

1 ENGROSSED SENATE
2 BILL NO. 718

By: Griffin of the Senate

3 and

4 Lawson of the House

5
6 An Act relating to the Oklahoma Children's Code;
7 amending 10A O.S. 2011, Section 1-1-105, as last
8 amended by Section 1, Chapter 210, O.S.L. 2016 (10A
9 O.S. Supp. 2016, Section 1-1-105), and 10A O.S. 2011,
10 Section 2-1-103, as last amended by Section 3,
11 Chapter 362, O.S.L. 2014 (10A O.S. Supp. 2016,
12 Section 2-1-103), which relate to definitions; adding
13 and deleting certain definitions; amending 10A O.S.
14 2011, Section 2-2-101, as last amended by Section 1,
15 Chapter 261, O.S.L. 2015 (10A O.S. Supp. 2016,
16 Section 2-2-101), which relates to children in state
17 custody; deleting certain term; including certain
18 facilities in certain decisions; amending 10A O.S.
19 2011, Section 2-7-303, as amended by Section 20,
21 Chapter 404, O.S.L. 2013 (10A O.S. Supp. 2016,
22 Section 2-7-303), which relates to community-based
23 programs; amending 70 O.S. 2011, Section 1-113, as
24 last amended by Section 1, Chapter 363, O.S.L. 2015
(70 O.S. Supp. 2016, Section 1-113), which relates to
residency; including certain facilities; clarifying
language; and providing an effective date.

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

SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-1-105, as
last amended by Section 1, Chapter 210, O.S.L. 2016 (10A O.S. Supp.
2016, Section 1-1-105), is amended to read as follows:

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

1 1. "Abandonment" means:

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

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

- 18 a. "Harm or threatened harm to the health or safety of a
19 child" means any real or threatened physical, mental,
20 or emotional injury or damage to the body or mind that
21 is not accidental including but not limited to sexual
22 abuse, sexual exploitation, neglect, or dependency.
23 b. "Sexual abuse" includes but is not limited to rape,
24 incest, and lewd or indecent acts or proposals made to

1 a child, as defined by law, by a person responsible
2 for the health, safety, or welfare of the child.

3 c. "Sexual exploitation" includes but is not limited to
4 allowing, permitting, encouraging, or forcing a child
5 to engage in prostitution, as defined by law, by any
6 person eighteen (18) years of age or older or by a
7 person responsible for the health, safety, or welfare
8 of a child, or allowing, permitting, encouraging, or
9 engaging in the lewd, obscene, or pornographic, as
10 defined by law, photographing, filming, or depicting
11 of a child in those acts by a person responsible for
12 the health, safety, and welfare of the child;

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

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

18 5. "Age-appropriate or developmentally appropriate" means:

19 a. activities or items that are generally accepted as
20 suitable for children of the same age or level of
21 maturity or that are determined to be developmentally
22 appropriate for a child, based on the development of
23 cognitive, emotional, physical, and behavioral

1 capacities that are typical for an age or age group,
2 and

3 b. in the case of a specific child, activities or items
4 that are suitable for that child based on the
5 developmental stages attained by the child with
6 respect to the cognitive, emotional, physical, and
7 behavioral capacities of the specific child.

8 In the event that any age-related activities have implications
9 relative to the academic curriculum of a child, nothing in this
10 paragraph shall be construed to authorize an officer or employee of
11 the federal government to mandate, direct, or control a state or
12 local educational agency, or the specific instructional content,
13 academic achievement standards and assessments, curriculum, or
14 program of instruction of a school;

15 6. "Assessment" means a comprehensive review of child safety
16 and evaluation of family functioning and protective capacities that
17 is conducted in response to a child abuse or neglect referral that
18 does not allege a serious and immediate safety threat to a child;

19 7. "Behavioral health" means mental health, substance abuse, or
20 co-occurring mental health and substance abuse diagnoses, and the
21 continuum of mental health, substance abuse, or co-occurring mental
22 health and substance abuse treatment;

23 8. "Child" means any unmarried person under eighteen (18) years
24 of age;

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

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

13 10. "Child with a disability" means any child who has a
14 physical or mental impairment which substantially limits one or more
15 of the major life activities of the child, or who is regarded as
16 having such an impairment by a competent medical professional;

17 11. "Child-placing agency" means an agency that arranges for or
18 places a child in a foster family home, group home, adoptive home,
19 or a successful adulthood program;

20 12. "Children's emergency support center" means a community-
21 based program that may provide emergency care and a safe and
22 structured home-like environment or a host home for children;
23 providing food, clothing, shelter and hygiene products to each child
24 served, after-school tutoring, counseling services, life-skills

1 training, transition services, assessments, family reunification,
2 respite care, transportation to or from school, doctors'
3 appointments, visitations and other social, school, court or other
4 activities when necessary and a stable environment for children in
5 crisis who are in custody of the Department of Human Services if
6 permitted under the Department's policies and regulations or who
7 have been voluntarily placed by a parent or custodian during a
8 temporary crisis or to assist with a safety plan;

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

20 ~~13.~~ 14. "Concurrent permanency planning" means, when indicated,
21 the implementation of two plans for a child entering foster care.
22 One plan focuses on reuniting the parent and child; the other seeks
23 to find a permanent out-of-home placement for the child with both
24 plans being pursued simultaneously;

1 ~~14.~~ 15. "Court-appointed special advocate" or "CASA" means a
2 responsible adult volunteer who has been trained and is supervised
3 by a court-appointed special advocate program recognized by the
4 court, and when appointed by the court, serves as an officer of the
5 court in the capacity as a guardian ad litem;

6 ~~15.~~ 16. "Court-appointed special advocate program" means an
7 organized program, administered by either an independent, not-for-
8 profit corporation, a dependent project of an independent, not-for-
9 profit corporation or a unit of local government, which recruits,
10 screens, trains, assigns, supervises and supports volunteers to be
11 available for appointment by the court as guardians ad litem;

12 ~~16.~~ 17. "Custodian" means an individual other than a parent,
13 legal guardian or Indian custodian, to whom legal custody of the
14 child has been awarded by the court. As used in this title, the
15 term "custodian" shall not mean the Department of Human Services;

16 ~~17.~~ 18. "Day treatment" means a nonresidential program which
17 provides intensive services to a child who resides in the child's
18 own home, the home of a relative, group home, a foster home or
19 residential child care facility. Day treatment programs include,
20 but are not limited to, educational services;

21 ~~18.~~ 19. "Department" means the Department of Human Services;

22 ~~19.~~ 20. "Dependency" means a child who is homeless or without
23 proper care or guardianship through no fault of his or her parent,
24 legal guardian, or custodian;

1 ~~20.~~ 21. "Deprived child" means a child:

- 2 a. who is for any reason destitute, homeless, or
3 abandoned,
- 4 b. who does not have the proper parental care or
5 guardianship,
- 6 c. who has been abused, neglected, or is dependent,
- 7 d. whose home is an unfit place for the child by reason
8 of depravity on the part of the parent or legal
9 guardian of the child, or other person responsible for
10 the health or welfare of the child,
- 11 e. who is a child in need of special care and treatment
12 because of the child's physical or mental condition,
13 and the child's parents, legal guardian, or other
14 custodian is unable or willfully fails to provide such
15 special care and treatment. As used in this
16 paragraph, a child in need of special care and
17 treatment includes, but is not limited to, a child who
18 at birth tests positive for alcohol or a controlled
19 dangerous substance and who, pursuant to a drug or
20 alcohol screen of the child and an assessment of the
21 parent, is determined to be at risk of harm or
22 threatened harm to the health or safety of a child,
- 23 f. who is a child with a disability deprived of the
24 nutrition necessary to sustain life or of the medical

1 treatment necessary to remedy or relieve a life-
2 threatening medical condition in order to cause or
3 allow the death of the child if such nutrition or
4 medical treatment is generally provided to similarly
5 situated children without a disability or children
6 with disabilities; provided that no medical treatment
7 shall be necessary if, in the reasonable medical
8 judgment of the attending physician, such treatment
9 would be futile in saving the life of the child,

10 g. who, due to improper parental care and guardianship,
11 is absent from school as specified in Section 10-106
12 of Title 70 of the Oklahoma Statutes, if the child is
13 subject to compulsory school attendance,

14 h. whose parent, legal guardian or custodian for good
15 cause desires to be relieved of custody,

16 i. who has been born to a parent whose parental rights to
17 another child have been involuntarily terminated by
18 the court and the conditions which led to the making
19 of the finding, which resulted in the termination of
20 the parental rights of the parent to the other child,
21 have not been corrected, or

22 j. whose parent, legal guardian, or custodian has
23 subjected another child to abuse or neglect or has
24 allowed another child to be subjected to abuse or

1 neglect and is currently a respondent in a deprived
2 proceeding.

