

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 292

By: Griffin of the Senate

3 and

4 Echols of the House

5  
6  
7 [ child abuse and neglect - definitions - modifying  
8 definitions - effective date ]  
9

10 AUTHOR: Remove Echols as principal House author and substitute  
11 Jordan as principal House author and show Echols as  
coauthor

12 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
13 entire bill and insert

14 "An Act relating to children; amending 10A O.S. 2011,  
15 Section 1-1-105, as last amended by Section 3,  
16 Chapter 353, O.S.L. 2012 (10A O.S. Supp. 2014,  
17 Section 1-1-105), which relates to definitions;  
18 modifying definition; deleting term; adding  
19 definition of failure to protect; and providing an  
effective date.

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

21 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-1-105, as  
22 last amended by Section 3, Chapter 353, O.S.L. 2012 (10A O.S. Supp.  
23 2014, Section 1-1-105), is amended to read as follows:  
24

1 Section 1-1-105. When used in the Oklahoma Children's Code,  
2 unless the context otherwise requires:

3 1. "Abandonment" means:

- 4 a. the willful intent by words, actions, or omissions not  
5 to return for a child, or
- 6 b. the failure to maintain a significant parental  
7 relationship with a child through visitation or  
8 communication in which incidental or token visits or  
9 communication are not considered significant, or
- 10 c. the failure to respond to notice of deprived  
11 proceedings;

12 2. "Abuse" means harm or threatened harm ~~or failure to protect~~  
13 ~~from harm or threatened harm~~ to the health, safety, or welfare of a  
14 child by a person responsible for the child's health, safety, or  
15 welfare, including but not limited to nonaccidental physical or  
16 mental injury, sexual abuse, or sexual exploitation. Provided,  
17 however, that nothing contained in this act shall prohibit any  
18 parent from using ordinary force as a means of discipline including,  
19 but not limited to, spanking, switching, or paddling.

- 20 a. "Harm or threatened harm to the health or safety of a  
21 child" means any real or threatened physical, mental,  
22 or emotional injury or damage to the body or mind that  
23 is not accidental including but not limited to sexual  
24 abuse, sexual exploitation, neglect, or dependency.

1           b. "Sexual abuse" includes but is not limited to rape,  
2           incest, and lewd or indecent acts or proposals made to  
3           a child, as defined by law, by a person responsible  
4           for the health, safety, or welfare of the child.

5           c. "Sexual exploitation" includes but is not limited to  
6           allowing, permitting, or encouraging a child to engage  
7           in prostitution, as defined by law, by a person  
8           responsible for the health, safety, or welfare of a  
9           child, or allowing, permitting, encouraging, or  
10          engaging in the lewd, obscene, or pornographic, as  
11          defined by law, photographing, filming, or depicting  
12          of a child in those acts by a person responsible for  
13          the health, safety, and welfare of the child;

14          3. "Adjudication" means a finding by the court that the  
15          allegations in a petition alleging that a child is deprived are  
16          supported by a preponderance of the evidence;

17          4. "Adjudicatory hearing" means a hearing by the court as  
18          provided by Section 1-4-601 of this title;

19          5. "Assessment" means a comprehensive review of child safety  
20          and evaluation of family functioning and protective capacities that  
21          is conducted in response to a child abuse or neglect referral that  
22          does not allege a serious and immediate safety threat to a child;

23          6. "Behavioral health" means mental health, substance abuse, or  
24          co-occurring mental health and substance abuse diagnoses, and the

1 continuum of mental health, substance abuse, or co-occurring mental  
2 health and substance abuse treatment;

3 7. "Child" means any unmarried person under eighteen (18) years  
4 of age;

5 8. "Child advocacy center" means a center and the  
6 multidisciplinary child abuse team of which it is a member that is  
7 accredited by the National Children's Alliance or that is completing  
8 a sixth year of reaccreditation. Child advocacy centers shall be  
9 classified, based on the child population of a district attorney's  
10 district, as follows:

- 11 a. nonurban centers in districts with child populations  
12 that are less than sixty thousand (60,000), and
- 13 b. midlevel nonurban centers in districts with child  
14 populations equal to or greater than sixty thousand  
15 (60,000), but not including Oklahoma and Tulsa  
16 counties;

