

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 HOUSE BILL 2588

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5
6 AS INTRODUCED

7 An Act relating to foster care; amending 10 O.S.
8 2011, Section 601.6, which relates to the Office of
9 Juvenile System Oversight; directing investigation of
10 certain foster parent complaint; providing exception;
11 mandating access to foster home; requiring court be
12 notified if urgent information is discovered;
13 defining term; amending 10A O.S. 2011, Sections 1-9-
14 112, as amended by Section 7, Chapter 353, O.S.L.
15 2012 and 1-9-120 (10A O.S. Supp. 2013, Section 1-9-
16 112), which relate to grievance procedures; defining
17 term; modifying Department of Human Services
18 oversight of grievances; directing Oklahoma
19 Commission on Children and Youth to establish certain
20 grievance procedures; setting minimum requirements
21 for procedures; requiring procedures to be easily
22 accessible to foster parents; directing Commission
23 retain records and other information; requiring an
24 annual report; describing contents of annual report;
directing Department provide contact information to
Commission; specifying right to present grievances;
and declaring an emergency.

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

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

Section 601.6 A. The Office of Juvenile System Oversight shall
have the responsibility of investigating and reporting misfeasance
and malfeasance within the children and youth service system,

1 inquiring into areas of concern, investigating complaints filed with
2 the Office of Juvenile System Oversight, and performing issue-
3 specific systemic monitoring as directed by the Commission on
4 Children and Youth of the children and youth service system to
5 ascertain compliance with established responsibilities.

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

12 B. The Office of Juvenile System Oversight shall:

13 1. Have the authority to examine and copy all records and
14 budgets pertaining to the children and youth service system and to
15 interview the residents of such facilities and shall have access to
16 all facilities within the children and youth service system for the
17 purpose of conducting systemic oversight and complaint
18 investigations;

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

21 3. Establish, in accordance with the Dispute Resolution Act,
22 Sections 1801 through 1813 of Title 12 of the Oklahoma Statutes, a
23 voluntary program for foster parents to mediate complaints
24 concerning the rights of foster parents, as provided for in Section

1 7206.1 of this title, that relate to certain actions, inactions or
2 decisions of the Department of Human Services, the Department of
3 Juvenile Justice, or child-placing agencies that may adversely
4 affect the safety and well-being of children in the custody of the
5 state;

6 4. Investigate any complaint alleging that an employee of the
7 Department of Human Services or a child-placing agency has
8 threatened a foster parent with removal of a child from the foster
9 parent, harassed a foster parent, or refused to place a child in a
10 licensed or certified foster home, or disrupted a child placement as
11 retaliation or discrimination towards a foster parent who has:

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

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

1 all times be granted access to any foster home or any child-placing
2 agency which is certified, authorized, or funded by the Department.
3 If urgent information about the child or the placement is discovered
4 during an investigation pursuant to this paragraph, the Office of
5 Juvenile Oversight shall notify the court with jurisdiction over the
6 child. For the purposes of this paragraph, "foster parent" means
7 only nonkinship and nonrelative kinship foster parents, and includes
8 both foster homes contracted with a private agency and those
9 contracted with the Department of Human Services;

10 5. Issue reports to the Governor, Speaker of the House of
11 Representatives, President Pro Tempore of the Senate, Chief Justice
12 of the Supreme Court of the State of Oklahoma, any appropriate
13 prosecutorial agency, the director of the agency under
14 consideration, and other persons as necessary and appropriate; and

15 ~~5.~~ 6. Provide recommendations to the Oklahoma Commission on
16 Children and Youth on or before May 1 of each year.

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

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

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

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

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

- 17 a. supervise personnel assigned to the Office of Client
18 Advocacy,
- 19 b. monitor and review grievance procedures and hearings,
- 20 c. establish and maintain a fair, simple, and expeditious
21 system for resolution of grievances of:
 - 22 (1) all children in the custody of the Department of
23 Human Services regarding:
24

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 4. For the purposes of this subsection, "foster parent" means
11 only relative kinship foster parents.

