

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 718, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Griffin

Griffin-AM-FS-Req#1638
3/20/2017 5:19 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

FLOOR SUBSTITUTE
FOR

SENATE BILL NO. 718

By: Griffin of the Senate

and

Lawson of the House

FLOOR SUBSTITUTE

An Act relating to the Oklahoma Children's Code; amending 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), and 10A O.S. 2011, Section 2-1-103, as last amended by Section 3, Chapter 362, O.S.L. 2014 (10A O.S. Supp. 2016, Section 2-1-103), which relate to definitions; adding and deleting certain definitions; amending 10A O.S. 2011, Section 2-2-101, as last amended by Section 1, Chapter 261, O.S.L. 2015 (10A O.S. Supp. 2016, Section 2-2-101), which relates to children in state custody; deleting certain term; including certain facilities in certain decisions; amending 10A O.S. 2011, Section 2-7-303, as amended by Section 20, Chapter 404, O.S.L. 2013 (10A O.S. Supp. 2016, Section 2-7-303), which relates to community-based programs; amending 70 O.S. 2011, Section 1-113, as 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. "Abandonment" means:

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

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

- a. "Harm or threatened harm to the health or safety of a child" means any real or threatened physical, mental,

1 or emotional injury or damage to the body or mind that
2 is not accidental including but not limited to sexual
3 abuse, sexual exploitation, neglect, or dependency.

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

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

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

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

23 5. "Age-appropriate or developmentally appropriate" means:
24

- 1 a. activities or items that are generally accepted as
2 suitable for children of the same age or level of
3 maturity or that are determined to be developmentally
4 appropriate for a child, based on the development of
5 cognitive, emotional, physical, and behavioral
6 capacities that are typical for an age or age group,
7 and
8 b. in the case of a specific child, activities or items
9 that are suitable for that child based on the
10 developmental stages attained by the child with
11 respect to the cognitive, emotional, physical, and
12 behavioral capacities of the specific child.

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

20 6. "Assessment" means a comprehensive review of child safety
21 and evaluation of family functioning and protective capacities that
22 is conducted in response to a child abuse or neglect referral that
23 does not allege a serious and immediate safety threat to a child;
24

1 7. "Behavioral health" means mental health, substance abuse, or
2 co-occurring mental health and substance abuse diagnoses, and the
3 continuum of mental health, substance abuse, or co-occurring mental
4 health and substance abuse treatment;

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

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

- 13 a. nonurban centers in districts with child populations
14 that are less than sixty thousand (60,000), and
- 15 b. midlevel nonurban centers in districts with child
16 populations equal to or greater than sixty thousand
17 (60,000), but not including Oklahoma and Tulsa
18 counties;

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

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

4 12. "Children's emergency support center" means a community-
5 based program that may provide emergency care and a safe and
6 structured home-like environment or a host home for children;
7 providing food, clothing, shelter and hygiene products to each child
8 served, after-school tutoring, counseling services, life-skills
9 training, transition services, assessments, family reunification,
10 respite care, transportation to or from school, doctors'
11 appointments, visitations and other social, school, court or other
12 activities when necessary and a stable environment for children in
13 crisis who are in custody of the Department of Human Services if
14 permitted under the Department's policies and regulations or who
15 have been voluntarily placed by a parent or custodian during a
16 temporary crisis or to assist with a safety plan;

17 13. "Community-based services" or "community-based programs"
18 means services or programs which maintain community participation or
19 supervision in their planning, operation, and evaluation.
20 Community-based services and programs may include, but are not
21 limited to, emergency shelter, crisis intervention, group work, case
22 supervision, job placement, recruitment and training of volunteers,
23 consultation, medical, educational, home-based services, vocational,
24 social, preventive and psychological guidance, training, counseling,

1 early intervention and diversionary substance abuse treatment,
2 sexual abuse treatment, transitional living, independent living, and
3 other related services and programs;

4 ~~13.~~ 14. "Concurrent permanency planning" means, when indicated,
5 the implementation of two plans for a child entering foster care.
6 One plan focuses on reuniting the parent and child; the other seeks
7 to find a permanent out-of-home placement for the child with both
8 plans being pursued simultaneously;

9 ~~14.~~ 15. "Court-appointed special advocate" or "CASA" means a
10 responsible adult volunteer who has been trained and is supervised
11 by a court-appointed special advocate program recognized by the
12 court, and when appointed by the court, serves as an officer of the
13 court in the capacity as a guardian ad litem;

14 ~~15.~~ 16. "Court-appointed special advocate program" means an
15 organized program, administered by either an independent, not-for-
16 profit corporation, a dependent project of an independent, not-for-
17 profit corporation or a unit of local government, which recruits,
18 screens, trains, assigns, supervises and supports volunteers to be
19 available for appointment by the court as guardians ad litem;

