

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. 3133

By: Steele, Rousselot, Nelson  
and Ownbey of the House

7 and

8 Treat of the Senate

9  
10 COMMITTEE SUBSTITUTE

11 An Act relating to children; amending 10 O.S. 2011,  
12 Section 601.3, which relates to the powers and duties  
13 of the Oklahoma Commission on Children and Youth;  
14 directing Commission to employ administrative law  
15 judges to preside over certain Department of Human  
16 Services Office of Client Advocacy administrative  
17 hearings; requiring transfer of certain Department of  
18 Human Services administrative law judges to the  
19 Commission; amending 10A O.S. 2011, Section 1-9-112,  
20 which relates to Department of Human Services Office  
21 of Client Advocacy duties; transferring certain  
22 administrative law judges to the Oklahoma Commission  
23 on Children and Youth; and providing an effective  
24 date.

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

SECTION 1. AMENDATORY 10 O.S. 2011, Section 601.3, is  
amended to read as follows:

1 Section 601.3 The Oklahoma Commission on Children and Youth is  
2 hereby authorized and directed to:

3 1. Establish and maintain the Office of Planning and  
4 Coordination for Services to Children and Youth;

5 2. Establish and maintain the Office of Juvenile System  
6 Oversight;

7 3. Designate community partnership districts for services to  
8 children and youth and, within the limitations of available funds,  
9 whether appropriated or otherwise available, provide staff,  
10 technical assistance and other assistance as necessary and  
11 appropriate to the district boards; ~~and~~

12 4. Establish a system of certification in accordance with the  
13 Child Care Facilities Licensing Act for the shelters managed and  
14 operated by the Department of Human Services pursuant to Section  
15 7004-3.1 of this title; and

16 5. Effective November 1, 2012, employ administrative law judges  
17 whose primary area of responsibility shall be to preside over  
18 administrative hearings of the Department of Human Services Office  
19 of Client Advocacy concerning child welfare and foster care  
20 complaints or allegations. Any administrative law judge employed by  
21 the Department on November 1, 2012, shall be transferred to the  
22 Commission and shall retain all benefits, accrued leave and salary.

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1 SECTION 2. AMENDATORY 10A O.S. 2011, Section 1-9-112, is  
2 amended to read as follows:

3 Section 1-9-112. A. 1. The Commission for Human Services is  
4 authorized and directed to establish the Office of Client Advocacy  
5 within the Department of Human Services and to employ personnel  
6 necessary to carry out the purposes of this section and the duties  
7 listed in this section. Personnel may be dismissed only for cause.  
8 Effective November 1, 2012, any administrative law judge employed by  
9 the Department for the purpose of presiding over Office of Client  
10 Advocacy administrative hearings concerning child welfare and foster  
11 care complaints or allegations shall be transferred to the Oklahoma  
12 Commission on Children and Youth and shall be employees of the  
13 Commission as provided in Section 601.3 of Title 10 of the Oklahoma  
14 Statutes.

15 2. The chief administrative officer of the Office of Client  
16 Advocacy shall be the Advocate General, who shall be an attorney  
17 selected from a list of three names submitted by the Oklahoma  
18 Commission on Children and Youth. The Advocate General shall be a  
19 member of the Oklahoma Bar Association and shall have a minimum of  
20 three (3) years' experience as an attorney. The compensation of the  
21 Advocate General shall be no less than that of the classification of  
22 Attorney III as established in the Merit System of Personnel  
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1 Administration classification and compensation plan, but shall be an  
2 unclassified position.

3 3. The duties and responsibilities of the Advocate General are  
4 to:

- 5 a. supervise personnel assigned to the Office of Client  
6 Advocacy,
- 7 b. monitor and review grievance procedures and hearings,
- 8 c. establish and maintain a fair, simple, and expeditious  
9 system for resolution of grievances of:

10 (1) all children in the custody of the Department of  
11 Human Services regarding:

12 (a) the substance or application of any written  
13 or unwritten policy or rule of the  
14 Department or agent of the Department, or

15 (b) any decision or action by an employee or  
16 agent of the Department, or of any child in  
17 the custody of the Department,

18 (2) foster parents relating to the provision of  
19 foster care services pursuant to this section and  
20 Section 1-9-117 of this title, and

21 (3) all persons receiving services from the  
22 Developmental Disabilities Services Division of  
23 the Department of Human Services,

