

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 2136

By: Steele

4  
5 AS INTRODUCED

6 An Act relating to the Children and Juvenile Code;  
7 amending 10 O.S. 2001, Section 7003-1.1, as  
8 renumbered by Section 213, Chapter 233, O.S.L. 2009,  
9 and as last amended by Section 1, Chapter 220, O.S.L.  
10 2010 (10A O.S. Supp. 2010, Section 1-2-102), which  
11 relates to preliminary investigation procedures;  
12 requiring the Department of Human Services to conduct  
13 certain background checks; specifying required  
14 background checks; directing Department to conduct  
15 investigations instead of assessments in certain  
16 circumstances; specifying requirements; amending 10  
17 O.S. 2001, Section 7003-5.5a, as renumbered by  
18 Section 252, Chapter 233, O.S.L. 2009, and as last  
19 amended by Section 13, Chapter 278, O.S.L. 2010 (10A  
20 O.S. Supp. 2010, Section 1-4-806), which relates to  
21 trial home reunification procedure; requiring certain  
22 background checks prior to trial reunification;  
23 amending 10 O.S. 2001, Section 7003-5.6, as last  
24 amended by Section 40, Chapter 233, O.S.L. 2009, and  
as renumbered by Section 253, Chapter 233, O.S.L.  
2009 (10A O.S. Supp. 2010, Section 1-4-807), which  
relates to review hearing requirements; specifying  
that certain reports shall be provided to parties;  
and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7003-1.1, as  
renumbered by Section 213, Chapter 233, O.S.L. 2009, and as last

1 amended by Section 1, Chapter 220, O.S.L. 2010 (10A O.S. Supp. 2010,  
2 Section 1-2-102), is amended to read as follows:

3 Section 1-2-102. A. 1. Upon receipt of a report that a child  
4 may be abused or neglected, the Department of Human Services shall  
5 conduct a safety analysis. The safety analysis shall include a  
6 criminal background check of any adult known to be in the home of  
7 the child. The background check shall include inquiries into  
8 Oklahoma State Bureau of Investigation and Federal Bureau of  
9 Investigation records.

10 2. The Department shall forward a report of its assessment or  
11 investigation and findings to any district attorney's office which  
12 may have jurisdiction to file a petition pursuant to Section ~~1-4-902~~  
13 1-4-101 of this title.

14 B. 1. If, upon receipt of a report alleging abuse or neglect  
15 or during the assessment or investigation, the Department determines  
16 that:

- 17 a. the alleged perpetrator is someone other than a person  
18 responsible for the child's health, safety, or  
19 welfare, and  
20 b. the alleged abuse or neglect of the child does not  
21 appear to be attributable to failure on the part of a  
22 person responsible for the child's health, safety, or  
23 welfare to provide protection for the child,  
24

1 the Department shall immediately make a referral, either verbally or  
2 in writing, to the appropriate local law enforcement agency for the  
3 purpose of conducting a possible criminal investigation.

4 2. After making the referral to the law enforcement agency, the  
5 Department shall not be responsible for further investigation  
6 unless:

7 a. the Department has reason to believe the alleged  
8 perpetrator is a parent of another child, not the  
9 subject of the criminal investigation, or is otherwise  
10 a person responsible for the health, safety, or  
11 welfare of another child,

12 b. notice is received from a law enforcement agency that  
13 it has determined the alleged perpetrator is a parent  
14 of or a person responsible for the health, safety, or  
15 welfare of another child not the subject of the  
16 criminal investigation, or

17 c. the appropriate law enforcement agency requests the  
18 Department, in writing, to participate in the  
19 investigation. If funds and personnel are available,  
20 as determined by the Director of the Department or a  
21 designee, the Department may assist law enforcement in  
22 interviewing children alleged to be victims of  
23 physical or sexual abuse.

24

1           3. If, upon receipt of a report alleging abuse or neglect or  
2 during the assessment or investigation, the Department determines  
3 that the alleged abuse or neglect of the child involves a child in  
4 the custody of the Office of Juvenile Affairs and such child was  
5 placed in an Office of Juvenile Affairs secure juvenile facility at  
6 the time of the alleged abuse or neglect, the Department shall  
7 immediately make a referral, either verbally or in writing, to the  
8 appropriate law enforcement agency for the purpose of conducting a  
9 possible criminal investigation. After making the referral to the  
10 law enforcement agency, the Department shall not be responsible for  
11 further investigation.

12           C. 1. Any law enforcement agency receiving a referral as  
13 provided in this section shall provide the Department with a copy of  
14 the report of any investigation resulting from a referral from the  
15 Department.

16           2. Whenever, in the course of any criminal investigation, a law  
17 enforcement agency determines that there is cause to believe that a  
18 child, other than a child in the custody of the Office of Juvenile  
19 Affairs and placed in an Office of Juvenile Affairs secure juvenile  
20 facility, may be abused or neglected by reason of the acts,  
21 omissions, or failures on the part of a person responsible for the  
22 health, safety, or welfare of the child, the law enforcement agency  
23 shall immediately contact the Department for the purpose of an  
24 investigation.