20 ~~16.~~ 17. "Custodian" means an individual other than a parent,
21 legal guardian or Indian custodian, to whom legal custody of the
22 child has been awarded by the court. As used in this title, the
23 term "custodian" shall not mean the Department of Human Services;
24

1 ~~17.~~ 18. "Day treatment" means a nonresidential program which
2 provides intensive services to a child who resides in the child's
3 own home, the home of a relative, group home, a foster home or
4 residential child care facility. Day treatment programs include,
5 but are not limited to, educational services;

6 ~~18.~~ 19. "Department" means the Department of Human Services;

7 ~~19.~~ 20. "Dependency" means a child who is homeless or without
8 proper care or guardianship through no fault of his or her parent,
9 legal guardian, or custodian;

10 ~~20.~~ 21. "Deprived child" means a child:

- 11 a. who is for any reason destitute, homeless, or
12 abandoned,
- 13 b. who does not have the proper parental care or
14 guardianship,
- 15 c. who has been abused, neglected, or is dependent,
- 16 d. whose home is an unfit place for the child by reason
17 of depravity on the part of the parent or legal
18 guardian of the child, or other person responsible for
19 the health or welfare of the child,
- 20 e. who is a child in need of special care and treatment
21 because of the child's physical or mental condition,
22 and the child's parents, legal guardian, or other
23 custodian is unable or willfully fails to provide such
24 special care and treatment. As used in this

paragraph, a child in need of special care and treatment includes, but is not limited to, a child who at birth tests positive for alcohol or a controlled dangerous substance and who, pursuant to a drug or alcohol screen of the child and an assessment of the parent, is determined to be at risk of harm or threatened harm to the health or safety of a child,

f. who is a child with a disability deprived of the nutrition necessary to sustain life or of the medical treatment necessary to remedy or relieve a life-threatening medical condition in order to cause or allow the death of the child if such nutrition or medical treatment is generally provided to similarly situated children without a disability or children with disabilities; provided that no medical treatment shall be necessary if, in the reasonable medical judgment of the attending physician, such treatment would be futile in saving the life of the child,

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

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

- 1 i. who has been born to a parent whose parental rights to
2 another child have been involuntarily terminated by
3 the court and the conditions which led to the making
4 of the finding, which resulted in the termination of
5 the parental rights of the parent to the other child,
6 have not been corrected, or
- 7 j. whose parent, legal guardian, or custodian has
8 subjected another child to abuse or neglect or has
9 allowed another child to be subjected to abuse or
10 neglect and is currently a respondent in a deprived
11 proceeding.

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

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

23 ~~21.~~ 22. "Dispositional hearing" means a hearing by the court as
24 provided by Section 1-4-706 of this title;

1 ~~22.~~ 23. "Drug-endangered child" means a child who is at risk of
2 suffering physical, psychological or sexual harm as a result of the
3 use, possession, distribution, manufacture or cultivation of
4 controlled substances, or the attempt of any of these acts, by a
5 person responsible for the health, safety or welfare of the child,
6 as defined in paragraph 51 of this section. This term includes
7 circumstances wherein the substance abuse of the person responsible
8 for the health, safety or welfare of the child interferes with that
9 person's ability to parent and provide a safe and nurturing
10 environment for the child. The term also includes newborns who test
11 positive for a controlled dangerous substance, with the exception of
12 those substances administered under the care of a physician;

13 ~~23.~~ 24. "Emergency custody" means the custody of a child prior
14 to adjudication of the child following issuance of an order of the
15 district court pursuant to Section 1-4-201 of this title or
16 following issuance of an order of the district court pursuant to an
17 emergency custody hearing, as specified by Section 1-4-203 of this
18 title;

19 ~~24.~~ 25. "Facility" means a place, an institution, a building or
20 part thereof, a set of buildings, or an area whether or not
21 enclosing a building or set of buildings used for the lawful custody
22 and treatment of children;

23 ~~25.~~ 26. "Failure to protect" means failure to take reasonable
24 action to remedy or prevent child abuse or neglect, and includes the

1 conduct of a non-abusing parent or guardian who knows the identity
2 of the abuser or the person neglecting the child, but lies, conceals
3 or fails to report the child abuse or neglect or otherwise take
4 reasonable action to end the abuse or neglect;

5 ~~26.~~ 27. "Foster care" or "foster care services" means
6 continuous twenty-four-hour care and supportive services provided
7 for a child in foster placement including, but not limited to, the
8 care, supervision, guidance, and rearing of a foster child by the
9 foster parent;

10 ~~27.~~ 28. "Foster family home" means the private residence of a
11 foster parent who provides foster care services to a child. Such
12 term shall include a nonkinship foster family home, a therapeutic
13 foster family home, or the home of a relative or other kinship care
14 home;

