HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1183 By: Burrage of the Senate

and

Nollan of the House

COMMITTEE SUBSTITUTE

An Act relating to Motor Vehicle Reports; amending 10 O.S. 2011, Section 7505-5.3, which relates to home studies for adoptive parents; providing for the Department of Human Services to obtain certain Motor Vehicle Reports; amending 10A O.S. 2011, Section 1-7-111, which relates to background checks for foster parents; providing for the Department of Human Services to obtain certain Motor Vehicle Reports; amending 47 O.S. 2011, Section 2-110, which relates to records of the Department of Public Safety; authorizing the Department of Human Services to obtain certain Motor Vehicle Reports in specified circumstances; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 2011, Section 7505-5.3, is amended to read as follows:

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Section 7505-5.3 A. A home study satisfying Section 7505-5.1 or 7505-5.2 of this title must include at a minimum the following:

1. An appropriate inquiry to determine whether the proposed home is a suitable one for the minor; and any other circumstances and conditions which may have a bearing on the adoption and of which the court should have knowledge; and in this entire matter of investigation, the court is specifically authorized to exercise judicial knowledge and discretion;

2. Documentation of at least one individual interview with each parent, each school-age child and any other household member, one joint interview, a home visit, and three written references;

3. Verification that the home is a healthy, safe environment in which to raise a minor, as well as verification of marital status, employment, income, access to medical care, physical health and history; and

4. A review of a criminal background check and a child abuse and neglect information system check.

a. A background check shall be required for adoptive parents and all other household members eighteen (18) years of age and older, consisting of a review of a national fingerprint-based criminal background check, a search of the Department of Corrections' files maintained pursuant to the Sex Offenders Registration

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Act, and a search of the child abuse and neglect information system maintained for review by authorized entities by the Department of Human Services.

b. A Department of Public Safety Motor Vehicle Report shall be required for adoptive parents and all other adult household members when the child to be adopted is in the legal custody of the Department of Human Services.

c. For each adoptive parent or other household member eighteen (18) years of age or older who has not maintained continuous residency in the state for five (5) years prior to the home study or home study update, a child abuse registry check shall be required from every other state in which the prospective adoptive parent or other adult household member has resided during such five-year period.

~~c.~~

d. Each prospective adoptive parent or other household member eighteen (18) years of age or older shall be required to cooperate with the requirements of the Department of Human Services and the Oklahoma State Bureau of Investigation with regard to the criminal background check and child abuse check, including but

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not limited to signing a release of information allowing the release of the results of any search to the agency or person conducting the home study or home study update.

~~d.~~

e. Upon completion of the criminal record checks and child abuse and neglect checks, the Department of Human Services and the Oklahoma State Bureau of Investigation shall forward all information obtained to the agency or other person authorized in Section 7505-5.4 of this title to conduct home study investigations who has requested the background searches.

B. A home study which is being updated or brought current in accordance with subsection A of Section 7505-5.1 of this title shall document appropriate inquiry into changes in the family situation since the last home study, a home visit, at least one joint interview, information on any children added to the family, experiences, if any, of the adoptive parents as parents since the last study, verification of current physical health, and three current letters of reference.

C. An updated home study as described in subsection B of this section shall include a review of criminal background checks and

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child abuse and neglect checks as described in subsection A of this section. However, when a national fingerprint background check has been done within the five (5) years previous to the completion of the updated home study and the results are available for review by the home study investigator, then a name-based search of the records of the Oklahoma State Bureau of Investigation on the adoptive parents and other household residents over the age of eighteen (18) for whom the fingerprint background check has been performed shall satisfy the requirements for a criminal background check for purposes of a home study update.

D. 1. A preplacement home study or update which is being used solely for purposes of international adoption shall not require a national fingerprint-based criminal background search in addition to the one required by the United States Immigration and Naturalization Service.

2. Such an international home study shall contain a review of a state criminal background check, a search of the Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act, and a search of the child abuse and neglect information system maintained for review by authorized entities by the Department of Human Services.