12 SECTION 3. AMENDATORY 10A O.S. 2011, Section 1-9-120, is
13 amended to read as follows:

14 Section 1-9-120. A. The Department of Human Services and
15 child-placing agencies shall each establish grievance procedures for
16 relative kinship foster parents with whom such state agencies or
17 child-placing agencies contract.

18 ~~B.~~ 1. The procedures established shall contain the following
19 minimum requirements:

20 ~~1. Resolution~~

21 a. resolution of disputes with foster parents shall be
22 accomplished quickly, informally and at the lowest
23 possible level, but shall provide for access to
24

1 impartial arbitration by management level personnel
2 within the central office~~7,~~ and

3 ~~2. Prompt~~

4 b. prompt resolution of grievances within established
5 time frames.

6 ~~C. 2.~~ The Department and child-placing agency shall designate
7 an one employee at the central office to receive and process foster
8 care grievances.

9 ~~D. 3.~~ The Department and child-placing agency shall maintain
10 records of each grievance filed as well as summary information about
11 the number, nature and outcome of all grievances filed. Agencies
12 shall keep records of grievances separate and apart from other
13 foster parent files. A foster parent or a former foster parent
14 shall have a right of access to the record of grievances such person
15 filed after the procedure has been completed.

16 ~~E. 1. Each foster parent shall have the right, without fear of~~
17 ~~reprisal or discrimination, to present grievances with respect to~~
18 ~~the providing of foster care services.~~

19 ~~2. 4.~~ The Department shall promptly initiate a plan of
20 corrective discipline including, but not limited to, dismissal of
21 any Department employee or cancellation or nonrenewal of the
22 contract of a child-placing agency determined by the state agency,
23 through an investigation to have retaliated or discriminated against
24 a foster parent who has:

- 1 a. filed a grievance pursuant to the provisions of this
2 section,
3 b. provided information to any official or Department
4 employee, or
5 c. testified, assisted, or otherwise participated in an
6 investigation, proceeding or hearing against the
7 Department or the child-placing agency.

8 ~~3.~~ B. The Oklahoma Commission on Children and Youth, in
9 cooperation with the Department of Human Services and child-placing
10 agencies, shall establish grievance procedures for nonkinship and
11 nonrelative kinship foster parents who contract with the Department
12 or a child-placing agency.

13 1. The procedures established shall contain the following
14 minimum requirements:

- 15 a. resolution of disputes with foster parents shall be
16 accomplished quickly, informally and at the lowest
17 possible level, but shall provide for access to
18 impartial arbitration by Department management level
19 personnel within the central office, and
20 b. ongoing communication with the foster parent to
21 monitor the outcome of the investigation and to follow
22 up as necessary with the foster parent and the
23 Department or child-placing agency.
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1 2. The Commission shall develop grievance procedures easily
2 accessible to foster parents including an Internet website form.

3 3. The Commission shall maintain records of each grievance
4 filed as well as summary information about the number, nature and
5 outcome of all grievances filed. A foster parent or a former foster
6 parent shall have a right-of-access to the record of grievances such
7 person filed after the procedure has been completed.

8 4. The Commission shall compile an annual report for the
9 Governor, Oklahoma Legislature, Director of the Department of Human
10 Services and the public that details the number of complaints
11 received, the number of complaints resolved, the nature of the
12 complaints and any other information the Commission deems pertinent.

13 C. The Department shall provide the Commission with the contact
14 information for all current foster parents who are caring for a
15 child in the custody of the Department so the Commission can notify
16 foster parents of grievance procedures.

17 D. Each foster parent shall have the right, without fear of
18 reprisal or discrimination, to present grievances with respect to
19 the providing of foster care services.

20 E. The provisions of ~~this subsection~~ subsections A and B of
21 this section shall not be construed to include any complaint by the
22 foster parent resulting from an administrative, civil or criminal
23 action taken by the employee or child-placing agency for violations
24 of law or rules, or contract provisions by the foster parent.

1 SECTION 4. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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