15 ~~28.~~ 29. "Foster parent eligibility assessment" includes a
16 criminal background investigation including, but not limited to, a
17 national criminal history records search based upon the submission
18 of fingerprints, home assessments, and any other assessment required
19 by the Department of Human Services, the Office of Juvenile Affairs,
20 or any child-placing agency pursuant to the provisions of the
21 Oklahoma Child Care Facilities Licensing Act;

22 ~~29.~~ 30. "Guardian ad litem" means a person appointed by the
23 court pursuant to the provisions of Section 1-4-306 of this title
24 having those duties and responsibilities as set forth in that

1 section. The term "guardian ad litem" shall refer to a court-
2 appointed special advocate as well as to any other person appointed
3 pursuant to the provisions of Section 1-4-306 of this title to serve
4 as a guardian ad litem;

5 ~~30.~~ 31. "Guardian ad litem of the estate of the child" means a
6 person appointed by the court to protect the property interests of a
7 child pursuant to Section 1-8-108 of this title;

8 ~~31.~~ 32. "Group home" means a residential facility licensed by
9 the Department to provide full-time care and community-based
10 services for more than five but fewer than thirteen children;

11 ~~32.~~ 33. "Harm or threatened harm to the health or safety of a
12 child" means any real or threatened physical, mental, or emotional
13 injury or damage to the body or mind that is not accidental
14 including, but not limited to, sexual abuse, sexual exploitation,
15 neglect, or dependency;

16 ~~33.~~ 34. "Heinous and shocking abuse" includes, but is not
17 limited to, aggravated physical abuse that results in serious
18 bodily, mental, or emotional injury. "Serious bodily injury" means
19 injury that involves:

- 20 a. a substantial risk of death,
- 21 b. extreme physical pain,
- 22 c. protracted disfigurement,
- 23 d. a loss or impairment of the function of a body member,
- 24 organ, or mental faculty,

- e. an injury to an internal or external organ or the body,
- f. a bone fracture,
- g. sexual abuse or sexual exploitation,
- h. chronic abuse including, but not limited to, physical, emotional, or sexual abuse, or sexual exploitation which is repeated or continuing,
- i. torture that includes, but is not limited to, inflicting, participating in or assisting in inflicting intense physical or emotional pain upon a child repeatedly over a period of time for the purpose of coercing or terrorizing a child or for the purpose of satisfying the craven, cruel, or prurient desires of the perpetrator or another person, or
- j. any other similar aggravated circumstance;

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

- a. chronic neglect that includes, but is not limited to, a persistent pattern of family functioning in which the caregiver has not met or sustained the basic needs of a child which results in harm to the child,
- b. neglect that has resulted in a diagnosis of the child as a failure to thrive,

1 c. an act or failure to act by a parent that results in
2 the death or near death of a child or sibling, serious
3 physical or emotional harm, sexual abuse, sexual
4 exploitation, or presents an imminent risk of serious
5 harm to a child, or

6 d. any other similar aggravating circumstance;

7 ~~35.~~ 36. "Individualized service plan" means a document written
8 pursuant to Section 1-4-704 of this title that has the same meaning
9 as "service plan" or "treatment plan" where those terms are used in
10 the Oklahoma Children's Code;

11 ~~36.~~ 37. "Infant" means a child who is twelve (12) months of age
12 or younger;

13 ~~37.~~ 38. "Institution" means a residential facility offering
14 care and treatment for more than twenty residents;

15 ~~38.~~

16 39. a. "Investigation" means a response to an allegation of
17 abuse or neglect that involves a serious and immediate
18 threat to the safety of the child, making it necessary
19 to determine:

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

22 (2) whether child abuse or neglect occurred and
23 whether the family needs prevention- and
24 intervention-related services.

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

3 (1) "substantiated" means the Department has
4 determined, after an investigation of a report of
5 child abuse or neglect and based upon some
6 credible evidence, that child abuse or neglect
7 has occurred. When child abuse or neglect is
8 substantiated, the Department may recommend:

9 (a) court intervention if the Department finds
10 the health, safety, or welfare of the child
11 is threatened, or

12 (b) child abuse and neglect prevention- and
13 intervention-related services for the child,
14 parents or persons responsible for the care
15 of the child if court intervention is not
16 determined to be necessary,

17 (2) "unsubstantiated" means the Department has
18 determined, after an investigation of a report of
19 child abuse or neglect, that insufficient
20 evidence exists to fully determine whether child
21 abuse or neglect has occurred. If child abuse or
22 neglect is unsubstantiated, the Department may
23 recommend, when determined to be necessary, that
24 the parents or persons responsible for the care

1 of the child obtain child abuse and neglect
2 prevention- and intervention-related services, or
3 (3) "ruled out" means a report in which a child
4 protective services specialist has determined,
5 after an investigation of a report of child abuse
6 or neglect, that no child abuse or neglect has
7 occurred;