17 9. "Child with a disability" means any child who has a physical  
18 or mental impairment which substantially limits one or more of the  
19 major life activities of the child, or who is regarded as having  
20 such an impairment by a competent medical professional;

21 10. "Child-placing agency" means an agency that arranges for or  
22 places a child in a foster family home, group home, adoptive home,  
23 or independent living program;

24 11. ~~"Commission" means the Commission for Human Services;~~

1        ~~12.~~ "Community-based services" or "community-based programs"  
2 means services or programs which maintain community participation or  
3 supervision in their planning, operation, and evaluation.  
4 Community-based services and programs may include, but are not  
5 limited to, emergency shelter, crisis intervention, group work, case  
6 supervision, job placement, recruitment and training of volunteers,  
7 consultation, medical, educational, home-based services, vocational,  
8 social, preventive and psychological guidance, training, counseling,  
9 early intervention and diversionary substance abuse treatment,  
10 sexual abuse treatment, transitional living, independent living, and  
11 other related services and programs;

12        ~~13.~~ 12. "Concurrent permanency planning" means, when indicated,  
13 the implementation of two plans for a child entering foster care.  
14 One plan focuses on reuniting the parent and child; the other seeks  
15 to find a permanent out-of-home placement for the child with both  
16 plans being pursued simultaneously;

17        ~~14.~~ 13. "Court-appointed special advocate" or "CASA" means a  
18 responsible adult volunteer who has been trained and is supervised  
19 by a court-appointed special advocate program recognized by the  
20 court, and when appointed by the court, serves as an officer of the  
21 court in the capacity as a guardian ad litem;

22        ~~15.~~ 14. "Court-appointed special advocate program" means an  
23 organized program, administered by either an independent, not-for-  
24 profit corporation, a dependent project of an independent, not-for-

1 profit corporation or a unit of local government, which recruits,  
2 screens, trains, assigns, supervises and supports volunteers to be  
3 available for appointment by the court as guardians ad litem;

4 ~~16.~~ 15. "Custodian" means an individual other than a parent,  
5 legal guardian or Indian custodian, to whom legal custody of the  
6 child has been awarded by the court. As used in this title, the  
7 term "custodian" shall not mean the Department of Human Services;

8 ~~17.~~ 16. "Day treatment" means a nonresidential program which  
9 provides intensive services to a child who resides in the child's  
10 own home, the home of a relative, group home, a foster home or  
11 residential child care facility. Day treatment programs include,  
12 but are not limited to, educational services;

13 ~~18.~~ 17. "Department" means the Department of Human Services;

14 ~~19.~~ 18. "Dependency" means a child who is homeless or without  
15 proper care or guardianship through no fault of his or her parent,  
16 legal guardian, or custodian;

17 ~~20.~~ 19. "Deprived child" means a child:

- 18 a. who is for any reason destitute, homeless, or  
19 abandoned,
- 20 b. who does not have the proper parental care or  
21 guardianship,
- 22 c. who has been abused, neglected, or is dependent,
- 23 d. whose home is an unfit place for the child by reason  
24 of depravity on the part of the parent or legal

1 guardian of the child, or other person responsible for  
2 the health or welfare of the child,

3 e. who is a child in need of special care and treatment  
4 because of the child's physical or mental condition,  
5 and the child's parents, legal guardian, or other  
6 custodian is unable or willfully fails to provide such  
7 special care and treatment. As used in this  
8 paragraph, a child in need of special care and  
9 treatment includes, but is not limited to, a child who  
10 at birth tests positive for alcohol or a controlled  
11 dangerous substance and who, pursuant to a drug or  
12 alcohol screen of the child and an assessment of the  
13 parent, is determined to be at risk of harm or  
14 threatened harm to the health or safety of a child,

15 f. who is a child with a disability deprived of the  
16 nutrition necessary to sustain life or of the medical  
17 treatment necessary to remedy or relieve a life-  
18 threatening medical condition in order to cause or  
19 allow the death of the child if such nutrition or  
20 medical treatment is generally provided to similarly  
21 situated children without a disability or children  
22 with disabilities; provided that no medical treatment  
23 shall be necessary if, in the reasonable medical  
24