3 Nothing in the Oklahoma Children's Code shall be construed to
4 mean a child is deprived for the sole reason the parent, legal
5 guardian, or person having custody or control of a child, in good
6 faith, selects and depends upon spiritual means alone through
7 prayer, in accordance with the tenets and practice of a recognized
8 church or religious denomination, for the treatment or cure of
9 disease or remedial care of such child.

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

14 ~~21.~~ 22. "Dispositional hearing" means a hearing by the court as
15 provided by Section 1-4-706 of this title;

16 ~~22.~~ 23. "Drug-endangered child" means a child who is at risk of
17 suffering physical, psychological or sexual harm as a result of the
18 use, possession, distribution, manufacture or cultivation of
19 controlled substances, or the attempt of any of these acts, by a
20 person responsible for the health, safety or welfare of the child,
21 as defined in paragraph 51 of this section. This term includes
22 circumstances wherein the substance abuse of the person responsible
23 for the health, safety or welfare of the child interferes with that
24 person's ability to parent and provide a safe and nurturing

1 environment for the child. The term also includes newborns who test
2 positive for a controlled dangerous substance, with the exception of
3 those substances administered under the care of a physician;

4 ~~23.~~ 24. "Emergency custody" means the custody of a child prior
5 to adjudication of the child following issuance of an order of the
6 district court pursuant to Section 1-4-201 of this title or
7 following issuance of an order of the district court pursuant to an
8 emergency custody hearing, as specified by Section 1-4-203 of this
9 title;

10 ~~24.~~ 25. "Facility" means a place, an institution, a building or
11 part thereof, a set of buildings, or an area whether or not
12 enclosing a building or set of buildings used for the lawful custody
13 and treatment of children;

14 ~~25.~~ 26. "Failure to protect" means failure to take reasonable
15 action to remedy or prevent child abuse or neglect, and includes the
16 conduct of a non-abusing parent or guardian who knows the identity
17 of the abuser or the person neglecting the child, but lies, conceals
18 or fails to report the child abuse or neglect or otherwise take
19 reasonable action to end the abuse or neglect;

20 ~~26.~~ 27. "Foster care" or "foster care services" means
21 continuous twenty-four-hour care and supportive services provided
22 for a child in foster placement including, but not limited to, the
23 care, supervision, guidance, and rearing of a foster child by the
24 foster parent;

1 ~~27.~~ 28. "Foster family home" means the private residence of a
2 foster parent who provides foster care services to a child. Such
3 term shall include a nonkinship foster family home, a therapeutic
4 foster family home, or the home of a relative or other kinship care
5 home;

6 ~~28.~~ 29. "Foster parent eligibility assessment" includes a
7 criminal background investigation including, but not limited to, a
8 national criminal history records search based upon the submission
9 of fingerprints, home assessments, and any other assessment required
10 by the Department of Human Services, the Office of Juvenile Affairs,
11 or any child-placing agency pursuant to the provisions of the
12 Oklahoma Child Care Facilities Licensing Act;

13 ~~29.~~ 30. "Guardian ad litem" means a person appointed by the
14 court pursuant to the provisions of Section 1-4-306 of this title
15 having those duties and responsibilities as set forth in that
16 section. The term "guardian ad litem" shall refer to a court-
17 appointed special advocate as well as to any other person appointed
18 pursuant to the provisions of Section 1-4-306 of this title to serve
19 as a guardian ad litem;

20 ~~30.~~ 31. "Guardian ad litem of the estate of the child" means a
21 person appointed by the court to protect the property interests of a
22 child pursuant to Section 1-8-108 of this title;

23
24

1 ~~31.~~ 32. "Group home" means a residential facility licensed by
2 the Department to provide full-time care and community-based
3 services for more than five but fewer than thirteen children;

4 ~~32.~~ 33. "Harm or threatened harm to the health or safety of a
5 child" means any real or threatened physical, mental, or emotional
6 injury or damage to the body or mind that is not accidental
7 including, but not limited to, sexual abuse, sexual exploitation,
8 neglect, or dependency;

9 ~~33.~~ 34. "Heinous and shocking abuse" includes, but is not
10 limited to, aggravated physical abuse that results in serious
11 bodily, mental, or emotional injury. "Serious bodily injury" means
12 injury that involves:

- 13 a. a substantial risk of death,
- 14 b. extreme physical pain,
- 15 c. protracted disfigurement,
- 16 d. a loss or impairment of the function of a body member,
17 organ, or mental faculty,
- 18 e. an injury to an internal or external organ or the
19 body,
- 20 f. a bone fracture,
- 21 g. sexual abuse or sexual exploitation,
- 22 h. chronic abuse including, but not limited to, physical,
23 emotional, or sexual abuse, or sexual exploitation
24 which is repeated or continuing,

- 1 i. torture that includes, but is not limited to,
2 inflicting, participating in or assisting in
3 inflicting intense physical or emotional pain upon a
4 child repeatedly over a period of time for the purpose
5 of coercing or terrorizing a child or for the purpose
6 of satisfying the craven, cruel, or prurient desires
7 of the perpetrator or another person, or
8 j. any other similar aggravated circumstance;

9 ~~34.~~ 35. "Heinous and shocking neglect" includes, but is not
10 limited to:

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

23 ~~35.~~ 36. "Individualized service plan" means a document written
24 pursuant to Section 1-4-704 of this title that has the same meaning

1 as "service plan" or "treatment plan" where those terms are used in
2 the Oklahoma Children's Code;

3 ~~36.~~ 37. "Infant" means a child who is twelve (12) months of age
4 or younger;

5 ~~37.~~ 38. "Institution" means a residential facility offering
6 care and treatment for more than twenty residents;

7 ~~38.~~

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

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

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

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

19 (1) "substantiated" means the Department has
20 determined, after an investigation of a report of
21 child abuse or neglect and based upon some
22 credible evidence, that child abuse or neglect
23 has occurred. When child abuse or neglect is
24 substantiated, the Department may recommend:

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

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

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

19 (3) "ruled out" means a report in which a child
20 protective services specialist has determined,
21 after an investigation of a report of child abuse
22 or neglect, that no child abuse or neglect has
23 occurred;

24

1 ~~39.~~ 40. "Kinship care" means full-time care of a child by a
2 kinship relation;

3 ~~40.~~ 41. "Kinship guardianship" means a permanent guardianship
4 as defined in this section;

5 ~~41.~~ 42. "Kinship relation" or "kinship relationship" means
6 relatives, stepparents, or other responsible adults who have a bond
7 or tie with a child and/or to whom has been ascribed a family
8 relationship role with the child's parents or the child; provided,
9 however, in cases where the Indian Child Welfare Act applies, the
10 definitions contained in 25 U.S.C., Section 1903 shall control;

11 ~~42.~~ 43. "Mental health facility" means a mental health or
12 substance abuse treatment facility as defined by the Inpatient
13 Mental Health and Substance Abuse Treatment of Minors Act;