8 ~~39.~~ 40. "Kinship care" means full-time care of a child by a
9 kinship relation;

10 ~~40.~~ 41. "Kinship guardianship" means a permanent guardianship
11 as defined in this section;

12 ~~41.~~ 42. "Kinship relation" or "kinship relationship" means
13 relatives, stepparents, or other responsible adults who have a bond
14 or tie with a child and/or to whom has been ascribed a family
15 relationship role with the child's parents or the child; provided,
16 however, in cases where the Indian Child Welfare Act applies, the
17 definitions contained in 25 U.S.C., Section 1903 shall control;

18 ~~42.~~ 43. "Mental health facility" means a mental health or
19 substance abuse treatment facility as defined by the Inpatient
20 Mental Health and Substance Abuse Treatment of Minors Act;

21 ~~43.~~ 44. "Minor" means the same as the term "child" as defined
22 in this section;
23
24

1 ~~44.~~ 45. "Minor in need of treatment" means a child in need of
2 mental health or substance abuse treatment as defined by the
3 Inpatient Mental Health and Substance Abuse Treatment of Minors Act;

4 ~~45.~~ 46. "Multidisciplinary child abuse team" means any team
5 established pursuant to Section 1-9-102 of this title of three or
6 more persons who are trained in the prevention, identification,
7 investigation, prosecution, and treatment of physical and sexual
8 child abuse and who are qualified to facilitate a broad range of
9 prevention- and intervention-related services and services related
10 to child abuse. For purposes of this definition, "freestanding"
11 means a team not used by a child advocacy center for its
12 accreditation;

13 ~~46.~~ 47. "Near death" means a child is in serious or critical
14 condition, as certified by a physician, as a result of abuse or
15 neglect;

16 ~~47.~~ 48. "Neglect" means:

- 17 a. the failure or omission to provide any of the
18 following:
- 19 (1) adequate nurturance and affection, food,
20 clothing, shelter, sanitation, hygiene, or
21 appropriate education,
 - 22 (2) medical, dental, or behavioral health care,
 - 23 (3) supervision or appropriate caretakers, or
- 24

- 1 (4) special care made necessary by the physical or
2 mental condition of the child,
3 b. the failure or omission to protect a child from
4 exposure to any of the following:
5 (1) the use, possession, sale, or manufacture of
6 illegal drugs,
7 (2) illegal activities, or
8 (3) sexual acts or materials that are not age-
9 appropriate, or
10 c. abandonment.

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

22 ~~48.~~ 49. "Permanency hearing" means a hearing by the court
23 pursuant to Section 1-4-811 of this title;
24

1 ~~49.~~ 50. "Permanent custody" means the court-ordered custody of
2 an adjudicated deprived child when a parent-child relationship no
3 longer exists due to termination of parental rights or due to the
4 death of a parent or parents;

5 ~~50.~~ 51. "Permanent guardianship" means a judicially created
6 relationship between a child, a kinship relation of the child, or
7 other adult established pursuant to the provisions of Section 1-4-
8 709 of this title;

9 ~~51.~~ 52. "Person responsible for a child's health, safety, or
10 welfare" includes a parent; a legal guardian; custodian; a foster
11 parent; a person eighteen (18) years of age or older with whom the
12 child's parent cohabitates or any other adult residing in the home
13 of the child; an agent or employee of a public or private
14 residential home, institution, facility or day treatment program as
15 defined in Section 175.20 of Title 10 of the Oklahoma Statutes; or
16 an owner, operator, or employee of a child care facility as defined
17 by Section 402 of Title 10 of the Oklahoma Statutes;

18 ~~52.~~ 53. "Protective custody" means custody of a child taken by
19 a law enforcement officer or designated employee of the court
20 without a court order;

21 ~~53.~~ 54. "Putative father" means an alleged father as that term
22 is defined in Section 7700-102 of Title 10 of the Oklahoma Statutes;

23 ~~54.~~ 55. "Reasonable and prudent parent standard" means the
24 standard characterized by careful and sensible parental decisions

1 that maintain the health, safety, and best interests of a child
2 while at the same time encouraging the emotional and developmental
3 growth of the child. This standard shall be used by the child's
4 caregiver when determining whether to allow a child to participate
5 in extracurricular, enrichment, cultural, and social activities.
6 For purposes of this definition, the term "caregiver" means a foster
7 parent with whom a child in foster care has been placed, a
8 representative of a group home where a child has been placed or a
9 designated official for a residential child care facility where a
10 child in foster care has been placed;

11 ~~55.~~ 56. "Relative" means a grandparent, great-grandparent,
12 brother or sister of whole or half blood, aunt, uncle or any other
13 person related to the child;

