

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1793
Page 2 Section 2 Lines 20 1/2
Of the printed Bill
Of the Engrossed Bill

By inserting Sections 2 through 5 (See attached)

And by renumbering subsequent sections

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Jason Nelson

Reading Clerk

1 "SECTION 2. AMENDATORY 10 O.S. 2011, Section 601.6, is
2 amended to read as follows:

3 Section 601.6 A. The Office of Juvenile System Oversight shall
4 have the responsibility of investigating and reporting misfeasance
5 and malfeasance within the children and youth service system,
6 inquiring into areas of concern, investigating complaints filed with
7 the Office of Juvenile System Oversight, and performing issue-
8 specific systemic monitoring as directed by the Commission on
9 Children and Youth of the children and youth service system to
10 ascertain compliance with established responsibilities.

11 It shall be the duty of the Office of Juvenile System Oversight
12 to conduct not less than one but not more than two regular,
13 periodic, unannounced inspections of state-operated children's
14 institutions and facilities and to review the reports of the
15 inspections of the State Fire Marshal and the Department of Health
16 and any agencies which accredit such institutions and facilities.

17 B. The Office of Juvenile System Oversight shall:

18 1. Have the authority to examine and copy all records and
19 budgets pertaining to the children and youth service system and to
20 interview the residents of such facilities and shall have access to
21 all facilities within the children and youth service system for the
22 purpose of conducting systemic oversight and complaint
23 investigations;

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1 2. Have the authority to subpoena witnesses and hold public
2 hearings;

3 3. Establish, in accordance with the Dispute Resolution Act,
4 Sections 1801 through 1813 of Title 12 of the Oklahoma Statutes, a
5 voluntary program for foster parents to mediate complaints
6 concerning the rights of foster parents, as provided for in Section
7 ~~7206.1 1-9-119~~ of ~~this title~~ Title 10A of the Oklahoma Statutes,
8 that relate to certain actions, inactions or decisions of the
9 Department of Human Services, the Department of Juvenile Justice, or
10 child-placing agencies that may adversely affect the safety and
11 well-being of children in the custody of the state;

12 4. Receive any complaint alleging that an employee of the
13 Department of Human Services or a child-placing agency has
14 threatened a foster parent with removal of a child from the foster
15 parent, harassed a foster parent, or refused to place a child in a
16 licensed or certified foster home, or disrupted a child placement as
17 retaliation or discrimination towards a foster parent who has:

18 a. filed a grievance pursuant to Section 1-9-120 of Title
19 10A of the Oklahoma Statutes,

20 b. provided information to any state official or
21 Department employee, or

22 c. testified, assisted, or otherwise participated in an
23 investigation, proceeding, or hearing against the
24 Department or child-placing agency.

1 The Office of Juvenile System Oversight shall forward the complaints
2 to the Office of Client Advocacy for investigation pursuant to
3 subsection D of Section 1-9-112 of Title 10A of the Oklahoma
4 Statutes. The Office of Juvenile System Oversight shall work with
5 the Office of Client Advocacy to ensure the complaints are
6 investigated and resolved in accordance with the grievance
7 procedures provided in Section 1-9-120 of Title 10A of the Oklahoma
8 Statutes. The provisions of this paragraph shall not apply to any
9 complaint by a foster parent regarding the result of a criminal,
10 administrative, or civil proceeding for a violation of any law,
11 rule, or contract provision by that foster parent, or the action
12 taken by the Department or a child-placement agency in conformity
13 with the result of any such proceeding;

14 5. Issue reports to the Governor, Speaker of the House of
15 Representatives, President Pro Tempore of the Senate, Chief Justice
16 of the Supreme Court of the State of Oklahoma, any appropriate
17 prosecutorial agency, the director of the agency under

18 consideration, and other persons as necessary and appropriate; and

19 ~~5.~~ 6. Provide recommendations to the Oklahoma Commission on
20 Children and Youth on or before May 1 of each year.

21 C. The Office of Juvenile System Oversight shall not release
22 information that would identify a person who makes a complaint to
23 the Office, unless a court of competent jurisdiction orders release
24 of the information for good cause shown.

1 SECTION 3. AMENDATORY 10A O.S. 2011, Section 1-9-112, as
2 amended by Section 7, Chapter 353, O.S.L. 2012 (10A O.S. Supp. 2013,
3 Section 1-9-112), is amended to read as follows:

4 Section 1-9-112. A. 1. The Director of Human Services is
5 authorized and directed to establish the Office of Client Advocacy
6 within the Department of Human Services and to employ personnel
7 necessary to carry out the purposes of this section and the duties
8 listed in this section. Personnel may be dismissed only for cause.

9 2. The chief administrative officer of the Office of Client
10 Advocacy shall be the Advocate General, who shall be an attorney.
11 The Advocate General shall be a member of the Oklahoma Bar
12 Association and shall have a minimum of three (3) years' experience
13 as an attorney. The compensation of the Advocate General shall be
14 no less than that of the classification of Attorney III as
15 established in the Merit System of Personnel Administration
16 classification and compensation plan, but shall be an unclassified
17 position.