14 ~~43.~~ 44. "Minor" means the same as the term "child" as defined
15 in this section;

16 ~~44.~~ 45. "Minor in need of treatment" means a child in need of
17 mental health or substance abuse treatment as defined by the
18 Inpatient Mental Health and Substance Abuse Treatment of Minors Act;

19 ~~45.~~ 46. "Multidisciplinary child abuse team" means any team
20 established pursuant to Section 1-9-102 of this title of three or
21 more persons who are trained in the prevention, identification,
22 investigation, prosecution, and treatment of physical and sexual
23 child abuse and who are qualified to facilitate a broad range of
24 prevention- and intervention-related services and services related

1 to child abuse. For purposes of this definition, "freestanding"
2 means a team not used by a child advocacy center for its
3 accreditation;

4 ~~46.~~ 47. "Near death" means a child is in serious or critical
5 condition, as certified by a physician, as a result of abuse or
6 neglect;

7 ~~47.~~ 48. "Neglect" means:

8 a. the failure or omission to provide any of the
9 following:

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

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

- 19 (1) the use, possession, sale, or manufacture of
20 illegal drugs,
21 (2) illegal activities, or
22 (3) sexual acts or materials that are not age-
23 appropriate, or

24 c. abandonment.

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

12 ~~48.~~ 49. "Permanency hearing" means a hearing by the court
13 pursuant to Section 1-4-811 of this title;

14 ~~49.~~ 50. "Permanent custody" means the court-ordered custody of
15 an adjudicated deprived child when a parent-child relationship no
16 longer exists due to termination of parental rights or due to the
17 death of a parent or parents;

18 ~~50.~~ 51. "Permanent guardianship" means a judicially created
19 relationship between a child, a kinship relation of the child, or
20 other adult established pursuant to the provisions of Section 1-4-
21 709 of this title;

22 ~~51.~~ 52. "Person responsible for a child's health, safety, or
23 welfare" includes a parent; a legal guardian; custodian; a foster
24 parent; a person eighteen (18) years of age or older with whom the

1 child's parent cohabitates or any other adult residing in the home
2 of the child; an agent or employee of a public or private
3 residential home, institution, facility or day treatment program as
4 defined in Section 175.20 of Title 10 of the Oklahoma Statutes; or
5 an owner, operator, or employee of a child care facility as defined
6 by Section 402 of Title 10 of the Oklahoma Statutes;

7 ~~52.~~ 53. "Protective custody" means custody of a child taken by
8 a law enforcement officer or designated employee of the court
9 without a court order;

10 ~~53.~~ 54. "Putative father" means an alleged father as that term
11 is defined in Section 7700-102 of Title 10 of the Oklahoma Statutes;

12 ~~54.~~ 55. "Reasonable and prudent parent standard" means the
13 standard characterized by careful and sensible parental decisions
14 that maintain the health, safety, and best interests of a child
15 while at the same time encouraging the emotional and developmental
16 growth of the child. This standard shall be used by the child's
17 caregiver when determining whether to allow a child to participate
18 in extracurricular, enrichment, cultural, and social activities.
19 For purposes of this definition, the term "caregiver" means a foster
20 parent with whom a child in foster care has been placed, a
21 representative of a group home where a child has been placed or a
22 designated official for a residential child care facility where a
23 child in foster care has been placed;

24

1 ~~55.~~ 56. "Relative" means a grandparent, great-grandparent,
2 brother or sister of whole or half blood, aunt, uncle or any other
3 person related to the child;

4 ~~56.~~ 57. "Residential child care facility" means a twenty-four-
5 hour residential facility where children live together with or are
6 supervised by adults who are not their parents or relatives;

7 ~~57.~~ 58. "Review hearing" means a hearing by the court pursuant
8 to Section 1-4-807 of this title;

9 ~~58.~~ 59. "Risk" means the likelihood that an incident of child
10 abuse or neglect will occur in the future;

11 ~~59.~~ 60. "Safety threat" means the threat of serious harm due to
12 child abuse or neglect occurring in the present or in the very near
13 future and without the intervention of another person, a child would
14 likely or in all probability sustain severe or permanent disability
15 or injury, illness, or death;

16 ~~60.~~ 61. "Safety analysis" means action taken by the Department
17 in response to a report of alleged child abuse or neglect that may
18 include an assessment or investigation based upon an analysis of the
19 information received according to priority guidelines and other
20 criteria adopted by the Department;

21 ~~61.~~ 62. "Safety evaluation" means evaluation of a child's
22 situation by the Department using a structured, evidence-based tool
23 to determine if the child is subject to a safety threat;

24

1 ~~62.~~ 63. "Secure facility" means a facility which is designed
2 and operated to ensure that all entrances and exits from the
3 facility are subject to the exclusive control of the staff of the
4 facility, whether or not the juvenile being detained has freedom of
5 movement within the perimeter of the facility, or a facility which
6 relies on locked rooms and buildings, fences, or physical restraint
7 in order to control behavior of its residents;

8 ~~63.~~ 64. "Sibling" means a biologically or legally related
9 brother or sister of a child;

10 ~~64.~~ 65. "Specialized foster care" means foster care provided to
11 a child in a foster home or agency-contracted home which:

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

17 ~~65.~~ 66. "Successful adulthood program" means a program
18 specifically designed to assist a child to enhance those skills and
19 abilities necessary for successful adult living. A successful
20 adulthood program may include, but shall not be limited to, such
21 features as minimal direct staff supervision, and the provision of
22 supportive services to assist children with activities necessary for
23 finding an appropriate place of residence, completing an education
24

1 or vocational training, obtaining employment, or obtaining other
2 similar services;

3 ~~66.~~ 67. "Temporary custody" means court-ordered custody of an
4 adjudicated deprived child;

5 ~~67.~~ 68. "Therapeutic foster family home" means a foster family
6 home which provides specific treatment services, pursuant to a
7 therapeutic foster care contract, which are designed to remedy
8 social and behavioral problems of a foster child residing in the
9 home;

10 ~~68.~~ 69. "Trafficking in persons" means sex trafficking or
11 severe forms of trafficking in persons as described in Section 7102
12 of Title 22 of the United States Code:

13 a. "sex trafficking" means the recruitment, harboring,
14 transportation, provision, or obtaining of a person
15 for the purpose of a commercial sex act, and

16 b. "severe forms of trafficking in persons" means:

17 (1) sex trafficking in which a commercial sex act is
18 induced by force, fraud, or coercion, or in which
19 the person induced to perform such act has not
20 attained eighteen (18) years of age, or

21 (2) the recruitment, harboring, transportation,
22 provision, or obtaining of a person for labor or
23 services, through the use of force, fraud, or
24 coercion for the purpose of subjection to

1 involuntary servitude, peonage, debt bondage, or
2 slavery;

3 ~~69.~~ 70. "Transitional living program" means a residential
4 program that may be attached to an existing facility or operated
5 solely for the purpose of assisting children to develop the skills
6 and abilities necessary for successful adult living. The program
7 may include, but shall not be limited to, reduced staff supervision,
8 vocational training, educational services, employment and employment
9 training, and other appropriate independent living skills training
10 as a part of the transitional living program; and

11 ~~70.~~ 71. "Voluntary foster care placement" means the temporary
12 placement of a child by the parent, legal guardian or custodian of
13 the child in foster care pursuant to a signed placement agreement
14 between the Department or a child-placing agency and the child's
15 parent, legal guardian or custodian.