14 ~~56.~~ 57. "Residential child care facility" means a twenty-four-
15 hour residential facility where children live together with or are
16 supervised by adults who are not their parents or relatives;

17 ~~57.~~ 58. "Review hearing" means a hearing by the court pursuant
18 to Section 1-4-807 of this title;

19 ~~58.~~ 59. "Risk" means the likelihood that an incident of child
20 abuse or neglect will occur in the future;

21 ~~59.~~ 60. "Safety threat" means the threat of serious harm due to
22 child abuse or neglect occurring in the present or in the very near
23 future and without the intervention of another person, a child would
24

1 likely or in all probability sustain severe or permanent disability
2 or injury, illness, or death;

3 ~~60.~~ 61. "Safety analysis" means action taken by the Department
4 in response to a report of alleged child abuse or neglect that may
5 include an assessment or investigation based upon an analysis of the
6 information received according to priority guidelines and other
7 criteria adopted by the Department;

8 ~~61.~~ 62. "Safety evaluation" means evaluation of a child's
9 situation by the Department using a structured, evidence-based tool
10 to determine if the child is subject to a safety threat;

11 ~~62.~~ 63. "Secure facility" means a facility which is designed
12 and operated to ensure that all entrances and exits from the
13 facility are subject to the exclusive control of the staff of the
14 facility, whether or not the juvenile being detained has freedom of
15 movement within the perimeter of the facility, or a facility which
16 relies on locked rooms and buildings, fences, or physical restraint
17 in order to control behavior of its residents;

18 ~~63.~~ 64. "Sibling" means a biologically or legally related
19 brother or sister of a child;

20 ~~64.~~ 65. "Specialized foster care" means foster care provided to
21 a child in a foster home or agency-contracted home which:

- 22 a. has been certified by the Developmental Disabilities
23 Services Division of the Department of Human Services,
24 b. is monitored by the Division, and

1 c. is funded through the Home- and Community-Based Waiver
2 Services Program administered by the Division;

3 ~~65.~~ 66. "Successful adulthood program" means a program
4 specifically designed to assist a child to enhance those skills and
5 abilities necessary for successful adult living. A successful
6 adulthood program may include, but shall not be limited to, such
7 features as minimal direct staff supervision, and the provision of
8 supportive services to assist children with activities necessary for
9 finding an appropriate place of residence, completing an education
10 or vocational training, obtaining employment, or obtaining other
11 similar services;

12 ~~66.~~ 67. "Temporary custody" means court-ordered custody of an
13 adjudicated deprived child;

14 ~~67.~~ 68. "Therapeutic foster family home" means a foster family
15 home which provides specific treatment services, pursuant to a
16 therapeutic foster care contract, which are designed to remedy
17 social and behavioral problems of a foster child residing in the
18 home;

19 ~~68.~~ 69. "Trafficking in persons" means sex trafficking or
20 severe forms of trafficking in persons as described in Section 7102
21 of Title 22 of the United States Code:

22 a. "sex trafficking" means the recruitment, harboring,
23 transportation, provision, or obtaining of a person
24 for the purpose of a commercial sex act, and

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

- (1) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained eighteen (18) years of age, or
- (2) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery;

~~69.~~ 70. "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

~~70.~~ 71. "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 between the Department or a child-placing agency and the child's parent, legal guardian or custodian.

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

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

6 1. "Adjudicatory hearing" means a hearing to determine whether
7 the allegations of a petition filed pursuant to the provisions of
8 Chapter 2 of the Oklahoma Juvenile Code are supported by the
9 evidence and whether a juvenile should be adjudged to be a ward of
10 the court;

11 2. "Alternatives to secure detention" means those services and
12 facilities which are included in the State Plan for the
13 Establishment of Juvenile Detention Services adopted by the Board of
14 Juvenile Affairs and which are used for the temporary detention of
15 juveniles in lieu of secure detention in a juvenile detention
16 facility;

17 3. "Behavioral health" means mental health, substance abuse or
18 co-occurring mental health and substance abuse diagnoses, and the
19 continuum of mental health, substance abuse, or co-occurring mental
20 health and substance abuse treatment;

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

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

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

9 7. "Child or juvenile in need of mental health and substance
10 abuse treatment" means a juvenile in need of mental health and
11 substance abuse treatment as defined by the Inpatient Mental Health
12 and Substance Abuse Treatment of Minors Act;

13 8. "Child or juvenile in need of supervision" means a juvenile
14 who:

- 15 a. has repeatedly disobeyed reasonable and lawful
16 commands or directives of the parent, legal guardian,
17 or other custodian,
- 18 b. is willfully and voluntarily absent from his or her
19 home without the consent of the parent, legal
20 guardian, or other custodian for a substantial length
21 of time or without intent to return,
- 22 c. is willfully and voluntarily absent from school, as
23 specified in Section 10-106 of Title 70 of the
24

