

1 **SENATE FLOOR VERSION**

2 April 9, 2012

3 As Amended

4 ENGROSSED HOUSE

5 BILL NO. 3133

6 By: Steele, Rousselot, Nelson,
7 Ownbey and Peterson of the
8 House

9 and

10 Treat of the Senate

11 [children - amending 10 O.S., Section 601.3 -
12 Oklahoma Commission on Children and Youth - amending
13 10A O.S., Section 1-9-112 - Department of Human
14 Services Office of Client Advocacy - Oklahoma
15 Commission on Children and Youth - effective date]

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

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

19 Section 601.3 The Oklahoma Commission on Children and Youth is
20 hereby authorized and directed to:

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

23 2. Establish and maintain the Office of Juvenile System
24 Oversight;

25 3. Designate community partnership districts for services to
26 children and youth and, within the limitations of available funds,
27 whether appropriated or otherwise available, provide staff,

1 technical assistance and other assistance as necessary and
2 appropriate to the district boards; ~~and~~

3 4. Establish a system of certification in accordance with the
4 Child Care Facilities Licensing Act for the shelters managed and
5 operated by the Department of Human Services pursuant to Section
6 7004-3.1 of this title; and

7 5. Effective November 1, 2012, employ administrative law judges
8 whose primary area of responsibility shall be to preside over
9 administrative hearings of the Department of Human Services Office
10 of Client Advocacy concerning child welfare and foster care
11 complaints or allegations. Any administrative law judge employed by
12 the Department on November 1, 2012, shall be transferred to the
13 Commission and shall retain all benefits, accrued leave and salary.

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

16 Section 1-9-112. A. 1. The Commission for Human Services is
17 authorized and directed to establish the Office of Client Advocacy
18 within the Department of Human Services and to employ personnel
19 necessary to carry out the purposes of this section and the duties
20 listed in this section. Personnel may be dismissed only for cause.
21 Effective November 1, 2012, any administrative law judge employed by
22 the Department for the purpose of presiding over Office of Client
23 Advocacy administrative hearings concerning child welfare and foster
24 care complaints or allegations shall be transferred to the Oklahoma

1 Commission on Children and Youth and shall be employees of the
2 Commission as provided in Section 601.3 of Title 10 of the Oklahoma
3 Statutes.

4 2. The chief administrative officer of the Office of Client
5 Advocacy shall be the Advocate General, who shall be an attorney
6 selected from a list of three names submitted by the Oklahoma
7 Commission on Children and Youth. The Advocate General shall be a
8 member of the Oklahoma Bar Association and shall have a minimum of
9 three (3) years' experience as an attorney. The compensation of the
10 Advocate General shall be no less than that of the classification of
11 Attorney III as established in the Merit System of Personnel
12 Administration classification and compensation plan, but shall be an
13 unclassified position.

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

- 16 a. supervise personnel assigned to the Office of Client
17 Advocacy,
- 18 b. monitor and review grievance procedures and hearings,
- 19 c. establish and maintain a fair, simple, and expeditious
20 system for resolution of grievances of:

21 (1) all children in the custody of the Department of
22 Human Services regarding:

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1 (a) the substance or application of any written
2 or unwritten policy or rule of the
3 Department or agent of the Department, or
4 (b) any decision or action by an employee or
5 agent of the Department, or of any child in
6 the custody of the Department,

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

10 (3) all persons receiving services from the
11 Developmental Disabilities Services Division of
12 the Department of Human Services,

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

17 (1) residing outside their own homes other than
18 children in foster care or children in the
19 custody of the Office of Juvenile Affairs and
20 placed in an Office of Juvenile Affairs secure
21 facility,

22 (2) in a day treatment program as defined in Section
23 175.20 of Title 10 of the Oklahoma Statutes, and
24 submit a report of the results of the

1 investigation to the appropriate district
2 attorney and to the State Department of Health,
3 (3) receiving services from a community services
4 worker as that term is defined in Section 1025.1
5 of Title 56 of the Oklahoma Statutes, and
6 (4) residing in a state institution listed in Section
7 1406 of Title 10 of the Oklahoma Statutes,

8 e. establish a system for investigating allegations of
9 misconduct, by a person responsible for a child, not
10 rising to the level of abuse, neglect, sexual abuse,
11 or sexual exploitation with regard to any child or
12 resident listed in subparagraph d of this paragraph,

13 f. coordinate any hearings or meetings of Departmental
14 administrative review committees conducted as a result
15 of unresolved grievances or as a result of
16 investigations,

17 g. make recommendations to the Director, and provide
18 regular or special reports regarding grievance
19 procedures, hearings and investigations to the
20 Director, the Commission, the Office of Juvenile
21 System Oversight and other appropriate persons as
22 necessary,

23 h. forward to the Office of Juvenile Systems Oversight,
24 for the information of the Director of that office, a

1 copy of the final report of any grievance which is not
2 resolved in the favor of the complainant,

3 i. perform such other duties as required by the Director
4 of the Department or the Commission, and

5 j. develop policies and procedures as necessary to
6 implement the duties and responsibilities assigned to
7 the Office of Client Advocacy.

8 B. The Office of Client Advocacy shall make a complete written
9 report of their investigations. The investigation report, together
10 with its recommendations, shall be submitted to the appropriate
11 district attorney's office.

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

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

22 3. Any records or information disclosed as provided by this
23 subsection shall remain confidential. The use of any information
24 shall be limited to the purpose for which disclosure is authorized.

1 Rules promulgated by the Commission for Human Services shall provide
2 for disclosure of relevant information concerning Office of Client
3 Advocacy investigations to persons or entities acting in an official
4 capacity with regard to the subject of the investigation.

5 4. Nothing in this section shall be construed as prohibiting
6 the Office of Client Advocacy or the Department from disclosing such
7 confidential information as may be necessary to secure appropriate
8 care, treatment, or protection of a child alleged to be abused or
9 neglected.

10 D. 1. The Office of Client Advocacy shall investigate any
11 complaint alleging that an employee of the Department or a child-
12 placing agency has threatened a foster parent with removal of a
13 child from the foster parent, harassed a foster parent, or refused
14 to place a child in a licensed or certified foster home, or
15 disrupted a child placement as retaliation or discrimination towards
16 a foster parent who has:

- 17 a. filed a grievance pursuant to Section 1-9-120 of this
18 title,
19 b. provided information to any state official or
20 Department employee, or
21 c. testified, assisted, or otherwise participated in an
22 investigation, proceeding, or hearing against the
23 Department or child-placing agency.

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

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

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

11 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-4-12 - DO
12 PASS, As Amended.

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