

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2736

By: Peters of the House

and

Brinkley of the Senate

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9 COMMITTEE SUBSTITUTE

10 An Act relating to children; amending 10A O.S. 2011,
11 Sections 1-6-102 and 1-6-103, which relate to
12 children's records in child welfare cases;
13 authorizing the release of certain records to Indian
14 tribes; specifying confidentiality shall be
15 maintained; authorizing the inspection of certain
16 records by tribes; specifying confidentiality shall
17 be maintained; directing the Department of Human
18 Services to outsource certain social services;
19 specifying the Department shall retain certain
20 responsibilities; defining term; providing for the
21 selection of certain agencies; providing the
22 Department authority to establish certain
23 requirements; providing for the transfer or
24 termination of certain employees; providing for the
creation of a Steering Committee; providing for the
appointment of Steering Committee members; providing
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

1 program; specifying requirements; requiring
2 participating agencies to have certain accreditation;
3 limiting services of unaccredited agencies; providing
4 for codification; providing an effective date; and
5 declaring an emergency.

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

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

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

- 13 1. Juvenile court records;
- 14 2. Agency records;
- 15 3. District attorney's records;
- 16 4. Law enforcement records;
- 17 5. Nondirectory education records; and
- 18 6. Social records.

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

22 C. Except as authorized by Section 620.6 of Title 10 of the
23 Oklahoma Statutes and this chapter and except as otherwise
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1 specifically provided by state and federal laws pertaining to
2 education records, medical records, drug or alcohol treatment
3 records, law enforcement, or social service records, the records
4 listed in subsection A of this section shall be confidential and
5 shall be inspected, released, disclosed, corrected or expunged only
6 pursuant to an order of the court. A subpoena or subpoena duces
7 tecum purporting to compel testimony or disclosure of such
8 information or record shall be invalid.

9 D. 1. In a proceeding where the child custody or visitation is
10 at issue, the safety analysis records of the Department shall be
11 produced to the court when a parent, legal guardian, or child who is
12 the subject of such record obtains a court order directing the
13 production of the records.

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

- 17 a. the movant is a parent, legal guardian, or child who
18 is the subject of the safety analysis records,
19 b. child custody or visitation is at issue,
20 c. that upon receipt from the court, the safety analysis
21 records shall be kept confidential and disclosed only
22 to the movant, the attorneys of the movant, those
23 persons employed by or acting on behalf of the movant

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

4 d. that a copy of the motion is being provided to the
5 parties, the attorney of the child, if any, and the
6 guardian ad litem, if any.

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

11 CONFIDENTIAL RECORDS DISCLOSURE AND PROTECTIVE ORDER

12 NOW on this ____ day of _____, 20__, the court finds that child
13 custody or visitation is at issue in the above styled and numbered
14 proceeding and the disclosure of the safety analysis records of the
15 Oklahoma Department of Human Services pursuant to Section 1-6-102 of
16 this title is necessary and relevant to the court's determination of
17 the child's best interests. The court therefore orders as follows:

18 a. The Oklahoma Department of Human Services
19 ("Department" or "DHS") shall produce a copy of its
20 safety analysis records to this court on or before ____
21 day of _____, 20__.

22 b. The Department shall be permitted to redact or omit
23 information in its safety analysis records which may
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1 identify the reporter of alleged child abuse or
2 neglect.

3 c. All information contained in the safety analysis
4 records of the Department is confidential under
5 Oklahoma law and shall be disclosed only to the
6 parties, the attorneys of the parties, and those
7 persons employed by or acting on behalf of the parties
8 and the attorneys of the parties whose aid is
9 necessary to the prosecution or defense of the child
10 custody or visitation issue.

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

16 e. No person or entity shall utilize any information
17 contained in the safety analysis records for any
18 purpose other than the prosecution or defense of the
19 child custody or visitation issues in this case.

20 f. The release by counsel or any other person for any
21 reason of identifiers such as social security or tax
22 ID numbers that may be contained in the Department
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1 records and which belong to any person or entity is
2 strictly prohibited.

3 g. Any violation of this order shall be subject to
4 prosecution for contempt of court.

5 IT IS SO ORDERED this ___ day of _____, 20__.

6 4. This subsection shall not apply to:

7 a. deprived child proceedings brought pursuant to the
8 Oklahoma Children's Code,

9 b. discovery of safety analysis records by a person or
10 entity who is not the subject of those records, or

11 c. discovery of safety analysis records in criminal,
12 other civil, or administrative proceedings.