Oklahoma Statutes, if the juvenile is subject to compulsory school attendance, or

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

9. "Community-based" means a facility, program or service located near the home or family of the juvenile, and programs of community prevention, diversion, supervision and service which maintain community participation in their planning, operation, and evaluation. These programs may include but are not limited to medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, prevention and diversion programs, diversion programs for first-time offenders, transitional living, independent living and other rehabilitative services;

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

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

- a. screening, evaluation and assessment which includes a face-to-face screening and evaluation to establish problem identification and to determine the risk level of a child or adolescent and may result in clinical diagnosis or diagnostic impression,
- b. treatment planning which includes preparation of an individualized treatment plan which is usually done as part of the screening, evaluation and assessment,
- c. treatment plan reviewing which includes a comprehensive review and evaluation of the effectiveness of the treatment plan,
- d. individual counseling which includes face-to-face, one-on-one interaction between a counselor and a juvenile to promote emotional or psychological change to alleviate the issues, problems, and difficulties that led to a referral, including ongoing assessment of the status and response of the juvenile to treatment as well as psychoeducational intervention,
- e. group counseling which includes a method of treating a group of individuals using the interaction between a counselor and two or more juveniles or parents or guardians to promote positive emotional or behavioral change, not including social skills development or daily living skills,

- 1 f. family counseling which includes a face-to-face
2 interaction between a counselor and the family of the
3 juvenile to facilitate emotional, psychological or
4 behavior changes and promote successful communication
5 and understanding,
- 6 g. crisis intervention counseling which includes
7 unanticipated, unscheduled face-to-face emergency
8 intervention provided by a licensed level or qualified
9 staff with immediate access to a licensed provider to
10 resolve immediate, overwhelming problems that severely
11 impair the ability of the juvenile to function or
12 maintain in the community,
- 13 h. crisis intervention telephone support which includes
14 supportive telephone assistance provided by a licensed
15 level provider or qualified staff with immediate
16 access to a licensed provider to resolve immediate,
17 overwhelming problems that severely impair the ability
18 of the juvenile to function or maintain in the
19 community,
- 20 i. case management which includes planned linkage,
21 advocacy and referral assistance provided in
22 partnership with a client to support that client in
23 self-sufficiency and community tenure,
24

- j. case management and home-based services which includes that part of case management services dedicated to travel for the purpose of linkage, advocacy and referral assistance and travel to provide counseling and support services to families of children as needed to support specific youth and families in self-sufficiency and community tenure,
- k. individual rehabilitative treatment which includes face-to-face service provided one-on-one by qualified staff to maintain or develop skills necessary to perform activities of daily living and successful integration into community life, including educational and supportive services regarding independent living, self-care, social skills regarding development, lifestyle changes and recovery principles and practices,
- l. group rehabilitative treatment which includes face-to-face group services provided by qualified staff to maintain or develop skills necessary to perform activities of daily living and successful integration into community life, including educational and supportive services regarding independent living, self-care, social skills regarding development,

lifestyle changes and recovery principles and practices,

m. community-based prevention services which include services delivered in an individual or group setting by a qualified provider designed to meet the services needs of a child or youth and family of the child or youth who has been referred because of identified problems in the family or community. The group prevention planned activities must be focused on reducing the risk that individuals will experience behavioral, substance abuse or delinquency-related problems. Appropriate curriculum-based group activities include, but are not limited to, First Offender groups, prevention and relationship enhancement groups, anger management groups, life skills groups, substance abuse education groups, smoking cessation groups, STD/HIV groups and parenting groups,

n. individual paraprofessional services which include services delineated in the treatment plan of the juvenile which are necessary for full integration of the juvenile into the home and community, but do not require a professional level of education and experience. Activities include assisting families

1 with Medicaid applications, assisting with school and
2 General Educational Development (GED) enrollment,
3 assisting youth with independent living arrangements,
4 providing assistance with educational problems and
5 deficiencies, acting as a role model for youth while
6 engaging them in community activities, assisting youth
7 in seeking and obtaining employment, providing
8 transportation for required appointments and
9 activities, participating in recreational activities
10 and accessing other required community support
11 services necessary for full community integration and
12 successful treatment,

13 o. tutoring which includes a tutor and student working
14 together as a learning team to bring about overall
15 academic success, improved self-esteem and increased
16 independence as a learner for the student,

17 p. community relations which include public or community
18 relations activities directed toward the community or
19 public at large or any segment of the public to
20 encourage understanding, accessibility and use of
21 community-based facilities, programs or services,

22 q. ~~emergency shelters and shelter host homes which~~
23 ~~include emergency living accommodations twenty-four~~
24 ~~(24) hours a day for a short term, usually ninety (90)~~