1        D. If, upon receipt of a report alleging abuse or neglect, the  
2 Department determines that the family has been the subject of a  
3 deprived petition, the Department shall conduct a thorough  
4 investigation of the allegations and shall not limit the evaluation  
5 of the circumstances to an assessment. In addition, if the family  
6 has been the subject of three or more referrals, the Department  
7 shall conduct a thorough investigation of the allegations and shall  
8 not limit the evaluation of the circumstances to an assessment.

9        SECTION 2.        AMENDATORY        10 O.S. 2001, Section 7003-5.5a,  
10 as renumbered by Section 252, Chapter 233, O.S.L. 2009, and as last  
11 amended by Section 13, Chapter 278, O.S.L. 2010 (10A O.S. Supp.  
12 2010, Section 1-4-806), is amended to read as follows:

13        Section 1-4-806. A. The court may order a trial home  
14 reunification by returning the child to the care of the parent or  
15 legal guardian from whom the child was removed for a period not to  
16 exceed six (6) months; provided, when determined necessary the court  
17 may extend the period of trial reunification to a specific date  
18 certain by entering such extension order prior to the expiration of  
19 the initial six-month trial reunification period. The Department of  
20 Human Services shall conduct a criminal background check of any  
21 adult in the home prior to any trial reunification. The background  
22 check shall include inquiries into Oklahoma State Bureau of  
23 Investigation and Federal Bureau of Investigation records.

1 During the period of the trial home reunification, the  
2 Department of Human Services shall:

3 1. Continue to have legal custody of the child, thereby  
4 permitting the Department to visit the child in the home of the  
5 parent, at school, in a child care facility, or any other setting  
6 the Department deems necessary and appropriate;

7 2. Continue to provide appropriate services to both the parent,  
8 if eligible, and the child during the period of the trial home  
9 reunification;

10 3. Terminate the trial home reunification and remove the child  
11 to foster care, without court order or authorization, when necessary  
12 to protect the child's health, safety, or welfare; and

13 4. Advise the court and parties within three (3) judicial days  
14 of the termination of the trial home reunification when terminated  
15 by the Department without a court order.

16 B. 1. When trial home reunification is terminated whether by  
17 the Department or court order, the Department shall prepare a report  
18 for the court which describes the circumstances of the child during  
19 the trial home reunification period and recommends court orders, if  
20 any, deemed appropriate to provide for the safety and stability of  
21 the child.

22 2. In the event a trial home reunification is terminated by the  
23 Department by removing the child to foster care without prior court  
24 order or authorization, the court shall conduct a hearing within

1 fifteen (15) days of receiving notice of the termination of the  
2 trial home reunification by the Department and shall determine  
3 whether a continuation of the child in the child's home or with the  
4 child's caretaker is contrary to the welfare of the child and  
5 whether reasonable efforts were made to prevent the removal of the  
6 child from the trial home reunification.

7 C. 1. Upon the completion of the six-month trial home  
8 reunification period or any extension thereof, the court may further  
9 extend supervision of the child in the home by awarding legal  
10 custody of the child to the parent or legal guardian with whom the  
11 child has been reunited and ordering the Department to provide  
12 supervision in accordance with the rules promulgated by the  
13 Commission.

14 2. The duration of the extended supervision shall not exceed  
15 six (6) months except in circumstances the court deems appropriate  
16 and necessary to protect the health, safety or welfare of the child.

17 SECTION 3. AMENDATORY 10 O.S. 2001, Section 7003-5.6, as  
18 last amended by Section 40, Chapter 233, O.S.L. 2009, and as  
19 renumbered by Section 253, Chapter 233, O.S.L. 2009 (10A O.S. Supp.  
20 2010, Section 1-4-807), is amended to read as follows:

21 Section 1-4-807. A. 1. Every case regarding a child alleged  
22 or adjudicated to be deprived shall be reviewed by the court at a  
23 hearing no later than six (6) months from the date of the child's  
24 removal from the home and at least once every six (6) months

1 thereafter until permanency is achieved or the court otherwise  
2 terminates jurisdiction except as otherwise set forth in paragraph 2  
3 of this subsection. A review hearing may be held concurrently with  
4 a permanency hearing.

5 2. When the Department of Human Services has documented a  
6 compelling reason why a petition to terminate parental rights to a  
7 child is not in the best interests of the child that is based upon a  
8 consideration that the child is presently not capable of functioning  
9 in a family setting, the court shall reevaluate the status of the  
10 child every ninety (90) days until there is a final determination  
11 that the child cannot be placed in a family setting.

12 3. At any time during the pendency of the case, any party may  
13 request the court to review the case. If granted, the requesting  
14 party shall serve notice on all parties of the date and time of the  
15 hearing.

