from obtaining, without a court  
5 order, nondirectory education records pertaining to a child in the  
6 legal custody of the Department; or

7 11. Prohibiting the Department from providing records to a  
8 federally recognized Indian tribe for any individual who has applied  
9 for foster care placement, adoptive placement, or guardianship  
10 placement through the tribe; provided, that the tribe shall be  
11 required to maintain the confidentiality of the records.

12 SECTION 2. AMENDATORY 10A O.S. 2011, Section 1-6-103, is  
13 amended to read as follows:

14 Section 1-6-103. A. Juvenile court records and Department of  
15 Human Services agency records pertaining to a child may be  
16 inspected, and their contents shall be disclosed, without a court  
17 order to the following persons upon showing of proper credentials  
18 and pursuant to their lawful duties:

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

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

6           3. The attorney representing a child who is the subject of a  
7 proceeding pursuant to the provisions of this title or other  
8 proceeding where child custody or visitation is at issue;

9           4. Employees of juvenile bureaus in the course of their  
10 official duties pursuant to this title, and employees of the  
11 Department of Human Services in the course of their official duties;

12           5. Employees of a law enforcement agency of this or another  
13 state or military enclave and employees of a child protective  
14 service of another state or military enclave in the course of their  
15 official duties pertaining to investigations of a report of known or  
16 suspected child abuse or neglect or crimes against children or for  
17 the purpose of determining whether to place a child in protective  
18 custody;

19           6. The Oklahoma Commission on Children and Youth as provided by  
20 Sections 601.2 and 601.6 of Title 10 of the Oklahoma Statutes;

21           7. The Office of Juvenile Affairs;

22           8. A federally recognized Indian tribe in which the child who  
23 is the subject of the record is a member or is eligible to become a  
24 member of the tribe and is the biological child of a member of an

1 Indian tribe pursuant to the provisions of the Federal Indian Child  
2 Welfare Act and the Oklahoma Indian Child Welfare Act; provided such  
3 Indian tribe, in the course of its official duties, is:

4 a. investigating a report of known or suspected child  
5 abuse or neglect or crimes against children or for the  
6 purpose of determining whether to place a child in  
7 protective custody,

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

11 c. the tribe, the tribal court or the tribal child  
12 welfare program has asserted jurisdiction or  
13 intervened in any case in which the child is the  
14 subject of the proceedings or is a party to the  
15 proceedings pursuant to the authority provided in the  
16 Oklahoma Indian Child Welfare Act.

17 The records that are to be provided to Indian tribes under this  
18 subsection shall include all case records, reports, and documents as  
19 defined in Section 1-6-101 of this title;

20 9. The Governor or to any person the Governor designates, in  
21 writing;

22 10. Any federal official of the United States Department of  
23 Health and Human Services;

24

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

4 12. A foster parent, with regard to records concerning the  
5 social, medical, psychological, or educational needs of a child  
6 currently placed with that foster parent or of a child being  
7 considered for placement with that foster parent;

8 13. An employee of any state or federal corrections or law  
9 enforcement agency in the performance of the official duties of the  
10 employee concerning presentence investigations or supervision of a  
11 parent of an alleged or adjudicated deprived child, or the legal  
12 guardian, custodian, or any other adult member of the child's home  
13 who is responsible for the health, safety, or welfare of the child;  
14 and

15 14. An employee of a state agency of this or another state in  
16 the performance of the official duties of the employee concerning  
17 the establishment of paternity or the establishment or enforcement  
18 of a child support order or other entitlement for the benefit of a  
19 child; provided, disclosure shall be limited to information directly  
20 related to the purpose of such disclosure.