~~days or less, for children and youth in a crisis situation such as abandonment, abuse, neglect, runaway, respite, or law enforcement or court involvement. The shelter or shelter host homes may provide care, education, mental health assessment and treatment, counseling, recreational activities, medical care and referrals needed by children and youth to minimize trauma and aid the transition to a permanent placement~~ children's emergency support centers that are community based and that may provide emergency care and a safe and structured home-like environment or a host home for children; providing food, clothing, shelter and hygiene products to each child served, after-school tutoring, counseling services, life-skills training, transition services, assessments, family reunification, respite care, transportation to or from school, doctors' appointments, visitations and other social, school, court or other activities when necessary and a stable environment for children who have been detained as delinquent or in need of supervision and temporarily placed by a court or children in crisis who are in custody of the Office of Juvenile Affairs if permitted under the Office's policies and regulations or who

1 have been voluntarily placed by a parent or custodian
2 during a temporary crisis,

3 r. transitional living programs which include a
4 structured program to help older homeless youth
5 achieve self-sufficiency and avoid long-term
6 dependence on social services,

7 s. community-at-risk services (C.A.R.S.) which include a
8 program provided to juveniles in custody or under the
9 supervision of the Office of Juvenile Affairs or a
10 juvenile bureau to prevent out-of-home placement and
11 to reintegrate juveniles returning from placements.
12 The program shall include, but not be limited to,
13 treatment plan development, counseling, diagnostic and
14 evaluation services, mentoring, tutoring, and
15 supervision of youth in independent living,

16 t. first offender programs which include alternative
17 diversion programs, as defined by Section 2-2-404 of
18 this title, and

19 u. other community-based facilities, programs or services
20 designated by the Board as core community-based
21 facilities, programs or services;

22 12. "Day treatment" means a program which provides intensive
23 services to juveniles who reside in their own home, the home of a
24 relative, or a foster home. Day treatment programs include

1 educational services and may be operated as a part of a residential
2 facility;

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

4 a. has violated any federal or state law or municipal
5 ordinance except a traffic statute or traffic
6 ordinance or any provision of the Oklahoma Wildlife
7 Conservation Code, the Oklahoma Vessel and Motor
8 Regulation Act or the Oklahoma Boating Safety
9 Regulation Act, or has violated any lawful order of
10 the court made pursuant to the provisions of the
11 Oklahoma Juvenile Code, or

12 b. has habitually violated traffic laws, traffic
13 ordinances or boating safety laws or rules;

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

17 15. "Executive Director" means the Executive Director of the
18 Office of Juvenile Affairs;

19 16. "Facility" means a place, an institution, a building or
20 part thereof, a set of buildings, or an area whether or not
21 enclosing a building or set of buildings which is used for the
22 lawful custody and treatment of juveniles. A facility shall not be
23 considered a correctional facility subject to the provisions of
24 Title 57 of the Oklahoma Statutes;

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

6 18. "Group home" means a residential facility with a program
7 which emphasizes family-style living in a homelike environment.
8 Said group home may also offer a program within the community to
9 meet the specialized treatment needs of its residents. A group home
10 shall not be considered a correctional facility subject to the
11 provisions of Title 57 of the Oklahoma Statutes;

12 19. "Independent living program" means a program designed to
13 assist a juvenile to enhance skills and abilities necessary for
14 successful adult living and may include but shall not be limited to
15 minimal direct staff supervision and supportive services in making
16 the arrangements necessary for an appropriate place of residence,
17 completing an education, vocational training, obtaining employment
18 or other similar services;

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

- 23 a. have a program which includes community participation
24 and community-based services, or

b. be a secure facility with a program exclusively
designed for a particular category of resident;

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

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

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

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

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

9 26. "Preliminary inquiry" or "intake" means a mandatory,
10 preadjudicatory interview of the juvenile and, if available, the
11 parents, legal guardian, or other custodian of the juvenile, which
12 is performed by a duly authorized individual to determine whether a
13 juvenile comes within the purview of the Oklahoma Juvenile Code,
14 whether nonadjudicatory alternatives are available and appropriate,
15 and if the filing of a petition is necessary;

16 27. "Probation" means a legal status created by court order
17 whereby a delinquent juvenile is permitted to remain outside an
18 Office of Juvenile Affairs facility directly or by contract under
19 prescribed conditions and under supervision by the Office, subject
20 to return to the court for violation of any of the conditions
21 prescribed;

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

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

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

8 a. while under the continuing jurisdiction of the court
9 pending court disposition, or

10 b. pending placement by the Office of Juvenile Affairs
11 after adjudication;

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

19 32. "Transitional living program" means a residential program
20 that may be attached to an existing facility or operated solely for
21 the purpose of assisting juveniles to develop the skills and
22 abilities necessary for successful adult living. Said program may
23 include but shall not be limited to reduced staff supervision,
24 vocational training, educational services, employment and employment