16 SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-1-103, as
17 last amended by Section 3, Chapter 362, O.S.L. 2014 (10A O.S. Supp.
18 2016, Section 2-1-103), is amended to read as follows:

19 Section 2-1-103. When used in the Oklahoma Juvenile Code,
20 unless the context otherwise requires:

21 1. "Adjudicatory hearing" means a hearing to determine whether
22 the allegations of a petition filed pursuant to the provisions of
23 Chapter 2 of the Oklahoma Juvenile Code are supported by the
24

1 evidence and whether a juvenile should be adjudged to be a ward of
2 the court;

3 2. "Alternatives to secure detention" means those services and
4 facilities which are included in the State Plan for the
5 Establishment of Juvenile Detention Services adopted by the Board of
6 Juvenile Affairs and which are used for the temporary detention of
7 juveniles in lieu of secure detention in a juvenile detention
8 facility;

9 3. "Behavioral health" means mental health, substance abuse or
10 co-occurring mental health and substance abuse diagnoses, and the
11 continuum of mental health, substance abuse, or co-occurring mental
12 health and substance abuse treatment;

13 4. "Behavioral health facility" means a mental health or
14 substance abuse facility as provided for by the Inpatient Mental
15 Health and Substance Abuse Treatment of Minors Act;

16 5. "Board" means the Board of Juvenile Affairs;

17 6. "Child" or "juvenile" means any person under eighteen (18)
18 years of age, except for any person charged and convicted for any
19 offense specified in the Youthful Offender Act or against whom
20 judgment and sentence has been deferred for such offense, or any
21 person who is certified as an adult pursuant to any certification
22 procedure authorized in the Oklahoma Juvenile Code for any offense
23 which results in a conviction or against whom judgment and sentence
24 has been deferred for such offense;

1 7. "Child or juvenile in need of mental health and substance
2 abuse treatment" means a juvenile in need of mental health and
3 substance abuse treatment as defined by the Inpatient Mental Health
4 and Substance Abuse Treatment of Minors Act;

5 8. "Child or juvenile in need of supervision" means a juvenile
6 who:

7 a. has repeatedly disobeyed reasonable and lawful
8 commands or directives of the parent, legal guardian,
9 or other custodian,

10 b. is willfully and voluntarily absent from his or her
11 home without the consent of the parent, legal
12 guardian, or other custodian for a substantial length
13 of time or without intent to return,

14 c. is willfully and voluntarily absent from school, as
15 specified in Section 10-106 of Title 70 of the
16 Oklahoma Statutes, if the juvenile is subject to
17 compulsory school attendance, or

18 d. has been served with an ex parte or final protective
19 order pursuant to the Protection from Domestic Abuse
20 Act;

21 9. "Community-based" means a facility, program or service
22 located near the home or family of the juvenile, and programs of
23 community prevention, diversion, supervision and service which
24 maintain community participation in their planning, operation, and

1 evaluation. These programs may include but are not limited to
2 medical, educational, vocational, social, and psychological
3 guidance, training, counseling, alcoholism treatment, drug
4 treatment, prevention and diversion programs, diversion programs for
5 first-time offenders, transitional living, independent living and
6 other rehabilitative services;

7 10. "Community intervention center" means a facility which
8 serves as a short-term reception facility to receive and hold
9 juveniles for an alleged violation of a municipal ordinance, state
10 law or who are alleged to be in need of supervision, as provided for
11 in subsection D of Section 2-7-305 of this title;

12 11. "Core community-based" means the following community-based
13 facilities, programs or services provided through contract with the
14 Office of Juvenile Affairs as provided in Section 2-7-306 of this
15 title:

- 16 a. screening, evaluation and assessment which includes a
17 face-to-face screening and evaluation to establish
18 problem identification and to determine the risk level
19 of a child or adolescent and may result in clinical
20 diagnosis or diagnostic impression,
- 21 b. treatment planning which includes preparation of an
22 individualized treatment plan which is usually done as
23 part of the screening, evaluation and assessment,

24

- 1 c. treatment plan reviewing which includes a
2 comprehensive review and evaluation of the
3 effectiveness of the treatment plan,
- 4 d. individual counseling which includes face-to-face,
5 one-on-one interaction between a counselor and a
6 juvenile to promote emotional or psychological change
7 to alleviate the issues, problems, and difficulties
8 that led to a referral, including ongoing assessment
9 of the status and response of the juvenile to
10 treatment as well as psychoeducational intervention,
- 11 e. group counseling which includes a method of treating a
12 group of individuals using the interaction between a
13 counselor and two or more juveniles or parents or
14 guardians to promote positive emotional or behavioral
15 change, not including social skills development or
16 daily living skills,
- 17 f. family counseling which includes a face-to-face
18 interaction between a counselor and the family of the
19 juvenile to facilitate emotional, psychological or
20 behavior changes and promote successful communication
21 and understanding,
- 22 g. crisis intervention counseling which includes
23 unanticipated, unscheduled face-to-face emergency
24 intervention provided by a licensed level or qualified

1 staff with immediate access to a licensed provider to
2 resolve immediate, overwhelming problems that severely
3 impair the ability of the juvenile to function or
4 maintain in the community,

5 h. crisis intervention telephone support which includes
6 supportive telephone assistance provided by a licensed
7 level provider or qualified staff with immediate
8 access to a licensed provider to resolve immediate,
9 overwhelming problems that severely impair the ability
10 of the juvenile to function or maintain in the
11 community,

12 i. case management which includes planned linkage,
13 advocacy and referral assistance provided in
14 partnership with a client to support that client in
15 self-sufficiency and community tenure,

16 j. case management and home-based services which includes
17 that part of case management services dedicated to
18 travel for the purpose of linkage, advocacy and
19 referral assistance and travel to provide counseling
20 and support services to families of children as needed
21 to support specific youth and families in self-
22 sufficiency and community tenure,

23 k. individual rehabilitative treatment which includes
24 face-to-face service provided one-on-one by qualified

1 staff to maintain or develop skills necessary to
2 perform activities of daily living and successful
3 integration into community life, including educational
4 and supportive services regarding independent living,
5 self-care, social skills regarding development,
6 lifestyle changes and recovery principles and
7 practices,

8 1. group rehabilitative treatment which includes face-to-
9 face group services provided by qualified staff to
10 maintain or develop skills necessary to perform
11 activities of daily living and successful integration
12 into community life, including educational and
13 supportive services regarding independent living,
14 self-care, social skills regarding development,
15 lifestyle changes and recovery principles and
16 practices,

17 m. community-based prevention services which include
18 services delivered in an individual or group setting
19 by a qualified provider designed to meet the services
20 needs of a child or youth and family of the child or
21 youth who has been referred because of identified
22 problems in the family or community. The group
23 prevention planned activities must be focused on
24 reducing the risk that individuals will experience

1 behavioral, substance abuse or delinquency-related
2 problems. Appropriate curriculum-based group
3 activities include, but are not limited to, First
4 Offender groups, prevention and relationship
5 enhancement groups, anger management groups, life
6 skills groups, substance abuse education groups,
7 smoking cessation groups, STD/HIV groups and parenting
8 groups,

9 n. individual paraprofessional services which include
10 services delineated in the treatment plan of the
11 juvenile which are necessary for full integration of
12 the juvenile into the home and community, but do not
13 require a professional level of education and
14 experience. Activities include assisting families
15 with Medicaid applications, assisting with school and
16 General Educational Development (GED) enrollment,
17 assisting youth with independent living arrangements,
18 providing assistance with educational problems and
19 deficiencies, acting as a role model for youth while
20 engaging them in community activities, assisting youth
21 in seeking and obtaining employment, providing
22 transportation for required appointments and
23 activities, participating in recreational activities
24 and accessing other required community support

1 services necessary for full community integration and
2 successful treatment,

3 o. tutoring which includes a tutor and student working
4 together as a learning team to bring about overall
5 academic success, improved self-esteem and increased
6 independence as a learner for the student,

7 p. community relations which include public or community
8 relations activities directed toward the community or
9 public at large or any segment of the public to
10 encourage understanding, accessibility and use of
11 community-based facilities, programs or services,