13 5. The party who has obtained a court order for the safety
14 analysis records of the Department shall provide the Department with
15 the names and other identifying information concerning the subjects
16 of the safety analysis records.

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

20 7. The safety analysis records provided by the Department to
21 the court pursuant to this subsection shall not be subject to
22 judicial review and shall be released by the court only to the
23 litigants in the case under a protective order.

1 8. A court order entered pursuant to this subsection which
2 purports to require the Department to produce all agency records
3 shall be deemed to require only the production of the safety
4 analysis records of the Department.

5 9. An employee of the Department shall not be compelled to
6 testify about the safety analysis records except upon a court order
7 directing such testimony. Any subpoena or subpoena duces tecum
8 purporting to compel disclosure of safety analysis records or
9 testimony concerning such records without a court order shall be
10 invalid.

11 10. Except as provided by this subsection or other law,
12 confidential records may be inspected, released, disclosed,
13 corrected, or expunged only by the procedure set forth in subsection
14 E of this section.

15 E. When confidential records may be relevant in a criminal,
16 civil, or administrative proceeding, an order of the court
17 authorizing the inspection, release, disclosure, correction, or
18 expungement of confidential records shall be entered by the court
19 only after a judicial review of the records and a determination of
20 necessity pursuant to the following procedure:

21 1. A petition or motion shall be filed with the court
22 describing with specificity the confidential records being sought
23 and setting forth in detail the compelling reason why the
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1 inspection, release, disclosure, correction, or expungement of
2 confidential records should be ordered by the court. A petition or
3 motion that does not contain the required specificity or detail may
4 be subject to dismissal by the court;

5 2. Upon the filing of the petition or motion, the court shall
6 set a date for a hearing and shall require notice of not less than
7 twenty (20) days to the agency or person holding the records and the
8 person who is the subject of the record if such person is eighteen
9 (18) years of age or older or to the parents of a child less than
10 eighteen (18) years of age who is the subject of the record, to the
11 attorneys, if any, of such person, child or parents and any other
12 interested party as ordered by the court. The court may also enter
13 an ex parte order compelling the person or agency holding the
14 records to either produce the records to the court on or before the
15 date set for hearing or file an objection or appear for the hearing.
16 The court may shorten the time allowed for notice due to exigent
17 circumstances;

18 3. At the hearing, should the court find that a compelling
19 reason does not exist for the confidential records to be judicially
20 reviewed, the matter shall be dismissed; otherwise, the court shall
21 order that the records be produced for a judicial review. The
22 hearing may be closed at the discretion of the court; and
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1 4. The judicial review of the records shall include a
2 determination, with due regard for the confidentiality of the
3 records and the privacy of persons identified in the records, as to
4 whether an order should be entered authorizing the inspection,
5 release, disclosure, correction, or expungement of the records based
6 upon the need for the protection of a legitimate public or private
7 interest.

8 F. The court may, for good cause shown, prohibit the release of
9 such confidential records or testimony or authorize a release of the
10 confidential information or testimony upon such conditions as the
11 court deems necessary and appropriate, subject to the provisions of
12 this section.

13 G. Any public or private agency, entity, or professional person
14 required to produce confidential records pursuant to this section
15 may require payment of fees from the party seeking the records prior
16 to any records being produced, including a research fee not
17 exceeding Twenty Dollars (\$20.00) per hour and a copy fee not to
18 exceed fifty cents (\$.50) per page and Five Dollars (\$5.00) per
19 copy of each video tape or disk; provided, the court may waive such
20 costs in a criminal action based upon indigence of a defendant. The
21 Department shall not be permitted to assess fees for records
22 produced pursuant to subsection D of this section.

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

3 1. Authorizing the inspection of records or the disclosure of
4 information contained in records relating to the provision of
5 benefits or services funded, in whole or in part, with federal
6 funds, except in accord with federal statutes and regulations
7 governing the receipt or use of such funds;

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

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

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

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

21 6. Prohibiting the Department of Human Services from
22 summarizing the outcome of an investigation to the person who
23 reported a known or suspected instance of child abuse or neglect or
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1 to any person providing services to a child who is or is alleged to
2 be a victim of child abuse;

3 7. Authorizing the disclosure of information which identifies
4 any person who has reported an allegation of known or suspected
5 child abuse or neglect unless such disclosure is specifically
6 ordered by the court;