21 B. In addition to the persons listed in subsection A of this  
22 section, juvenile court records may be inspected, and their contents  
23 shall be disclosed, without a court order to the following persons  
24

1 upon showing of proper credentials and pursuant to their lawful  
2 duties:

3 1. Employees of court-appointed special advocate programs, as  
4 defined in Section 1-1-105 of this title, in the course of their  
5 official duties pertaining to recruiting, screening, training,  
6 assigning cases, supervising, and supporting volunteers in their  
7 roles as guardian ad litem pursuant to Section 1-4-306 of this  
8 title;

9 2. Members of postadjudication review boards established  
10 pursuant to the provisions of Section 1116.2 of Title 10 of the  
11 Oklahoma Statutes, the Child Death Review Board, and  
12 multidisciplinary personnel. In addition to juvenile court records,  
13 members of such postadjudication review boards may inspect, without  
14 a court order, information that includes, but is not limited to:

- 15 a. psychological and medical records,
- 16 b. placement history and information, including the names  
17 and addresses of foster parents,
- 18 c. family assessments,
- 19 d. treatment or service plans, and
- 20 e. school records;

21 3. The Department of Human Services or other public or private  
22 agency or individual having court-ordered custody or physical  
23 custody pursuant to Department placement of the child who is the  
24 subject of the record;

1 4. The child who is the subject of the record and the parents,  
2 legal guardian, custodian, or foster parent of such child; and

3 5. A person authorized by the court to conduct bona fide  
4 research, provided such research may not publish the names or  
5 identities of parents, children, or other persons contained in the  
6 records.

7 C. In addition to the persons and entities named in subsection  
8 A of this section, Department of Human Services agency records may  
9 be inspected, and their contents shall be disclosed, without a court  
10 order to the following persons upon showing of proper credentials  
11 and pursuant to their lawful duties:

12 1. Postadjudicatory review boards, court-appointed special  
13 advocates, and members of the Child Death Review Board;

14 2. Any district court which has ordered a home study by the  
15 Department in an action for divorce, annulment, custody of a child,  
16 or appointment of a legal guardian of a child, or any subsequent  
17 proceeding in such actions; provided, however, the Department may  
18 limit disclosure in the home study to summaries or to information  
19 directly related to the purpose of the disclosure;

20 3. Any federally recognized Indian tribe for any individual who  
21 has applied for foster care placement, adoptive placement, or  
22 guardianship placement through the tribe; provided, that the tribe  
23 shall be required to maintain the confidentiality of the records;  
24

1        4. Members of multidisciplinary teams or multidisciplinary  
2 personnel designated by the Department, investigating a report of  
3 known or suspected child abuse or neglect or providing services to a  
4 child or family which is the subject of the report;

5        ~~4.~~ 5. A physician who has before him or her a child whom the  
6 physician reasonably suspects may be abused or neglected or any  
7 health care or mental health professionals involved in the  
8 evaluation or treatment of the child or the parents, legal guardian,  
9 foster parent, custodian, or other family members of the child;

10       ~~5.~~ 6. Any public or private agency or person authorized by the  
11 Department to diagnose, or provide care, treatment, supervision, or  
12 other services to a child who is the subject of a report or record  
13 of child abuse or neglect; provided, the Department may limit such  
14 disclosure to summaries or to information directly necessary for the  
15 purpose of such disclosure;

16       ~~6.~~ 7. Any person or agency for research purposes, if all of the  
17 following conditions are met:

18            a.    the person or agency conducting the research is  
19                    employed by the State of Oklahoma or is under contract  
20                    with this state and is authorized by the Department to  
21                    conduct the research, and

22            b.    the person or agency conducting the research ensures  
23                    that all documents containing identifying information  
24                    are maintained in secure locations and access to the

1 documents by unauthorized persons is prohibited; that  
2 no identifying information is included in documents  
3 generated from the research conducted; and that all  
4 identifying information is deleted from documents used  
5 in the research when the research is completed;

6 ~~7.~~ 8. The Oklahoma Health Care Authority; and

7 ~~8.~~ 9. A medical examiner when such person is determining the  
8 cause of death of a child.

9 D. In accordance with the rules promulgated for such purpose  
10 pursuant to Section 620.6 of Title 10 of the Oklahoma Statutes,  
11 records listed in subsection A of Section 1-6-102 of this title may  
12 be inspected and their contents disclosed without a court order to  
13 participating agencies.

14 E. The court may disclose to an employee of an out-of-state  
15 entity, licensed to perform adoption home studies in that state,  
16 whether the prospective adoptive parent has had parental rights to a  
17 child terminated in Oklahoma or whether the prospective adoptive  
18 parent has relinquished parental rights to a child in Oklahoma.

19 F. Nothing in this section shall be construed as prohibiting  
20 the Department from disclosing such confidential information as may  
21 be necessary to secure appropriate care, treatment, protection or  
22 supervision of a child alleged to be abused or neglected.