12 q. ~~emergency shelters and shelter host homes which~~
13 ~~include emergency living accommodations twenty-four~~
14 ~~(24) hours a day for a short term, usually ninety (90)~~
15 ~~days or less, for children and youth in a crisis~~
16 ~~situation such as abandonment, abuse, neglect,~~
17 ~~runaway, respite, or law enforcement or court~~
18 ~~involvement. The shelter or shelter host homes may~~
19 ~~provide care, education, mental health assessment and~~
20 ~~treatment, counseling, recreational activities,~~
21 ~~medical care and referrals needed by children and~~
22 ~~youth to minimize trauma and aid the transition to a~~
23 ~~permanent placement children's emergency support~~
24 ~~centers that are community based and that may provide~~

1 emergency care and a safe and structured home-like
2 environment or a host home for children; providing
3 food, clothing, shelter and hygiene products to each
4 child served, after-school tutoring, counseling
5 services, life-skills training, transition services,
6 assessments, family reunification, respite care,
7 transportation to or from school, doctors'
8 appointments, visitations and other social, school,
9 court or other activities when necessary and a stable
10 environment for children who have been detained as
11 delinquent or in need of supervision and temporarily
12 placed by a court or children in crisis who are in
13 custody of the Office of Juvenile Affairs if permitted
14 under the Office's policies and regulations or who
15 have been voluntarily placed by a parent or custodian
16 during a temporary crisis,

17 r. transitional living programs which include a
18 structured program to help older homeless youth
19 achieve self-sufficiency and avoid long-term
20 dependence on social services,

21 s. community-at-risk services (C.A.R.S.) which include a
22 program provided to juveniles in custody or under the
23 supervision of the Office of Juvenile Affairs or a
24 juvenile bureau to prevent out-of-home placement and

1 to reintegrate juveniles returning from placements.
2 The program shall include, but not be limited to,
3 treatment plan development, counseling, diagnostic and
4 evaluation services, mentoring, tutoring, and
5 supervision of youth in independent living,

6 t. first offender programs which include alternative
7 diversion programs, as defined by Section 2-2-404 of
8 this title, and

9 u. other community-based facilities, programs or services
10 designated by the Board as core community-based
11 facilities, programs or services;

12 12. "Day treatment" means a program which provides intensive
13 services to juveniles who reside in their own home, the home of a
14 relative, or a foster home. Day treatment programs include
15 educational services and may be operated as a part of a residential
16 facility;

17 13. "Delinquent child or juvenile" means a juvenile who:

18 a. has violated any federal or state law or municipal
19 ordinance except a traffic statute or traffic
20 ordinance or any provision of the Oklahoma Wildlife
21 Conservation Code, the Oklahoma Vessel and Motor
22 Regulation Act or the Oklahoma Boating Safety
23 Regulation Act, or has violated any lawful order of
24

1 the court made pursuant to the provisions of the
2 Oklahoma Juvenile Code, or

3 b. has habitually violated traffic laws, traffic
4 ordinances or boating safety laws or rules;

5 14. "Dispositional hearing" means a hearing to determine the
6 order of disposition which should be made with respect to a juvenile
7 adjudged to be a ward of the court;

8 15. "Executive Director" means the Executive Director of the
9 Office of Juvenile Affairs;

10 16. "Facility" means a place, an institution, a building or
11 part thereof, a set of buildings, or an area whether or not
12 enclosing a building or set of buildings which is used for the
13 lawful custody and treatment of juveniles. A facility shall not be
14 considered a correctional facility subject to the provisions of
15 Title 57 of the Oklahoma Statutes;

16 17. "Graduated sanctions" means a calibrated system of
17 sanctions designed to ensure that juvenile offenders face uniform,
18 immediate, and consistent consequences that correspond to the
19 seriousness of each offender's current offense, prior delinquent
20 history, and compliance with prior interventions;

21 18. "Group home" means a residential facility with a program
22 which emphasizes family-style living in a homelike environment.
23 Said group home may also offer a program within the community to
24 meet the specialized treatment needs of its residents. A group home

1 shall not be considered a correctional facility subject to the
2 provisions of Title 57 of the Oklahoma Statutes;

3 19. "Independent living program" means a program designed to
4 assist a juvenile to enhance skills and abilities necessary for
5 successful adult living and may include but shall not be limited to
6 minimal direct staff supervision and supportive services in making
7 the arrangements necessary for an appropriate place of residence,
8 completing an education, vocational training, obtaining employment
9 or other similar services;

10 20. "Institution" means a residential facility offering care
11 and treatment for more than twenty residents. An institution shall
12 not be considered a correctional facility subject to the provisions
13 of Title 57 of the Oklahoma Statutes. Said institution may:

- 14 a. have a program which includes community participation
15 and community-based services, or
- 16 b. be a secure facility with a program exclusively
17 designed for a particular category of resident;

18 21. "Juvenile detention facility" means a facility which is
19 secured by locked rooms, buildings and fences, and meets the
20 certification standards of the Office and which is entirely separate
21 from any prison, jail, adult lockup, or other adult facility, for
22 the temporary care of children. A juvenile detention facility shall
23 not be considered a correctional facility subject to the provisions
24 of Title 57 of the Oklahoma Statutes;

1 22. "Municipal juvenile facility" means a facility other than a
2 community intervention center that accepts a child under eighteen
3 (18) years of age charged with violating a municipal ordinance and
4 meets the requirements of Section 2-2-102 of this title;

5 23. "Office" means the Office of Juvenile Affairs;

6 24. "Peer Review" means an initial or annual review and report
7 to the Office of Juvenile Affairs of the organization, programs,
8 records and financial condition of a Youth Services Agency by the
9 Oklahoma Association of Youth Services, or another Oklahoma
10 nonprofit corporation whose membership consists solely of Youth
11 Services Agencies and of whom at least a majority of Youth Services
12 Agencies are members. An annual review may consist of a review of
13 one or more major areas of the operation of the Youth Services
14 Agency being reviewed;

15 25. "Person responsible for a juvenile's health or welfare"
16 includes a parent, a legal guardian, custodian, a foster parent, a
17 person eighteen (18) years of age or older with whom the juvenile's
18 parent cohabitates or any other adult residing in the home of the
19 child, an agent or employee of a public or private residential home,
20 institution or facility, or an owner, operator, or employee of a
21 child care facility as defined by Section 402 of Title 10 of the
22 Oklahoma Statutes;

23 26. "Preliminary inquiry" or "intake" means a mandatory,
24 preadjudicatory interview of the juvenile and, if available, the

1 parents, legal guardian, or other custodian of the juvenile, which
2 is performed by a duly authorized individual to determine whether a
3 juvenile comes within the purview of the Oklahoma Juvenile Code,
4 whether nonadjudicatory alternatives are available and appropriate,
5 and if the filing of a petition is necessary;

6 27. "Probation" means a legal status created by court order
7 whereby a delinquent juvenile is permitted to remain outside an
8 Office of Juvenile Affairs facility directly or by contract under
9 prescribed conditions and under supervision by the Office, subject
10 to return to the court for violation of any of the conditions
11 prescribed;

12 28. "Rehabilitative facility" means a facility maintained by
13 the state exclusively for the care, education, training, treatment,
14 and rehabilitation of juveniles in need of supervision;

15 29. "Responsible adult" means a stepparent, foster parent,
16 person related to the juvenile in any manner who is eighteen (18)
17 years of age or older, or any person having an obligation and
18 authority to care for or safeguard the juvenile in the absence of
19 another person who is eighteen (18) years of age or older;

20 30. "Secure detention" means the temporary care of juveniles
21 who require secure custody in physically restricting facilities:

22 a. while under the continuing jurisdiction of the court
23 pending court disposition, or
24

1 b. pending placement by the Office of Juvenile Affairs
2 after adjudication;

3 31. "Secure facility" means a facility, maintained by the state
4 exclusively for the care, education, training, treatment, and
5 rehabilitation of delinquent juveniles or youthful offenders which
6 relies on locked rooms and buildings, and fences for physical
7 restraint in order to control behavior of its residents. A secure
8 facility shall not be considered a correctional facility subject to
9 the provisions of Title 57 of the Oklahoma Statutes;

10 32. "Transitional living program" means a residential program
11 that may be attached to an existing facility or operated solely for
12 the purpose of assisting juveniles to develop the skills and
13 abilities necessary for successful adult living. Said program may
14 include but shall not be limited to reduced staff supervision,
15 vocational training, educational services, employment and employment
16 training, and other appropriate independent living skills training
17 as a part of the transitional living program; and

18 33. "Youth Services Agency" means a nonprofit corporation with
19 a local board of directors, officers and staff that has been
20 designated by the Board as a Youth Services Agency, that is peer
21 reviewed annually, and that provides community-based facilities,
22 programs or services to juveniles and their families in the youth
23 services service area in which it is located.