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1 d. investigate allegations of abuse, neglect, sexual  
2 abuse, and sexual exploitation, as those terms are  
3 defined in the Oklahoma Children's Code, by a person  
4 responsible for a child, regardless of custody:

5 (1) residing outside their own homes other than  
6 children in foster care or children in the  
7 custody of the Office of Juvenile Affairs and  
8 placed in an Office of Juvenile Affairs secure  
9 facility,

10 (2) in a day treatment program as defined in Section  
11 175.20 of Title 10 of the Oklahoma Statutes, and  
12 submit a report of the results of the  
13 investigation to the appropriate district  
14 attorney and to the State Department of Health,

15 (3) receiving services from a community services  
16 worker as that term is defined in Section 1025.1  
17 of Title 56 of the Oklahoma Statutes, and

18 (4) residing in a state institution listed in Section  
19 1406 of Title 10 of the Oklahoma Statutes,

20 e. establish a system for investigating allegations of  
21 misconduct, by a person responsible for a child, not  
22 rising to the level of abuse, neglect, sexual abuse,  
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- 1 or sexual exploitation with regard to any child or  
2 resident listed in subparagraph d of this paragraph,
- 3 f. coordinate any hearings or meetings of Departmental  
4 administrative review committees conducted as a result  
5 of unresolved grievances or as a result of  
6 investigations,
- 7 g. make recommendations to the Director, and provide  
8 regular or special reports regarding grievance  
9 procedures, hearings and investigations to the  
10 Director, the Commission, the Office of Juvenile  
11 System Oversight and other appropriate persons as  
12 necessary,
- 13 h. forward to the Office of Juvenile Systems Oversight,  
14 for the information of the Director of that office, a  
15 copy of the final report of any grievance which is not  
16 resolved in the favor of the complainant,
- 17 i. perform such other duties as required by the Director  
18 of the Department or the Commission, and
- 19 j. develop policies and procedures as necessary to  
20 implement the duties and responsibilities assigned to  
21 the Office of Client Advocacy.

22 B. The Office of Client Advocacy shall make a complete written  
23 report of their investigations. The investigation report, together  
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1 with its recommendations, shall be submitted to the appropriate  
2 district attorney's office.

3 C. 1. Except as otherwise provided by the Oklahoma Children's  
4 Code, the reports required by Section 1-2-101 of this title or any  
5 other information acquired pursuant to the Oklahoma Children's Code  
6 shall be confidential and may be disclosed only as provided in  
7 Section 1-2-108 of this title and the Oklahoma Children's Code.

8 2. Except as otherwise provided by the Oklahoma Children's  
9 Code, any violation of the confidentiality requirements of the  
10 Oklahoma Children's Code shall, upon conviction, be a misdemeanor  
11 punishable by up to six (6) months in jail, by a fine of Five  
12 Hundred Dollars (\$500.00), or by both such fine and imprisonment.

13 3. Any records or information disclosed as provided by this  
14 subsection shall remain confidential. The use of any information  
15 shall be limited to the purpose for which disclosure is authorized.  
16 Rules promulgated by the Commission for Human Services shall provide  
17 for disclosure of relevant information concerning Office of Client  
18 Advocacy investigations to persons or entities acting in an official  
19 capacity with regard to the subject of the investigation.

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

3 D. 1. The Office of Client Advocacy shall investigate any  
4 complaint alleging that an employee of the Department or a child-  
5 placing agency has threatened a foster parent with removal of a  
6 child from the foster parent, harassed a foster parent, or refused  
7 to place a child in a licensed or certified foster home, or  
8 disrupted a child placement as retaliation or discrimination towards  
9 a foster parent who has:

- 10 a. filed a grievance pursuant to Section 1-9-120 of this  
11 title,
- 12 b. provided information to any state official or  
13 Department employee, or
- 14 c. testified, assisted, or otherwise participated in an  
15 investigation, proceeding, or hearing against the  
16 Department or child-placing agency.

17 2. The provisions of this subsection shall not apply to any  
18 complaint by a foster parent regarding the result of a criminal,  
19 administrative, or civil proceeding for a violation of any law,  
20 rule, or contract provision by that foster parent, or the action  
21 taken by the Department or a child-placement agency in conformity  
22 with the result of any such proceeding.

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1           3. The Office of Client Advocacy shall at all times be granted  
2 access to any foster home or any child-placing agency which is  
3 certified, authorized, or funded by the Department.

4           SECTION 3. This act shall become effective November 1, 2012.

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6 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 02/28/2012 -  
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.