1           SECTION 3.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-9-123 of Title 10A, unless  
3 there is created a duplication in numbering, reads as follows:

4           A. The Department of Human Services shall outsource the  
5 recruitment, training and retention of all foster care homes and  
6 service providers, to include foster care, emergency foster care,  
7 therapeutic foster care, contracted foster care, kinship foster care  
8 and other out-of-home foster placements statewide. To improve the  
9 recruitment, training and retention of foster care providers the  
10 Department shall also expand existing partnerships with other state  
11 agencies, private service providers and tribal entities. In  
12 addition, the Department shall cooperate with the Steering Committee  
13 established in subsection B of this section to initiate the process  
14 of outsourcing foster care, emergency foster care, therapeutic  
15 foster care, contracted foster care and other related child-placing  
16 services as may be determined by the Steering Committee with the  
17 approval of the Oklahoma Legislature. The Department shall retain  
18 responsibility for child abuse and neglect investigations, referrals  
19 to law enforcement, participation in the court system, case  
20 management duties and adoptions. As used in this section, the term  
21 "outsourcing" means the Department shall contract with private  
22 agencies capable of improving the recruitment, training and  
23 retention of qualified foster care providers using objective,  
24 measurable criteria. In addition, "outsourcing" shall include

1 contracts with child-placing agencies accredited pursuant to  
2 subsection H of this section. The Department shall establish all  
3 requirements and criteria necessary to improve the recruitment,  
4 training and retention of foster care service providers and shall  
5 have authority to terminate or discontinue contracts with providers  
6 unable to deliver measurable results. Any employee of the  
7 Department of Human Services whose position is eliminated as a  
8 result of the outsourcing of foster care services or child-placing  
9 services may be retained by the Department if a position is  
10 available. Any Department of Human Services employee not retained  
11 by the Department may be terminated by operation of law.

12 B. A Steering Committee shall develop an advisory plan for the  
13 Legislature to consider for the outsourcing of recruitment, training  
14 and retention of foster care providers as well as the outsourcing of  
15 child-placing services. The Steering Committee shall monitor and  
16 evaluate the progress of the implementation of outsourcing and  
17 provide recommendations to the Legislature on the implementation of  
18 outsourcing statewide. The plan shall provide for the expansion of  
19 existing partnerships and the creation of new relationships with  
20 other state agencies as well as private organizations with the  
21 ultimate goal of minimizing the harm to children whose lives have  
22 been disrupted because they have been removed from their homes. The  
23 members of the Steering Committee shall be as follows:

24

1           1. The Director of the Department of Human Services or  
2 designee;

3           2. The Chief Executive Officer of the Oklahoma Health Care  
4 Authority or designee;

5           3. The Director of the Office of State Finance or designee;

6           4. The House author of this act who shall serve in an advisory  
7 capacity and shall not be a voting member of the Steering Committee;

8           5. The Senate author of this act who shall serve in an advisory  
9 capacity and shall not be a voting member of the Steering Committee;

10          6. Four members to be appointed by the Speaker of the House of  
11 Representatives, as follows:

12           a. one member representing a licensed child-placing  
13 agency without national accreditation who shall serve  
14 as cochair,

15           b. one member representing private child-placing agencies  
16 with experience in some aspect of foster care or  
17 therapeutic foster care,

18           c. one member who shall be a Department of Human Services  
19 employee who is a permanency planning worker, and

20           d. one member who shall be a judge whose primary area of  
21 responsibility includes the trial and disposition of  
22 cases involving deprived children in an urban part of  
23 the state;

24

1           7. Four members to be appointed by the President Pro Tempore of  
2 the Senate, as follows:

3           a. one member representing a licensed child-placing  
4 agency with national accreditation who shall serve as  
5 cochair,

6           b. one member representing a statewide association of  
7 foster parents,

8           c. one member who shall be a Department of Human Services  
9 employee who is a foster care worker, and

10          d. one member who shall be a judge who has responsibility  
11 for the trial and disposition of cases involving  
12 deprived children in a rural part of the state;

13          8. Three members to be appointed by the Governor, as follows:

14          a. one member representing an agency with experience in  
15 the management of a community- or faith-based social  
16 service,

17          b. one member who shall be a judge with experience in the  
18 trial and disposition of cases involving deprived  
19 children, and

20          c. one member who shall represent a nonprofit membership  
21 organization representing Indian child welfare  
22 programs in the state; and

1 9. Other members as may be appointed with the consent of a  
2 majority of the current members voting at a scheduled meeting, not  
3 to exceed a total of three additional members.