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

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

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

3 (a) the substance or application of any written
4 or unwritten policy or rule of the
5 Department or agent of the Department, or

6 (b) any decision or action by an employee or
7 agent of the Department, or of any child in
8 the custody of the Department,

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

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

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

19 (1) residing outside their own homes other than
20 children in foster care or children in the
21 custody of the Office of Juvenile Affairs and
22 placed in an Office of Juvenile Affairs secure
23 facility,
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1 (2) in a day treatment program as defined in Section
2 175.20 of Title 10 of the Oklahoma Statutes, and
3 submit a report of the results of the
4 investigation to the appropriate district
5 attorney and to the State Department of Health,
6 (3) receiving services from a community services
7 worker as that term is defined in Section 1025.1
8 of Title 56 of the Oklahoma Statutes, and
9 (4) residing in a state institution listed in Section
10 1406 of Title 10 of the Oklahoma Statutes,

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

16 f. coordinate any hearings or meetings of Departmental
17 administrative review committees conducted as a result
18 of unresolved grievances or as a result of
19 investigations,

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

- 3 h. forward to the Office of Juvenile ~~Systems~~ System
4 Oversight, for the information of the Director of that
5 office, a copy of the final report of any grievance
6 which is not resolved in the favor of the complainant,
7 i. perform such other duties as required by the Director
8 of the Department or the Commission, and
9 j. develop policies and procedures as necessary to
10 implement the duties and responsibilities assigned to
11 the Office of Client Advocacy.

12 B. The Office of Client Advocacy shall make a complete written
13 report of their investigations. The investigation report, together
14 with its recommendations, shall be submitted to the appropriate
15 district attorney's office.

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

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

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

10 4. Nothing in this section shall be construed as prohibiting
11 the Office of Client Advocacy or the Department from disclosing such
12 confidential information as may be necessary to secure appropriate
13 care, treatment, or protection of a child alleged to be abused or
14 neglected.

15 D. 1. The Office of Client Advocacy shall investigate any
16 complaint received by the Office of Juvenile System Oversight
17 alleging that an employee of the Department or a child-placing
18 agency has threatened a foster parent with removal of a child from
19 the foster parent, harassed a foster parent, or refused to place a
20 child in a licensed or certified foster home, or disrupted a child
21 placement as retaliation or discrimination towards a foster parent
22 who has:

23 a. filed a grievance pursuant to Section 1-9-120 of this
24 title,

- 1 b. provided information to any state official or
2 Department employee, or
3 c. testified, assisted, or otherwise participated in an
4 investigation, proceeding, or hearing against the
5 Department or child-placing agency.

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

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

15 SECTION 4. AMENDATORY 10A O.S. 2011, Section 1-9-119, is
16 amended to read as follows:

17 Section 1-9-119. A. A statement of foster parent's rights
18 shall be given to every foster parent annually and shall include,
19 but not be limited to, the right to:

20 1. Be treated with dignity, respect, and consideration as a
21 professional member of the child welfare team;

22 2. Be notified of and be given appropriate, ongoing education
23 and continuing education and training to develop and enhance foster
24 parenting skills;

1 3. Be informed about ways to contact the state agency or the
2 child-placing agency in order to receive information and assistance
3 to access supportive services for any child in the foster parent's
4 care;

5 4. Receive timely financial reimbursement for providing foster
6 care services;

7 5. Be notified of any costs or expenses for which the foster
8 parent may be eligible for reimbursement;

9 6. Be provided a clear, written explanation of the individual
10 treatment and service plan concerning the child in the foster
11 parent's home, listing components of the plan pursuant to the
12 provisions of the Oklahoma Children's Code;

13 7. Receive, at any time during which a child is placed with the
14 foster parent, additional or necessary information that is relevant
15 to the care of the child;

16 8. Be notified of scheduled review meetings, permanency
17 planning meetings, and special staffing concerning the foster child
18 in order to actively participate in the case planning and decision-
19 making process regarding the child;

20 9. Provide input concerning the plan of services for the child
21 and to have that input be given full consideration in the same
22 manner as information presented by any other professional on the
23 team;

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1 10. Communicate with other foster parents in order to share
2 information regarding the foster child. In particular, receive any
3 information concerning the number of times a foster child has been
4 moved and the reasons why, and the names and telephone numbers of
5 the previous foster parent if the previous foster parent has
6 authorized such release;

7 11. Communicate with other professionals who work with the
8 foster child within the context of the team including, but not
9 limited to, therapists, physicians, and teachers;

10 12. Be given, in a timely and consistent manner, any
11 information regarding the child and the child's family which is
12 pertinent to the care and needs of the child and to the making of a
13 permanency plan for the child. Disclosure of information shall be
14 limited to that information which is authorized by the provisions of
15 Chapter VI of the Oklahoma Children's Code for foster parents;

16 13. Be given reasonable notice of any change in or addition to
17 the services provided to the child pursuant to the child's
18 individual treatment and service plan;

19 14. a. Be given written notice of:

20 (1) plans to terminate the placement of the child
21 with the foster parent pursuant to Section 1-4-
22 805 of this title, and

23 (2) the reasons for the changes or termination in
24 placement.