3. An international home study or home study update as described in this section must include a statement that the home

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study recommendation is for international adoption purposes only and may not be used as the basis for a domestic adoption without the addition of a review of the results of a national fingerprint-based criminal background search if such would be required by subparagraph ~~b~~ c of paragraph 4 of subsection A of this section.

E. The report of such home study or home study update shall become a part of the files in the case and shall contain a definite recommendation for or against the proposed adoption and the reasons therefor.

F. Following issuance of an interlocutory decree of adoption, or if the interlocutory decree is waived, prior to issuance of a final decree, the investigator conducting the home study or another investigator who meets the qualifications specified in Section 7505-5.4 of this title, shall observe the minor in the proposed adoptive home and report in writing to the court on any circumstances or conditions which may have a bearing on the granting of a final adoption decree. If the interlocutory decree was not waived, the investigator must certify that the final examination described in this subsection has been made since the granting of the interlocutory order. This supplemental report shall include a determination as to the legal availability or status of the minor for adoption and shall be filed prior to the final decree of adoption.

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SECTION 2. AMENDATORY 10A O.S. 2011, Section 1-7-111, is amended to read as follows:

Section 1-7-111. A. 1. Except as otherwise provided by law, the Department of Human Services or the Office of Juvenile Affairs shall not place a child in a foster home prior to completion of:

a. a foster parent eligibility assessment on the foster parent applicant,

b. a national criminal history records search based upon submission of fingerprints for any adult residing in the home, as required by the Oklahoma Child Care Facilities Licensing Act and the Oklahoma Children's Code, ~~and~~

c. <u>a Motor Vehicle Report obtained from the Department of Public Safety regarding each adult residing in the home, and</u>

<u>d.</u> a check of any child abuse registry maintained by a state in which the prospective foster parent or any adult living in the home of the prospective foster parent has resided in the preceding five (5) years.

Provided, however, the state agencies may place a child in the home of a foster parent, pending completion of the national criminal history records search, if the foster parent and every adult residing in the home of the foster parent have resided in this state

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for at least five (5) years immediately preceding placement. The director of such state agency or designee may authorize an exception to the fingerprinting requirement for any person residing in the home who has a severe physical condition which precludes such person from being fingerprinted.

2. a. The Department shall be the lead agency for disseminating fingerprint cards to courts and child-placing agencies for obtaining and requesting a national criminal history records search based upon submission of fingerprints from the Oklahoma State Bureau of Investigation. The Office of Juvenile Affairs may directly request national criminal history records searches as defined by Section 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State Bureau of Investigation for the purpose of obtaining the national criminal history of any individual for which such a search is required pursuant to this section.

b. Courts and child-placing agencies may request the Department to obtain from the Oklahoma State Bureau of Investigation a national criminal history records search based upon submission of fingerprints for foster parents and other persons requiring such search

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pursuant to the Oklahoma Child Care Facilities Licensing Act and the Oklahoma Children's Code. Any fees charged by the Oklahoma State Bureau of Investigation or the Federal Bureau of Investigation for such searches shall be paid by the requesting entity.

c. Either the Department or the Office of Juvenile Affairs, whichever is applicable, shall contract with the Oklahoma State Bureau of Investigation to obtain national criminal history records searches based upon submission of fingerprints.

B. A child-placing agency shall not place a child who is in the custody of the agency in a foster home until completion of a foster parent eligibility assessment and a national criminal history records search based upon submission of fingerprints has been completed for each individual residing in the home in which the child will be placed, as required pursuant to the Oklahoma Child Care Facilities Licensing Act or the Oklahoma Children's Code, and a check of any child abuse registry maintained by a state in which the prospective foster parent or any adult living in the home of the prospective foster parent has resided in the past five (5) years; provided, however, the child-placing agency may place a child in a foster family home pending completion of the national criminal

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history records search if the foster parent and every adult residing in the home have resided in this state for at least five (5) years immediately preceding the placement.