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

11 9. Prohibiting the disclosure of confidential information to
12 any educational institution, facility, or educator to the extent
13 necessary to enable the educator to better provide educational
14 services and activities for a child and provide for the safety of
15 students; ~~or~~

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

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

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

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

8 1. The court having the child currently before it in any
9 proceeding pursuant to this title, any district court or tribal
10 court to which such proceedings may be transferred, employees and
11 officers of the court in the performance of their duties, including
12 but not limited to guardians ad litem appointed by the court, and
13 court-appointed special advocates;

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

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

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1 4. Employees of juvenile bureaus in the course of their
2 official duties pursuant to this title, and employees of the
3 Department of Human Services in the course of their official duties;

4 5. Employees of a law enforcement agency of this or another
5 state or military enclave and employees of a child protective
6 service of another state or military enclave in the course of their
7 official duties pertaining to investigations of a report of known or
8 suspected child abuse or neglect or crimes against children or for
9 the purpose of determining whether to place a child in protective
10 custody;

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

13 7. The Office of Juvenile Affairs;

14 8. A federally recognized Indian tribe in which the child who
15 is the subject of the record is a member or is eligible to become a
16 member of the tribe and is the biological child of a member of an
17 Indian tribe pursuant to the provisions of the Federal Indian Child
18 Welfare Act and the Oklahoma Indian Child Welfare Act; provided such
19 Indian tribe, in the course of its official duties, is:

20 a. investigating a report of known or suspected child
21 abuse or neglect or crimes against children or for the
22 purpose of determining whether to place a child in
23 protective custody,

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- 1 b. providing services to or for the benefit of a child
2 including, but not limited to, protective, emergency,
3 social and medical services, or
- 4 c. the tribe, the tribal court or the tribal child
5 welfare program has asserted jurisdiction or
6 intervened in any case in which the child is the
7 subject of the proceedings or is a party to the
8 proceedings pursuant to the authority provided in the
9 Oklahoma Indian Child Welfare Act.

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

13 9. The Governor or to any person the Governor designates, in
14 writing;

15 10. Any federal official of the United States Department of
16 Health and Human Services;

17 11. Any member of the Legislature approved in writing by the
18 Speaker of the House of Representatives or the President Pro Tempore
19 of the Senate;

20 12. A foster parent, with regard to records concerning the
21 social, medical, psychological, or educational needs of a child
22 currently placed with that foster parent or of a child being
23 considered for placement with that foster parent;

1 13. An employee of any state or federal corrections or law
2 enforcement agency in the performance of the official duties of the
3 employee concerning presentence investigations or supervision of a
4 parent of an alleged or adjudicated deprived child, or the legal
5 guardian, custodian, or any other adult member of the child's home
6 who is responsible for the health, safety, or welfare of the child;
7 and

8 14. An employee of a state agency of this or another state in
9 the performance of the official duties of the employee concerning
10 the establishment of paternity or the establishment or enforcement
11 of a child support order or other entitlement for the benefit of a
12 child; provided, disclosure shall be limited to information directly
13 related to the purpose of such disclosure.

14 B. In addition to the persons listed in subsection A of this
15 section, juvenile court records may be inspected, and their contents
16 shall be disclosed, without a court order to the following persons
17 upon showing of proper credentials and pursuant to their lawful
18 duties:

19 1. Employees of court-appointed special advocate programs, as
20 defined in Section 1-1-105 of this title, in the course of their
21 official duties pertaining to recruiting, screening, training,
22 assigning cases, supervising, and supporting volunteers in their
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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 roles as guardian ad litem pursuant to Section 1-4-306 of this
2 title;

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

- 9 a. psychological and medical records,
- 10 b. placement history and information, including the names
11 and addresses of foster parents,
- 12 c. family assessments,
- 13 d. treatment or service plans, and
- 14 e. school records;

15 3. The Department of Human Services or other public or private
16 agency or individual having court-ordered custody or physical
17 custody pursuant to Department placement of the child who is the
18 subject of the record;

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

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

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

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

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

16 3. Any federally recognized Indian tribe for any individual who
17 has applied for foster care placement, adoptive placement, or
18 guardianship placement through the tribe; provided, that the tribe
19 shall be required to maintain the confidentiality of the records;

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

1 ~~4.~~ 5. A physician who has before him or her a child whom the
2 physician reasonably suspects may be abused or neglected or any
3 health care or mental health professionals involved in the
4 evaluation or treatment of the child or the parents, legal guardian,
5 foster parent, custodian, or other family members of the child;