- 1 judgment of the attending physician, such treatment  
2 would be futile in saving the life of the child,  
3 g. who, due to improper parental care and guardianship,  
4 is absent from school as specified in Section 10-106  
5 of Title 70 of the Oklahoma Statutes, if the child is  
6 subject to compulsory school attendance,  
7 h. whose parent, legal guardian or custodian for good  
8 cause desires to be relieved of custody,  
9 i. who has been born to a parent whose parental rights to  
10 another child have been involuntarily terminated by  
11 the court and the conditions which led to the making  
12 of the finding, which resulted in the termination of  
13 the parental rights of the parent to the other child,  
14 have not been corrected, or  
15 j. whose parent, legal guardian, or custodian has  
16 subjected another child to abuse or neglect or has  
17 allowed another child to be subjected to abuse or  
18 neglect and is currently a respondent in a deprived  
19 proceeding.

20 Nothing in the Oklahoma Children's Code shall be construed to  
21 mean a child is deprived for the sole reason the parent, legal  
22 guardian, or person having custody or control of a child, in good  
23 faith, selects and depends upon spiritual means alone through  
24 prayer, in accordance with the tenets and practice of a recognized



1 church or religious denomination, for the treatment or cure of  
2 disease or remedial care of such child.

3 Nothing contained in this paragraph shall prevent a court from  
4 immediately assuming custody of a child and ordering whatever action  
5 may be necessary, including medical treatment, to protect the  
6 child's health or welfare;

7 ~~21.~~ 20. "Dispositional hearing" means a hearing by the court as  
8 provided by Section 1-4-706 of this title;

9 ~~22.~~ 21. "Drug-endangered child" means a child who is at risk of  
10 suffering physical, psychological or sexual harm as a result of the  
11 use, possession, distribution, manufacture or cultivation of  
12 controlled substances, or the attempt of any of these acts, by a  
13 person responsible for the health, safety or welfare of the child,  
14 as defined in paragraph 51 of this section. This term includes  
15 circumstances wherein the substance abuse of the person responsible  
16 for the health, safety or welfare of the child interferes with that  
17 person's ability to parent and provide a safe and nurturing  
18 environment for the child. The term also includes newborns who test  
19 positive for a controlled dangerous substance, with the exception of  
20 those substances administered under the care of a physician;

21 ~~23.~~ 22. "Emergency custody" means the custody of a child prior  
22 to adjudication of the child following issuance of an order of the  
23 district court pursuant to Section 1-4-201 of this title or  
24 following issuance of an order of the district court pursuant to an

1 emergency custody hearing, as specified by Section 1-4-203 of this  
2 title;

3 ~~24.~~ 23. "Facility" means a place, an institution, a building or  
4 part thereof, a set of buildings, or an area whether or not  
5 enclosing a building or set of buildings used for the lawful custody  
6 and treatment of children;

7 24. "Failure to protect" means failure to take reasonable  
8 action to remedy or prevent child abuse or neglect, and includes the  
9 conduct of a non-abusing parent or guardian who knows the identity  
10 of the abuser or the person neglecting the child, but lies, conceals  
11 or fails to report the child abuse or neglect or otherwise take  
12 reasonable action to end the abuse or neglect;

13 25. "Foster care" or "foster care services" means continuous  
14 twenty-four-hour care and supportive services provided for a child  
15 in foster placement including, but not limited to, the care,  
16 supervision, guidance, and rearing of a foster child by the foster  
17 parent;

18 26. "Foster family home" means the private residence of a  
19 foster parent who provides foster care services to a child. Such  
20 term shall include a nonkinship foster family home, a therapeutic  
21 foster family home, or the home of a relative or other kinship care  
22 home;

23 27. "Foster parent eligibility assessment" includes a criminal  
24 background investigation including, but not limited to, a national

1 criminal history records search based upon the submission of  
2 fingerprints, home assessments, and any other assessment required by  
3 the Department of Human Services, the Office of Juvenile Affairs, or  
4 any child-placing agency pursuant to the provisions of the Oklahoma  
5 Child Care Facilities Licensing Act;