4 C. The members of the Steering Committee who are directors of  
5 state agencies shall make available agency resources as are  
6 necessary to carry out the provisions of this section. Department  
7 of Human Services' staff utilizing current agency resources shall  
8 support the Steering Committee. Support shall include gathering  
9 necessary information for the Steering Committee, hosting the  
10 Steering Committee meetings and conference calls, providing meeting  
11 announcements as well as agendas and minutes of the Steering  
12 Committee and subcommittees as directed by the cochairs and  
13 preparing reports for the review and approval of the Steering  
14 Committee.

15 D. The advisory plan shall be submitted for approval to the  
16 Speaker of the House of Representatives and the President Pro  
17 Tempore of the Senate no later than February 1, 2013. The advisory  
18 plan shall include a methodology for determining and transferring  
19 funds, including federal funds, that may be used to outsource the  
20 recruitment, training and retention of foster care providers as well  
21 as funding for the outsourcing of foster care, emergency foster  
22 care, therapeutic foster care, contracted foster care and other  
23 related child-placing services. The methodology shall provide for  
24 the transfer of funds appropriated and budgeted for all services and

1 programs that have been incorporated into the project. The advisory  
2 plan shall provide for increasing the privatization of traditional  
3 and kinship foster care across the state. The advisory plan shall  
4 also identify areas or regions of the state in which the  
5 implementation of outsourcing would not be feasible due to a lack of  
6 service providers and shall recommend solutions designed to provide  
7 services statewide. The advisory plan shall include recommendations  
8 for reimbursement rates for private agencies, a minimum rate to be  
9 paid to foster parents, and an in-home intensive family  
10 stabilization and support rate for services to children at risk of  
11 removal as identified by the Department and referred to private  
12 contractors.

13 E. The advisory plan shall address expected workload, program  
14 experience and other requirements necessary for foster care  
15 improvement and any child-placing agencies which may qualify as  
16 service providers. Providers may include community organizations,  
17 faith-based groups, and private entities with experience in the  
18 field of child welfare.

19 F. The advisory plan shall include outcomes pertaining to child  
20 safety, permanency and well-being mutually agreed upon by the  
21 Steering Committee based upon standards established by the federal  
22 Adoption and Safe Families Act, Public Law 105-89. The advisory  
23 plan shall also be consistent with any requirement placed upon the  
24

1 Department pursuant to the settlement of litigation agreement  
2 completed in 2012.

3 G. The Department shall establish a quality assurance program  
4 for any outsourced services. The quality assurance program shall be  
5 based on standards established by the federal Adoption and Safe  
6 Families Act, Public Law 105-89, as well as by a national  
7 accrediting organization such as the Council on Accreditation of  
8 Services for Families and Children, Inc., the Commission on  
9 Accreditation of Rehabilitation Facilities, the Joint Commission on  
10 the Accreditation of Healthcare Organizations, or by another  
11 equivalent accreditation agency, or agencies, as the Secretary of  
12 the United States Department of Health and Human Services may  
13 recognize. The Department shall evaluate each contractor annually.

14 H. Agencies contracting with the Department for the outsourcing  
15 of child placement services shall be accredited by the Joint  
16 Commission on Accreditation of Healthcare Organizations, the  
17 Commission on Accreditation of Rehabilitation Facilities, the  
18 Council on Accreditation, or by another equivalent accreditation  
19 agency, or agencies, as the Secretary of the United States  
20 Department of Health and Human Services may recognize. An agency  
21 lacking accreditation shall have a contract signed with an  
22 accredited agency and shall be limited to offering traditional  
23 foster care placements.

24 SECTION 4. This act shall become effective July 1, 2012.

1 SECTION 5. It being immediately necessary for the preservation  
2 of the public peace, health and safety, an emergency is hereby  
3 declared to exist, by reason whereof this act shall take effect and  
4 be in full force from and after its passage and approval.

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