1 SECTION 3. AMENDATORY 10A O.S. 2011, Section 2-2-101, as
2 last amended by Section 1, Chapter 261, O.S.L. 2015 (10A O.S. Supp.
3 2016, Section 2-2-101), is amended to read as follows:

4 Section 2-2-101. A. A child may be taken into custody prior to
5 the filing of a petition alleging that the child is delinquent or in
6 need of supervision:

7 1. By a peace officer, without a court order for any criminal
8 offense for which the officer is authorized to arrest an adult
9 without a warrant, or if the child is willfully and voluntarily
10 absent from the home of the child without the consent of the parent,
11 legal guardian, legal custodian or other person having custody and
12 control of the child for a substantial length of time or without
13 intent to return, or if the surroundings of the child are such as to
14 endanger the welfare of the child;

15 2. By a peace officer or an employee of the court without a
16 court order, if the child is willfully and voluntarily absent from
17 the home of the child without the consent of the parent, legal
18 guardian, legal custodian or other person having custody and control
19 of the child if the surroundings of the child are such as to
20 endanger the welfare of the child or, in the reasonable belief of
21 the employee of the court or peace officer, the child appears to
22 have run away from home without just cause. For purposes of this
23 section, a peace officer may reasonably believe that a child has run
24 away from home when the child refuses to give his or her name or the

1 name and address of a parent or other person legally responsible for
2 the care of the child or when the peace officer has reason to doubt
3 that the name and address given by the child are the actual name and
4 address of the parent or other person legally responsible for the
5 care of the child. A peace officer or court employee is authorized
6 by the court to take a child who has run away from home or who, in
7 the reasonable belief of the peace officer, appears to have run away
8 from home, to a facility designated by administrative order of the
9 court for such purposes if the peace officer or court employee is
10 unable to or has determined that it is unsafe to return the child to
11 the home of the child or to the custody of his or her parent or
12 other person legally responsible for the care of the child. Any
13 such facility receiving a child shall inform a parent or other
14 person responsible for the care of the child;

15 3. Pursuant to an order of the district court issued on the
16 application of the office of the district attorney. The application
17 presented by the district attorney shall be supported by a sworn
18 affidavit which may be based upon information and belief. The
19 application shall state facts sufficient to demonstrate to the court
20 that there is probable cause to believe the child has committed a
21 crime or is in violation of the terms of probation, parole or order
22 of the court;

23 4. By order of the district court pursuant to subsection F of
24 this section when the child is in need of medical or behavioral

1 health treatment or other action in order to protect the health or
2 welfare of the child and the parent, legal guardian, legal custodian
3 or other person having custody or control of the child is unwilling
4 or unavailable to consent to such medical or behavioral health
5 treatment or other action; and

6 5. Pursuant to an emergency ex parte or a final protective
7 order of the district court issued at the request of a parent or
8 legal guardian pursuant to the Protection from Domestic Abuse Act.

9 Any child referred to in this subsection shall not be considered
10 to be in the custody of the Office of Juvenile Affairs.

11 B. Whenever a child is taken into custody as a delinquent
12 child, the child shall be detained, held temporarily in the
13 custodial care of a peace officer or other person employed by a
14 police department, or be released to the custody of the parent of
15 the child, legal guardian, legal custodian, attorney or other
16 responsible adult, upon the written promise of such person to bring
17 the child to the court at the time fixed if a petition is to be
18 filed and to assume responsibility for costs for damages caused by
19 the child if the child commits any delinquent acts after being
20 released regardless of whether or not a petition is to be filed. It
21 shall be a misdemeanor for any person to sign the written promise
22 and then fail to comply with the terms of the promise. Any person
23 convicted of violating the terms of the written promise shall be
24 subject to imprisonment in the county jail for not more than six (6)

1 months or a fine of not more than Five Hundred Dollars (\$500.00), or
2 by both such fine and imprisonment. In addition, if a parent, legal
3 guardian, legal custodian, attorney or other responsible adult is
4 notified that the child has been taken into custody, it shall be a
5 misdemeanor for such person to refuse to assume custody of the child
6 within a timely manner. If detained, the child shall be taken
7 immediately before a judge of the district court in the county in
8 which the child is sought to be detained, or to the place of
9 detention or ~~shelter~~ a children's emergency support center or host
10 home designated by the court. If no judge be available locally, the
11 person having the child in custody shall immediately report the
12 detention of the child to the presiding judge of the judicial
13 administrative district, provided that the child shall not be
14 detained in custody beyond the next judicial day or for good cause
15 shown due to problems of arranging for and transporting the child to
16 and from a secure juvenile detention center, beyond the second
17 judicial day unless the court shall so order after a detention
18 hearing to determine if there exists probable cause to detain the
19 child. The child shall be present at the detention hearing or the
20 image of the child may be broadcast to the judge by closed-circuit
21 television or any other electronic means that provides for a two-way
22 communication of image and sound between the child and the judge.
23 If the latter judge cannot be reached, such detention shall be
24 reported immediately to any judge regularly serving within the

1 judicial administrative district. If detained, a reasonable bond
2 for release shall be set. Pending further disposition of the case,
3 a child whose custody has been assumed by the court may be released
4 to the custody of a parent, legal guardian, legal custodian, or
5 other responsible adult or to any other person appointed by the
6 court, or be detained pursuant to Chapter 3 of the Oklahoma Juvenile
7 Code in such place as shall be designated by the court, subject to
8 further order.

9 C. When a child is taken into custody as a child in need of
10 supervision, the child shall be detained and held temporarily in the
11 custodial care of a peace officer or placed within a community
12 intervention center as defined in subsection D of Section 2-7-305 of
13 this title, ~~an emergency shelter, emergency shelter host home,~~ a
14 children's emergency support center or host home or be released to
15 the custody of the parent of the child, legal guardian, legal
16 custodian, attorney or other responsible adult, upon the written
17 promise of such person to bring the child to court at the time fixed
18 if a petition is to be filed. A child who is alleged or adjudicated
19 to be in need of supervision shall not be detained in any jail,
20 lockup, or other place used for adults convicted of a crime or under
21 arrest and charged with a crime.

22 D. When any child is taken into custody pursuant to this title
23 and it reasonably appears to the peace officer, employee of the
24 court or person acting pursuant to court order that the child is in

1 need of medical treatment to preserve the health of the child, any
2 peace officer, any employee of the court or person acting pursuant
3 to court order shall have the authority to authorize medical
4 examination and medical treatment for any child found to be in need
5 of medical treatment as diagnosed by a competent medical authority
6 in the absence of the parent of the child, legal guardian, legal
7 custodian, or other person having custody and control of the child
8 who is competent to authorize medical treatment. The officer or the
9 employee of the court or person acting pursuant to court order shall
10 authorize said medical treatment only after exercising due diligence
11 to locate the parent of the child, legal guardian, legal custodian,
12 or other person legally competent to authorize said medical
13 treatment. The parent of the child, legal guardian, legal
14 custodian, or other person having custody and control shall be
15 responsible for such medical expenses as ordered by the court. No
16 peace officer, any employee of the court or person acting pursuant
17 to court order authorizing such treatment in accordance with the
18 provisions of this section for any child found in need of such
19 medical treatment shall have any liability, civil or criminal, for
20 giving such authorization.