1 b. The notice shall be waived only in emergency cases
2 pursuant to Section 1-4-805 of this title;

3 15. Be notified by the applicable state agency in a timely and
4 complete manner of all court hearings, including notice of the date
5 and time of any court hearing, the name of the judge or hearing
6 officer hearing the case, the location of the hearing, and the court
7 docket number of the case;

8 16. Be informed of decisions made by the court, the state
9 agency or the child-placing agency concerning the child;

10 17. Be considered as a preferred placement option when a foster
11 child who was formerly placed with the foster parent is to reenter
12 foster care at the same level and type of care, if that placement is
13 consistent with the best interest of the child and other children in
14 the home of the foster parent;

15 18. Be provided a fair, timely, and impartial investigation of
16 complaints concerning the certification of the foster parent;

17 19. Be provided the opportunity to request and receive a fair
18 and impartial hearing regarding decisions that affect certification
19 retention or placement of children in the home;

20 20. Be allowed the right to exercise parental substitute
21 authority;

22 21. Have timely access to the appeals process of the state
23 agency and child placement agency and the right to be free from acts
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1 of harassment and retaliation by any other party when exercising the
2 right to appeal;

3 22. Be given the number of the statewide toll-free Foster
4 Parent Hotline; and

5 23. File a grievance and be informed of the process for filing
6 a grievance.

7 B. The Department of Human Services and a child-placing agency
8 under contract with the Department shall be responsible for
9 implementing this section.

10 C. Nothing in this section shall be construed to create a
11 private right of action or claim on the part of any individual, the
12 Department, the Office of Juvenile Affairs, or any child-placing
13 agency.

14 SECTION 5. AMENDATORY 10A O.S. 2011, Section 1-9-120, is
15 amended to read as follows:

16 Section 1-9-120. A. ~~The Department of Human Services~~ Office of
17 Client Advocacy and child-placing agencies shall each establish
18 grievance procedures for foster parents with whom ~~such state~~
19 ~~agencies~~ the Department of Human Services or child-placing agencies
20 contract. The Office of Client Advocacy shall work with the Office
21 of Juvenile System Oversight to track foster parent complaints
22 through the grievance procedures and ensure a resolution of the
23 complaint.

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1 B. The procedures established shall contain the following
2 minimum requirements:

3 1. Resolution of disputes with foster parents shall be
4 accomplished quickly, informally and at the lowest possible level,
5 but shall provide for access to impartial arbitration by management
6 level personnel within the central office; ~~and~~

7 2. Prompt resolution of grievances ~~within established time~~
8 frames no more than sixty (60) days after receipt of the grievance
9 or complaint; and

10 3. Notification to all foster parents upon placement of a child
11 about the grievance procedures and how to file a complaint.

12 C. The ~~Department~~ Office of Client Advocacy and child-placing
13 agency shall designate ~~an~~ one employee at the central office to
14 receive and process foster care grievances received by the Office of
15 Juvenile System Oversight.

16 D. The ~~Department~~ Office of Client Advocacy and child-placing
17 agency shall maintain records of each grievance filed as well as
18 summary information about the number, nature and outcome of all
19 grievances filed. The Office of Client Advocacy and the Office of
20 Juvenile System Oversight shall compile an annual report for the
21 Oklahoma Legislature that details the number of complaints received,
22 the number of complaints resolved, the nature of the complaints and
23 any other information requested by the Legislature. Agencies shall
24 keep records of grievances separate and apart from other foster

1 parent files. A foster parent or a former foster parent shall have
2 a right of access to the record of grievances such person filed
3 after the procedure has been completed.

4 E. 1. Each foster parent shall have the right, without fear of
5 reprisal or discrimination, to present grievances with respect to
6 the providing of foster care services.

7 2. The Department of Human Services shall promptly initiate a
8 plan of corrective discipline including, but not limited to,
9 dismissal of any Department employee or cancellation or nonrenewal
10 of the contract of a child-placing agency determined by the state
11 agency, through an investigation to have retaliated or discriminated
12 against a foster parent who has:

13 a. filed a grievance pursuant to the provisions of this
14 section,

15 b. provided information to any official or Department
16 employee, or

17 c. testified, assisted, or otherwise participated in an
18 investigation, proceeding or hearing against the
19 Department or the child-placing agency.

20 3. The provisions of this subsection shall not be construed to
21 include any complaint by the foster parent resulting from an
22 administrative, civil or criminal action taken by the employee or
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1 child-placing agency for violations of law or rules, or contract
2 provisions by the foster parent."
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