6 28. "Guardian ad litem" means a person appointed by the court  
7 pursuant to the provisions of Section 1-4-306 of this title having  
8 those duties and responsibilities as set forth in that section. The  
9 term "guardian ad litem" shall refer to a court-appointed special  
10 advocate as well as to any other person appointed pursuant to the  
11 provisions of Section 1-4-306 of this title to serve as a guardian  
12 ad litem;

13 29. "Guardian ad litem of the estate of the child" means a  
14 person appointed by the court to protect the property interests of a  
15 child pursuant to Section ~~1-8-109~~ 1-8-108 of this title;

16 30. "Group home" means a residential facility licensed by the  
17 Department to provide full-time care and community-based services  
18 for more than five but fewer than thirteen children;

19 31. "Harm or threatened harm to the health or safety of a  
20 child" means any real or threatened physical, mental, or emotional  
21 injury or damage to the body or mind that is not accidental  
22 including, but not limited to, sexual abuse, sexual exploitation,  
23 neglect, or dependency;

1           32. "Heinous and shocking abuse" includes, but is not limited  
2 to, aggravated physical abuse that results in serious bodily,  
3 mental, or emotional injury. "Serious bodily injury" means injury  
4 that involves:

- 5           a. a substantial risk of death,
- 6           b. extreme physical pain,
- 7           c. protracted disfigurement,
- 8           d. a loss or impairment of the function of a body member,  
9           organ, or mental faculty,
- 10          e. an injury to an internal or external organ or the  
11          body,
- 12          f. a bone fracture,
- 13          g. sexual abuse or sexual exploitation,
- 14          h. chronic abuse including, but not limited to, physical,  
15          emotional, or sexual abuse, or sexual exploitation  
16          which is repeated or continuing,
- 17          i. torture that includes, but is not limited to,  
18          inflicting, participating in or assisting in  
19          inflicting intense physical or emotional pain upon a  
20          child repeatedly over a period of time for the purpose  
21          of coercing or terrorizing a child or for the purpose  
22          of satisfying the craven, cruel, or prurient desires  
23          of the perpetrator or another person, or  
24          j. any other similar aggravated circumstance;

1 33. "Heinous and shocking neglect" includes, but is not limited  
2 to:

- 3 a. chronic neglect that includes, but is not limited to,  
4 a persistent pattern of family functioning in which  
5 the caregiver has not met or sustained the basic needs  
6 of a child which results in harm to the child,
- 7 b. neglect that has resulted in a diagnosis of the child  
8 as a failure to thrive,
- 9 c. an act or failure to act by a parent that results in  
10 the death or near death of a child or sibling, serious  
11 physical or emotional harm, sexual abuse, sexual  
12 exploitation, or presents an imminent risk of serious  
13 harm to a child, or
- 14 d. any other similar aggravating circumstance;

15 34. "Independent living program" means a program specifically  
16 designed to assist a child to enhance those skills and abilities  
17 necessary for successful adult living. An independent living  
18 program may include, but shall not be limited to, such features as  
19 minimal direct staff supervision, and the provision of supportive  
20 services to assist children with activities necessary for finding an  
21 appropriate place of residence, completing an education or  
22 vocational training, obtaining employment, or obtaining other  
23 similar services;

24

1 35. "Individualized service plan" means a document written  
2 pursuant to Section 1-4-704 of this title that has the same meaning  
3 as "service plan" or "treatment plan" where those terms are used in  
4 the Oklahoma Children's Code;

5 36. "Infant" means a child who is twelve (12) months of age or  
6 younger;

7 37. "Institution" means a residential facility offering care  
8 and treatment for more than twenty residents;

9 38. a. "Investigation" means a response to an allegation of  
10 abuse or neglect that involves a serious and immediate  
11 threat to the safety of the child, making it necessary  
12 to determine:

13 (1) the current safety of a child and the risk of  
14 subsequent abuse or neglect, and

15 (2) whether child abuse or neglect occurred and  
16 whether the family needs prevention- and  
17 intervention-related services.