21 E. A child who has been taken into custody as otherwise
22 provided by this Code who appears to be a minor in need of
23 treatment, as defined by the Inpatient Mental Health and Substance
24 Abuse Treatment of Minors Act, may be admitted to a behavioral

1 health treatment facility in accordance with the provisions of the
2 Inpatient Mental Health and Substance Abuse Treatment of Minors Act.
3 The parent of the child, legal guardian, legal custodian, or other
4 person having custody and control shall be responsible for such
5 behavioral health expenses as ordered by the court. No peace
6 officer, any employee of the court or person acting pursuant to
7 court order authorizing such treatment in accordance with the
8 provisions of this section for any child found in need of such
9 behavioral health evaluation or treatment shall have any liability,
10 civil or criminal, for giving such authorization.

11 F. 1. A child may be taken into custody pursuant to an order
12 of the court specifying that the child is in need of medical
13 treatment or other action to protect the health or welfare of the
14 child and the parent, legal guardian, legal custodian, or other
15 responsible adult having custody or control of a child is unwilling
16 or unavailable to consent to such medical treatment or other action.

17 2. If the child is in need of immediate medical treatment or
18 other action to protect the health or welfare of the child, the
19 court may issue an emergency ex parte order upon application of the
20 district attorney of the county in which the child is located. The
21 application for an ex parte order may be verbal or in writing and
22 shall be supported by facts sufficient to demonstrate to the court
23 that there is reasonable cause to believe that the child is in need
24 of immediate medical treatment or other action to protect the health

1 or welfare of the child. The emergency ex parte order shall be in
2 effect until a full hearing is conducted. A copy of the
3 application, notice for full hearing and a copy of any ex parte
4 order issued by the court shall be served upon such parent, legal
5 guardian, legal custodian, or other responsible adult having custody
6 or control of the child. Within twenty-four (24) hours of the
7 filing of the application the court shall schedule a full hearing on
8 the application, regardless of whether an emergency ex parte order
9 had been issued or denied.

10 3. Except as otherwise provided by paragraph 2 of this
11 subsection, whenever a child is in need of medical treatment to
12 protect the health or welfare of the child, or whenever any other
13 action is necessary to protect the health or welfare of the child,
14 and the parent of the child, legal guardian, legal custodian, or
15 other person having custody or control of the child is unwilling or
16 unavailable to consent to such medical treatment or other action,
17 the court, upon application of the district attorney of the county
18 in which the child is located, shall hold a full hearing within five
19 (5) days of filing the application. Notice of the hearing and a
20 copy of the application shall be served upon the parent, legal
21 guardian, legal custodian, or other person having custody or control
22 of the child.

23 4. At any hearing held pursuant to this subsection, the court
24 may grant any order or require such medical treatment or other

1 action as is necessary to protect the health or welfare of the
2 child.

3 5. a. The parent, legal guardian, legal custodian, or other
4 person having custody or control of the child shall be
5 responsible for such medical expenses as ordered by
6 the court.

7 b. No peace officer, any employee of the court or person
8 acting pursuant to court order authorizing such
9 treatment in accordance with the provisions of this
10 subsection for any child found in need of such medical
11 treatment shall have any liability, civil or criminal.

12 G. As a part of the intake process, an employee of the Office
13 of Juvenile Affairs or a county juvenile bureau shall inquire as to
14 whether there is any American Indian lineage or ancestry that would
15 make the child eligible for membership or citizenship in a federally
16 recognized American Indian tribe or nation. If the employee of the
17 Office of Juvenile Affairs or a county juvenile bureau determines
18 that the child may have American Indian lineage or ancestry, the
19 employee shall notify the primary tribe or nation of membership or
20 citizenship within three (3) judicial days of completing an intake
21 of such determination. Any information or records related to taking
22 the child into custody shall be confidential, shall not be open to
23 the general public, and shall not be inspected or their contents
24 disclosed.

1 SECTION 4. AMENDATORY 10A O.S. 2011, Section 2-7-303, as
2 amended by Section 20, Chapter 404, O.S.L. 2013 (10A O.S. Supp.
3 2016, Section 2-7-303), is amended to read as follows:

4 Section 2-7-303. The Office of Juvenile Affairs, in its role as
5 planner and coordinator for juvenile justice and delinquency
6 prevention services, is hereby authorized to and shall enter into
7 contracts for the establishment and maintenance of community-based
8 facilities, services and programs which may include, but are not
9 limited to: ~~Emergency shelter~~ Children's emergency support center,
10 diagnosis, crisis intervention, counseling, group work, case
11 supervision, job placement, school-based prevention programs,
12 alternative diversion programs for first-time offenders and for
13 youth alleged or adjudicated to be in need of supervision,
14 recruitment and training of volunteers, consultation, case
15 management services, and agency coordination with emphasis on
16 keeping youth with a high potential for delinquency out of the
17 traditional juvenile justice process and community intervention
18 centers. The Office of Juvenile Affairs shall enter into contracts
19 with Youth Services Agencies for core community-based facilities,
20 programs and services based on need as indicated in its State Plan
21 for Youth Services Agencies.

22 SECTION 5. AMENDATORY 70 O.S. 2011, Section 1-113, as
23 last amended by Section 1, Chapter 363, O.S.L. 2015 (70 O.S. Supp.
24 2016, Section 1-113), is amended to read as follows:

1 Section 1-113. A. When used in this section, the residence of
2 any child for school purposes shall be:

3 1. The legal residence of the parents, guardian, or person
4 having legal custody.

5 Each school district board of education shall adopt a policy
6 establishing the requirements for student residency for that
7 district which provides for residence as described in this
8 paragraph. Within the discretion of each school district's board of
9 education, the policy may but is not required to allow for
10 establishment of residency by affidavit when an adult, whether a
11 relative or not, who does not fall within one of the categories
12 listed above, who holds legal residence in the school district, and
13 who has assumed permanent care and custody of the child files an
14 affidavit with the school district attesting that they have assumed
15 custody and the reasons for assuming custody. Any policy allowing
16 the establishment of residency by affidavit shall require the adult
17 who provides the affidavit to affirm in such affidavit that the
18 custody arrangement is permanent and that the adult contributes the
19 major degree of support to the child. If the school district policy
20 allows establishment of residency by affidavit, any person who
21 willfully makes a statement in the affidavit which the person knows
22 to be false shall, upon conviction, be guilty of a misdemeanor
23 punishable by imprisonment in the county jail for not more than one
24 (1) year or a fine of not more than Five Hundred Dollars (\$500.00)

1 or both such fine and imprisonment. Each school district shall
2 include in its policy on residency any documentation necessary for
3 the administration of the policy;

4 2. The foster family home, as defined in Section 1-1-105 of
5 Title 10A of the Oklahoma Statutes, except a therapeutic foster
6 family home or a specialized foster home where a child is in
7 voluntary placement as defined in subsection D of this section, in
8 which the child has been placed:

9 a. by the person or agency having legal custody of the
10 child pursuant to a court order, or

11 b. by a state agency having legal custody of the child
12 pursuant to the provisions of Title 10A of the
13 Oklahoma Statutes.