16 B. If a foster parent, preadoptive parent, or relative is  
17 currently providing care for a child, the Department shall give the  
18 foster parent, preadoptive parent, or relative notice of a  
19 proceeding concerning the child. A foster parent, preadoptive  
20 parent, or relative providing care for a child has the right to be  
21 heard at the proceeding. Except when allowed to intervene, the  
22 foster parent, preadoptive parent, or relative providing care for  
23 the child is not considered a party to the juvenile court proceeding  
24

1 solely because of notice and the right to be heard at the  
2 proceeding.

3 C. The court shall receive all evidence helpful in deciding the  
4 issues before the court including, but not limited to, oral and  
5 written reports, which may be admitted and relied upon to the extent  
6 of their probative value, even though not competent for purposes of  
7 an adjudicatory hearing. All service provider progress reports or  
8 critical incident reports submitted to the court shall also be  
9 delivered to each party.

10 D. At each review hearing the court shall:

11 1. Determine and include the following in its orders:

- 12 a. whether the individualized service plan, services, and  
13 placement meet the special needs and best interests of  
14 the child with the child's health, safety, and  
15 educational needs specifically addressed,
- 16 b. whether there is a need for the continued placement of  
17 the child,
- 18 c. whether the current permanency plan for the child  
19 remains the appropriate plan to meet the health,  
20 safety, and best interests of the child,
- 21 d. whether the services set forth in the individualized  
22 service plan and the responsibilities of the parties  
23 need to be clarified or modified due to the  
24 availability of additional information or changed

1 circumstances or as the court determines to be in the  
2 best interests of the child and necessary for the  
3 correction of the conditions that led to the  
4 adjudication of the child,

5 e. whether the terms of visitation need to be modified,  
6 including the visitation with siblings if separated,

7 f. the time frame that should be followed to achieve  
8 reunification or other permanent plan for the child,

9 g. whether reasonable efforts have been made to provide  
10 for the safe return of the child to the child's own

11 home. If the court determines or has previously

12 determined that reasonable efforts are not required

13 pursuant to the provisions of Section 1-4-809 of this

14 title, or that continuation of reasonable efforts to

15 reunite the child with the child's family is

16 inconsistent with the permanency plan for the child,

17 the court shall determine if reasonable efforts are

18 being made to place the child in a timely manner in

19 accordance with the permanency plan and determine the

20 steps necessary to finalize permanency for the child,

21 h. where appropriate, when the child is sixteen (16)

22 years of age or older, whether services are being

23 provided that will assist the child in making the

24 transition from foster care to independent living.

1 The court shall inquire or cause inquiry to be made of  
2 the child regarding any proposed independent living  
3 plan,

4 i. whether the nature and extent of services being  
5 provided the child and parent or parents of the child  
6 are adequate and shall order that additional services  
7 be provided or studies, assessments, or evaluations be  
8 conducted, if necessary, to ensure the safety of the  
9 child and to protect the child from further physical,  
10 mental, or emotional harm, or to correct the  
11 conditions that led to the adjudication,

12 j. whether, in accordance with the safety or well-being  
13 of any child, reasonable efforts have been made to:

14 (1) place siblings, who have been removed, together  
15 in the same foster care, guardianship, or  
16 adoptive placement, and

17 (2) provide for frequent visitation or other ongoing  
18 interaction in the case of siblings who have been  
19 removed and who are not placed together, and

20 k. whether, during the ninety-day period immediately  
21 prior to the date on which the child in the custody of  
22 the Department will attain eighteen (18) years of age,  
23 the Department and, as appropriate, other  
24 representatives of the child are providing the child

1 with assistance and support in developing an  
2 appropriate transition plan that is personalized at  
3 the direction of the child, that includes specific  
4 options on housing, health insurance, education, local  
5 opportunities for mentors and continuing support  
6 services, and work force supports and employment  
7 services, and is as detailed as the child may elect;

8 2. Consider in-state and out-of-state placement options for the  
9 child; and

10 3. Determine the safety of the child and consider fully all  
11 relevant prior and current information including, but not limited  
12 to, the report or reports submitted pursuant to Sections 1-4-805 and  
13 1-4-808 of this title.

14 E. In making its findings, the court shall consider the  
15 following:

16 1. Whether compliance with the individualized service plan has  
17 occurred, including whether the Department has provided care that is  
18 consistent with the health, safety, and educational needs of the  
19 child while in an out-of-home placement;

20 2. The extent of progress that has been made toward alleviating  
21 or correcting the conditions that caused the child to be adjudicated  
22 deprived;

1        3. Whether the child should be returned to a parent or parents  
2 and whether or not the health, safety, and welfare of the child can  
3 be protected by a parent or parents if returned home; and

4        4. An appropriate permanency plan for the child, including  
5 concurrent planning when applicable, pursuant to Section 1-4-706 of  
6 this title.

7        SECTION 4. This act shall become effective November 1, 2011.

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9        53-1-5026            SDR            01/14/11

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