18 b. "Investigation" results in a written response stating  
19 one of the following findings:

20 (1) "Substantiated" means the Department has  
21 determined, after an investigation of a report of  
22 child abuse or neglect and based upon some  
23 credible evidence, that child abuse or neglect  
24

1 has occurred. When child abuse or neglect is  
2 substantiated, the Department may recommend:

3 (a) court intervention if the Department finds  
4 the health, safety, or welfare of the child  
5 is threatened, or

6 (b) child abuse and neglect prevention and  
7 intervention-related services for the child,  
8 parents or persons responsible for the care  
9 of the child if court intervention is not  
10 determined to be necessary,

11 (2) "Unsubstantiated - Services recommended" means  
12 the Department has determined, after an  
13 investigation of a report of child abuse or  
14 neglect, that insufficient evidence exists to  
15 fully determine whether child abuse or neglect  
16 has occurred. If child abuse or neglect is  
17 unsubstantiated, the Department may recommend,  
18 when determined to be necessary, that the parents  
19 or persons responsible for the care of the child  
20 obtain child abuse and neglect prevention- and  
21 intervention-related services, or

22 (3) "Ruled out" means a report in which a child  
23 protective services specialist has determined,  
24 after an investigation of a report of child abuse

1 or neglect, that no child abuse or neglect has  
2 occurred;

3 39. "Kinship care" means full-time care of a child by a kinship  
4 relation;

5 40. "Kinship guardianship" means a permanent guardianship as  
6 defined in this section;

7 41. "Kinship relation" or "kinship relationship" means  
8 relatives, stepparents, or other responsible adults who have a bond  
9 or tie with a child and/or to whom has been ascribed a family  
10 relationship role with the child's parents or the child; provided,  
11 however, in cases where the Indian Child Welfare Act applies, the  
12 definitions contained in 25 U.S.C., Section 1903 shall control;

13 42. "Mental health facility" means a mental health or substance  
14 abuse treatment facility as defined by the Inpatient Mental Health  
15 and Substance Abuse Treatment of Minors Act;

16 43. "Minor" means the same as the term "child" as defined in  
17 this section;

18 44. "Minor in need of treatment" means a child in need of  
19 mental health or substance abuse treatment as defined by the  
20 Inpatient Mental Health and Substance Abuse Treatment of Minors Act;

21 45. "Multidisciplinary child abuse team" means any team  
22 established pursuant to Section 1-9-102 of this title of three or  
23 more persons who are trained in the prevention, identification,  
24 investigation, prosecution, and treatment of physical and sexual



1 child abuse and who are qualified to facilitate a broad range of  
2 prevention\_ and intervention-related services and services related  
3 to child abuse. For purposes of this definition, "freestanding"  
4 means a team not used by a child advocacy center for its  
5 accreditation;

6 46. "Near death" means a child is in serious or critical  
7 condition, as certified by a physician, as a result of abuse or  
8 neglect;

9 47. "Neglect" means:

10 a. the failure or omission to provide any of the  
11 following:

- 12 (1) adequate nurturance and affection, food,  
13 clothing, shelter, sanitation, hygiene, or  
14 appropriate education,  
15 (2) medical, dental, or behavioral health care,  
16 (3) supervision or appropriate caretakers, or  
17 (4) special care made necessary by the physical or  
18 mental condition of the child,

19 b. the failure or omission to protect a child from  
20 exposure to any of the following:

- 21 (1) the use, possession, sale, or manufacture of  
22 illegal drugs,  
23 (2) illegal activities, or  
24

1 (3) sexual acts or materials that are not age-  
2 appropriate, or

3 c. abandonment.

4 Nothing in this paragraph shall be construed to mean a child is  
5 abused or neglected for the sole reason the parent, legal guardian  
6 or person having custody or control of a child, in good faith,  
7 selects and depends upon spiritual means alone through prayer, in  
8 accordance with the tenets and practice of a recognized church or  
9 religious denomination, for the treatment or cure of disease or  
10 remedial care of such child. Nothing contained in this paragraph  
11 shall prevent a court from immediately assuming custody of a child,  
12 pursuant to the Oklahoma Children's Code, and ordering whatever  
13 action may be necessary, including medical treatment, to protect the  
14 child's health or welfare;

15 48. "Permanency hearing" means a hearing by the court pursuant  
16 to Section 1-4-811 of this title;