14 Upon request of the foster parent, the residence of a child
15 in foster care for school purposes may be changed to the school
16 district in which the child resided prior to being placed in foster
17 care or the school district in which the previous foster family home
18 of the child is located;

19 3. Any orphanage or eleemosynary child care facility having
20 full-time care and custody;

21 4. Any eleemosynary child care facility in which a child is
22 placed by a parent or guardian for full-time residential care;
23 provided, the provision of this paragraph shall apply only to
24 children who attend a district school by joint agreement of the

1 school district and facility and who are not placed in the facility
2 through a state contract. For purposes of this paragraph,

3 "eleemosynary child care facility" means a facility:

- 4 a. where child care and services are provided, and
- 5 b. which is funded predominantly by benevolent or
6 charitable funds and is exempt from taxation pursuant
7 to the provisions of Section 501(c)(3) of the Internal
8 Revenue Code, 26 U.S.C., Section 501(c)(3);

9 5. Any state-operated institution in which a child has been
10 placed by a parent or guardian or by a state agency having legal
11 custody of the child pursuant to the provisions of Title 10A or
12 Section 3-101 of Title 43A of the Oklahoma Statutes for care and
13 treatment due to a physical or mental condition of the child;

14 6. Any facility in which a child has been admitted and is
15 receiving on-site educational services as provided for in Section 3-
16 104.7 of this title;

17 7. The district in which a child who is entirely self-
18 supporting resides and attends school; or

19 8. A state-licensed children's emergency support center or
20 state-operated emergency shelter.

21 B. No school district shall bear the cost of educating children
22 who are not residents of this state. A school district may furnish
23 educational services pursuant to contract as elsewhere provided by
24 law. A school district may furnish educational services pursuant to

1 a contract to children who do not reside in the United States of
2 America; provided, the children shall not be counted in the average
3 daily membership of the school district.

4 C. For the purpose of ensuring that a child placed in a
5 therapeutic foster family home, as defined in Section 1-1-105 of
6 Title 10A of the Oklahoma Statutes, receives an appropriate
7 education, no receiving school district shall be required to enroll
8 such a child if the enrollment would cause the proportion of
9 students in therapeutic foster family homes as compared to the
10 average daily membership of the receiving district for the preceding
11 school year to exceed two percent (2%). Children served by Head
12 Start may not be counted for the purpose of this paragraph unless
13 the child is on an individualized education program provided by the
14 school district. Any school district may enroll such students who
15 are outside the student's resident district in therapeutic foster
16 family home placements which exceed this limit if the school
17 determines it possesses the ability to provide such child an
18 appropriate education.

19 D. When a child does not meet the criteria for residency
20 provided in subsection A of this section and is placed in any of the
21 following entities which is out of the home of the child and not in
22 the school district in which the child legally resides:

23 1. A residential facility;

24

1 2. A treatment program or center, including the facility
2 operated pursuant to Section 485.1 of Title 63 of the Oklahoma
3 Statutes;

4 3. A therapeutic foster family home as defined in Section 1-1-
5 105 of Title 10A of the Oklahoma Statutes;

6 4. A specialized foster home, which is a specialized foster
7 home or an agency-contracted home under the supervision of and
8 certified as meeting the standards set by the Department of Human
9 Services and is funded through the Department of Human Services Home
10 and Community-Based Waiver Services Program; or

11 5. An acute psychiatric care facility,
12 the entity shall, if the child contends he or she resides in a
13 school district other than the district where the entity is located,
14 within eleven (11) days of admittance, notify the school district in
15 which the entity is located of the admittance.

16 For minors who are persons requiring psychiatric treatment as
17 defined by Title 43A of the Oklahoma Statutes, on-site educational
18 services shall be provided beginning on the eleventh day of
19 admission.

20 Upon provision of educational services to children pursuant to
21 the provisions of subsection F of this section, the receiving school
22 district shall receive the State Aid as defined in subsection C of
23 Section 18-110 of this title for those students.

24

1 Access to the due process procedure guaranteed to children with
2 disabilities shall be available to resolve disagreements about the
3 appropriateness of placements of children with disabilities.

4 E. The governing body of any state institution for children
5 operated pursuant to the provisions of Title 10A of the Oklahoma
6 Statutes or Section 3-101 of Title 43A of the Oklahoma Statutes and
7 the board of education of the school district in which the
8 institution is located or any other school district in the state
9 willing to provide necessary educational services may enter into a
10 contract whereby the district will maintain a school for the
11 children of the institution, in which event the residence of the
12 children for school purposes will be considered as being in the
13 district maintaining the school; provided, however, that upon
14 release from the school, a child shall be considered as a resident
15 of the originating school district for school purposes. The
16 governing body of the state institutions specified in this
17 subsection shall pay the costs for educating students placed in the
18 state institution less any amount of funds received for the students
19 by the school district contracting with the state institution to
20 provide necessary educational services.

21 F. 1. The school district in which an entity as described in
22 subsection D of this section exists to serve children in out-of-home
23 placements shall, upon request of the individual or agency operating
24 the entity, provide the educational services to which the children

1 in the entity are entitled subject to the limitations provided in
2 subsection C of this section. No person operating such an entity
3 may contract for the provision of educational services with any
4 school district other than the school district in which the entity
5 is located unless the school district in which the entity is located
6 agrees in writing to allow another school district to provide the
7 educational services or unless the person operating the entity
8 contracts with another school district for the provision of
9 educational services to be provided through remote Internet-based
10 courses. No person operating such an entity may contract for the
11 provision of educational services with more than one school
12 district.

13 2. Prior to location in a school district, the individual or
14 agency operating an entity described in subsection D of this section
15 which requires provision of educational services from the school
16 district shall notify the local board of education of its
17 anticipated educational needs. No school district shall be required
18 to provide educational services for students in the entity until at
19 least sixty (60) calendar days have elapsed from the time in which
20 the local board of education was initially notified of the need
21 unless the school district so agrees to provide the educational
22 services sooner. The provisions of this paragraph shall not apply
23 to therapeutic or specialized foster homes.

24

1 3. Educational services provided shall meet or exceed state
2 accreditation standards. No school district shall be responsible
3 for any expenses for students in an entity described in subsection D
4 of this section which are not directly related to the provision of
5 educational services. A school district shall not be obligated for
6 expenses of those students in an entity in the current school year
7 for whom educational services are requested after the first nine (9)
8 weeks of the current school year for the district if educational
9 services are requested for twelve or more students than were served
10 in the first nine (9) weeks, unless the school district chooses to
11 provide educational services for the current school year. Contracts
12 and agreements for provision of educational services may allow for
13 the use of public and private sources of support which are available
14 to share the costs of educational services and of therapies,
15 treatments, or support services. Otherwise valid obligations to
16 provide or pay for such services, such as Medicaid, shall remain in
17 effect for children who are eligible for the services from sources
18 other than the school district.

19 4. Upon the request of any residential facility which has
20 contracted with the Office of Juvenile Affairs to provide either a
21 regimented juvenile training program or a high-impact wilderness
22 camp to a minimum of forty students who have been adjudicated, a
23 school district may contract for the facility to provide the
24 educational services to those students. Under a contract, the

1 facility shall operate in accordance with all applicable laws,
2 including compliance with Section 18-114.14 of this title. The
3 contract shall include the State Aid generated by the students, less
4 a fee for administrative services which may be retained by the
5 school district, not to exceed ten percent (10%) of the total on an
6 annual basis. The school district shall exercise supervision over
7 the educational program in the facility and bear all responsibility
8 for required educational reporting. The school district shall
9 maintain access to all educational records for students in the
10 facility, and shall provide for the appropriate academic credit and
11 diplomas. The school district shall be indemnified against any
12 actions or penalties on the part of the facility which result in
13 adversity for the school district.

14 G. Any question as to the place of residence of any child for
15 school purposes shall be decided pursuant to procedures utilized by
16 the State Department of Education.

17 H. The receiving district shall notify the district of
18 residence immediately upon finding that the student requires special
19 education and related services and the district of residence shall
20 participate in planning the Individualized Education Program (IEP)
21 for the student and in subsequent reviews of the program in
22 accordance with the Individuals with Disabilities Education Act
23 (IDEA).

24 SECTION 6. This act shall become effective November 1, 2017.

1 Passed the Senate the 23rd day of March, 2017.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2017.

7
8 _____
9 Presiding Officer of the House
10 of Representatives