C. 1. Whenever a court awards custody of a child to an individual or a child-placing agency other than the Department or the Office of Juvenile Affairs, for placement of the child, the court shall:

a. require that when custody is placed with an individual, a foster family eligibility assessment be conducted for the foster parents prior to placement of the child, and

b. require that if custody is awarded to a child-placing agency, a foster family eligibility assessment be conducted as required by the Oklahoma Child Care Facilities Licensing Act.

2. A child-placing agency other than the Department or the Office of Juvenile Affairs shall, within thirty (30) days of placement, provide for an assessment of the child for the purpose of establishing an appropriate individualized service plan for the child. The court shall require the individualized service plan to be completed in substantially the same form and with the same content as required by the Oklahoma Children's Code for a deprived

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child or as required by the Oklahoma Juvenile Code for a delinquent child or a child in need of supervision.

3. The child shall receive a complete medical examination within thirty (30) days of initial placement unless a medical examination was conducted on the child upon the removal of the child and the court finds no need for an additional examination.

4. The child may receive such further diagnosis and evaluation as necessary as determined by the court to preserve the physical and mental well-being of the child.

D. When the court awards custody of a child to an individual or a child-placing agency as provided by this section, the individual or child-placing agency shall be responsible for the completion of and costs of the national criminal history records search based upon submission of fingerprints, the foster parent eligibility assessment, the preparation of an individualized service plan, and the medical examination required by this section.

SECTION 3. AMENDATORY 47 O.S. 2011, Section 2-110, is amended to read as follows:

Section 2-110. A. Officers and employees of the Department of Public Safety designated by the Commissioner, for the purpose of administering the motor vehicle laws, are authorized to administer oaths and acknowledge signatures and shall do so without fee.

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B. The Commissioner and such officers of the Department as the Commissioner may designate are hereby authorized to prepare under the seal of the Department and deliver upon request a certified copy of any record of the Department, charging a fee of Three Dollars ($3.00) for each record so certified, and every such certified copy shall be admissible in any proceeding in any court in like manner as the original thereof. A certification fee shall be charged:

1. Only if the person requesting the record specifically requests that the record be certified; and

2. In addition to the copying and reproduction fees provided by the Oklahoma Open Records Act or any other applicable law.

C. The Commissioner and any other officers of the Department as the Commissioner may designate are hereby authorized to provide a copy of any record required to be maintained by the Department at no charge to any of the following government agencies when requested in the performance of official governmental duties:

1. The driver license agency of any other state;

2. Any court, district attorney or municipal prosecutor in this state or any other state;

3. Any law enforcement agency in this state or any other state or any federal agency empowered by law to make arrests for public offenses;

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4. Any public school district in this state for purposes of ~~verifying the driving record~~ providing the Motor Vehicle Report of a currently employed school bus driver or person making application for employment as a school bus driver; ~~or~~

5. The Department of Human Services for the purpose of providing the Motor Vehicle Report to ascertain the suitability of any person being considered by the Department of Human Services for placement of a child in foster care or for adoption of the child; or

6. Any state agency in this state.

D. Any record required to be maintained by the Department may be released to any other entity free of charge when the release of the record would be for the benefit of the public, as determined by the Commissioner or a designee of the Commissioner.

E. The following records shall be provided by the Department to any authorized recipient, pursuant to the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, upon payment of the appropriate fees for the records:

1. A Motor Vehicle Report, as defined in Section 6-117 of this title; and

2. A copy of any driving record related to the Motor Vehicle Report.

F. 1. The provisions of subsections B, D, and E of this section and the Oklahoma Open Records Act shall not apply to the

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release of personal information from any driving record of any person. Such personal information shall be confidential except as provided for in this subsection or in the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725. Upon written request to the Commissioner of Public Safety by a law enforcement agency or another state's or country's driver licensing agency for personal information on a specific individual, as named or otherwise identified in the written request, to be used in the official capacity of the agency, the Commissioner may release such personal information to the agency pursuant to the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725.

2. For the purposes of this subsection, "personal information" means information which identifies a person, including but not limited to a photograph or image in computerized format of the person, fingerprint image in computerized format, signature or signature in computerized format, social security number, residence address, mailing address, and medical or disability information.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

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

COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 04/03/2012 - DO PASS, As Amended.

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