17 49. "Permanent custody" means the court-ordered custody of an  
18 adjudicated deprived child when a parent-child relationship no  
19 longer exists due to termination of parental rights or due to the  
20 death of a parent or parents;

21 50. "Permanent guardianship" means a judicially created  
22 relationship between a child, a kinship relation of the child, or  
23 other adult established pursuant to the provisions of Section 1-4-  
24 709 of this title;

1           51. "Person responsible for a child's health, safety, or  
2 welfare" includes a parent; a legal guardian; custodian; a foster  
3 parent; a person eighteen (18) years of age or older with whom the  
4 child's parent cohabitates or any other adult residing in the home  
5 of the child; an agent or employee of a public or private  
6 residential home, institution, facility or day treatment program as  
7 defined in Section 175.20 of Title 10 of the Oklahoma Statutes; or  
8 an owner, operator, or employee of a child care facility as defined  
9 by Section 402 of Title 10 of the Oklahoma Statutes;

10           52. "Protective custody" means custody of a child taken by a  
11 law enforcement officer or designated employee of the court without  
12 a court order;

13           53. "Putative father" means an alleged father as that term is  
14 defined in Section 7700-102 of Title 10 of the Oklahoma Statutes;

15           54. "Relative" means a grandparent, great-grandparent, brother  
16 or sister of whole or half blood, aunt, uncle or any other person  
17 related to the child;

18           55. "Residential child care facility" means a twenty-four-hour  
19 residential facility where children live together with or are  
20 supervised by adults who are not their parents or relatives;

21           56. "Review hearing" means a hearing by the court pursuant to  
22 Section 1-4-807 of this title;

23           57. "Risk" means the likelihood that an incident of child abuse  
24 or neglect will occur in the future;

1           58. "Safety threat" means the threat of serious harm due to  
2 child abuse or neglect occurring in the present or in the very near  
3 future and without the intervention of another person, a child would  
4 likely or in all probability sustain severe or permanent disability  
5 or injury, illness, or death;

6           59. "Safety analysis" means action taken by the Department in  
7 response to a report of alleged child abuse or neglect that may  
8 include an assessment or investigation based upon an analysis of the  
9 information received according to priority guidelines and other  
10 criteria adopted by the Department;

11           60. "Safety evaluation" means evaluation of a child's situation  
12 by the Department using a structured, evidence-based tool to  
13 determine if the child is subject to a safety threat;

14           61. "Secure facility" means a facility which is designed and  
15 operated to ensure that all entrances and exits from the facility  
16 are subject to the exclusive control of the staff of the facility,  
17 whether or not the juvenile being detained has freedom of movement  
18 within the perimeter of the facility, or a facility which relies on  
19 locked rooms and buildings, fences, or physical restraint in order  
20 to control behavior of its residents;

21           62. "Sibling" means a biologically or legally related brother  
22 or sister of a child;

23           63. "Specialized foster care" means foster care provided to a  
24 child in a foster home or agency-contracted home which:

- a. has been certified by the Developmental Disabilities Services Division of the Department of Human Services,
- b. is monitored by the Division, and
- c. is funded through the Home- and Community-Based Waiver Services Program administered by the Division;

64. "Temporary custody" means court-ordered custody of an adjudicated deprived child;

65. "Therapeutic foster family home" means a foster family home which provides specific treatment services, pursuant to a therapeutic foster care contract, which are designed to remedy social and behavioral problems of a foster child residing in the home;

66. "Transitional living program" means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting children to develop the skills and abilities necessary for successful adult living. The program may include, but shall not be limited to, reduced staff supervision, vocational training, educational services, employment and employment training, and other appropriate independent living skills training as a part of the transitional living program; and

67. "Voluntary foster care placement" means the temporary placement of a child by the parent, legal guardian or custodian of the child in foster care pursuant to a signed placement agreement

1 between the Department or a child-placing agency and the child's  
2 parent, legal guardian or custodian.

3 SECTION 2. This act shall become effective November 1, 2015."

4 Passed the House of Representatives the 30th day of March, 2015.

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\_\_\_\_\_  
Presiding Officer of the House of  
Representatives

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Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2015.

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Presiding Officer of the Senate

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