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

12 ~~6.~~ 7. Any person or agency for research purposes, if all of the
13 following conditions are met:

- 14 a. the person or agency conducting the research is
15 employed by the State of Oklahoma or is under contract
16 with this state and is authorized by the Department to
17 conduct the research, and
- 18 b. the person or agency conducting the research ensures
19 that all documents containing identifying information
20 are maintained in secure locations and access to the
21 documents by unauthorized persons is prohibited; that
22 no identifying information is included in documents
23 generated from the research conducted; and that all

1 identifying information is deleted from documents used
2 in the research when the research is completed;

3 ~~7.~~ 8. The Oklahoma Health Care Authority; and

4 ~~8.~~ 9. A medical examiner when such person is determining the
5 cause of death of a child.

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

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

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

20 SECTION 3. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1-9-123 of Title 10A, unless
22 there is created a duplication in numbering, reads as follows:
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1 A. The Department of Human Services shall outsource the
2 recruitment, training and retention of all foster care homes and
3 service providers, to include foster care, emergency foster care,
4 therapeutic foster care, contracted foster care, kinship foster care
5 and other out-of-home foster placements statewide. To improve the
6 recruitment, training and retention of foster care providers the
7 Department shall also expand existing partnerships with other state
8 agencies, private service providers and tribal entities. In
9 addition, the Department shall cooperate with the Steering Committee
10 established in subsection B of this section to initiate the process
11 of outsourcing foster care, emergency foster care, therapeutic
12 foster care, contracted foster care and other related child-placing
13 services as may be determined by the Steering Committee with the
14 approval of the Oklahoma Legislature. The Department shall retain
15 responsibility for child abuse and neglect investigations, referrals
16 to law enforcement, participation in the court system, case
17 management duties and adoptions. As used in this section, the term
18 "outsourcing" means the Department shall contract with private
19 agencies capable of improving the recruitment, training and
20 retention of qualified foster care providers using objective,
21 measurable criteria. In addition, "outsourcing" shall include
22 contracts with child-placing agencies accredited pursuant to
23 subsection H of this section. The Department shall establish all

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

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

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

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

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

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

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

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

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

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

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

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

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

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- a. one member representing a licensed child-placing agency with national accreditation who shall serve as cochair,
- b. one member representing a statewide association of foster parents,
- c. one member who shall be a Department of Human Services employee who is a foster care worker, and
- d. one member who shall be a judge who has responsibility for the trial and disposition of cases involving deprived children in a rural part of the state;

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

- a. one member representing an agency with experience in the management of a community- or faith-based social service,
- b. one member who shall be a judge with experience in the trial and disposition of cases involving deprived children, and
- c. one member who shall represent a nonprofit membership organization representing Indian child welfare programs in the state; and

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

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

12 D. The advisory plan shall be submitted for approval to the
13 Speaker of the House of Representatives and the President Pro
14 Tempore of the Senate no later than February 1, 2013. The advisory
15 plan shall include a methodology for determining and transferring
16 funds, including federal funds, that may be used to outsource the
17 recruitment, training and retention of foster care providers as well
18 as funding for the outsourcing of foster care, emergency foster
19 care, therapeutic foster care, contracted foster care and other
20 related child-placing services. The methodology shall provide for
21 the transfer of funds appropriated and budgeted for all services and
22 programs that have been incorporated into the project. The advisory
23 plan shall provide for increasing the privatization of traditional
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1 and kinship foster care across the state. The advisory plan shall
2 also identify areas or regions of the state in which the
3 implementation of outsourcing would not be feasible due to a lack of
4 service providers and shall recommend solutions designed to provide
5 services statewide. The advisory plan shall include recommendations
6 for reimbursement rates for private agencies, a minimum rate to be
7 paid to foster parents, and an in-home intensive family
8 stabilization and support rate for services to children at risk of
9 removal as identified by the Department and referred to private
10 contractors.

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

17 F. The advisory plan shall include outcomes pertaining to child
18 safety, permanency and well-being mutually agreed upon by the
19 Steering Committee based upon standards established by the federal
20 Adoption and Safe Families Act, Public Law 105-89. The advisory
21 plan shall also be consistent with any requirement placed upon the
22 Department pursuant to the settlement of litigation agreement
23 completed in 2012.

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

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

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

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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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6 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 02/21/2012 -
7 DO PASS, As Amended and Coauthored.
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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.