1 training, and other appropriate independent living skills training
2 as a part of the transitional living program; and

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

9 SECTION 3. AMENDATORY 10A O.S. 2011, Section 2-2-101, as
10 last amended by Section 1, Chapter 261, O.S.L. 2015 (10A O.S. Supp.
11 2016, Section 2-2-101), is amended to read as follows:

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

15 1. By a peace officer, without a court order for any criminal
16 offense for which the officer is authorized to arrest an adult
17 without a warrant, or if the child is willfully and voluntarily
18 absent from the home of the child without the consent of the parent,
19 legal guardian, legal custodian or other person having custody and
20 control of the child for a substantial length of time or without
21 intent to return, or if the surroundings of the child are such as to
22 endanger the welfare of the child;

23 2. By a peace officer or an employee of the court without a
24 court order, if the child is willfully and voluntarily absent from

1 the home of the child without the consent of the parent, legal
2 guardian, legal custodian or other person having custody and control
3 of the child if the surroundings of the child are such as to
4 endanger the welfare of the child or, in the reasonable belief of
5 the employee of the court or peace officer, the child appears to
6 have run away from home without just cause. For purposes of this
7 section, a peace officer may reasonably believe that a child has run
8 away from home when the child refuses to give his or her name or the
9 name and address of a parent or other person legally responsible for
10 the care of the child or when the peace officer has reason to doubt
11 that the name and address given by the child are the actual name and
12 address of the parent or other person legally responsible for the
13 care of the child. A peace officer or court employee is authorized
14 by the court to take a child who has run away from home or who, in
15 the reasonable belief of the peace officer, appears to have run away
16 from home, to a facility designated by administrative order of the
17 court for such purposes if the peace officer or court employee is
18 unable to or has determined that it is unsafe to return the child to
19 the home of the child or to the custody of his or her parent or
20 other person legally responsible for the care of the child. Any
21 such facility receiving a child shall inform a parent or other
22 person responsible for the care of the child;

23 3. Pursuant to an order of the district court issued on the
24 application of the office of the district attorney. The application

1 presented by the district attorney shall be supported by a sworn
2 affidavit which may be based upon information and belief. The
3 application shall state facts sufficient to demonstrate to the court
4 that there is probable cause to believe the child has committed a
5 crime or is in violation of the terms of probation, parole or order
6 of the court;

7 4. By order of the district court pursuant to subsection F of
8 this section when the child is in need of medical or behavioral
9 health treatment or other action in order to protect the health or
10 welfare of the child and the parent, legal guardian, legal custodian
11 or other person having custody or control of the child is unwilling
12 or unavailable to consent to such medical or behavioral health
13 treatment or other action; and

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

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

19 B. Whenever a child is taken into custody as a delinquent
20 child, the child shall be detained, held temporarily in the
21 custodial care of a peace officer or other person employed by a
22 police department, or be released to the custody of the parent of
23 the child, legal guardian, legal custodian, attorney or other
24 responsible adult, upon the written promise of such person to bring

1 the child to the court at the time fixed if a petition is to be
2 filed and to assume responsibility for costs for damages caused by
3 the child if the child commits any delinquent acts after being
4 released regardless of whether or not a petition is to be filed. It
5 shall be a misdemeanor for any person to sign the written promise
6 and then fail to comply with the terms of the promise. Any person
7 convicted of violating the terms of the written promise shall be
8 subject to imprisonment in the county jail for not more than six (6)
9 months or a fine of not more than Five Hundred Dollars (\$500.00), or
10 by both such fine and imprisonment. In addition, if a parent, legal
11 guardian, legal custodian, attorney or other responsible adult is
12 notified that the child has been taken into custody, it shall be a
13 misdemeanor for such person to refuse to assume custody of the child
14 within a timely manner. If detained, the child shall be taken
15 immediately before a judge of the district court in the county in
16 which the child is sought to be detained, or to the place of
17 detention or ~~shelter~~ a children's emergency support center or host
18 home designated by the court. If no judge be available locally, the
19 person having the child in custody shall immediately report the
20 detention of the child to the presiding judge of the judicial
21 administrative district, provided that the child shall not be
22 detained in custody beyond the next judicial day or for good cause
23 shown due to problems of arranging for and transporting the child to
24 and from a secure juvenile detention center, beyond the second

1 judicial day unless the court shall so order after a detention
2 hearing to determine if there exists probable cause to detain the
3 child. The child shall be present at the detention hearing or the
4 image of the child may be broadcast to the judge by closed-circuit
5 television or any other electronic means that provides for a two-way
6 communication of image and sound between the child and the judge.
7 If the latter judge cannot be reached, such detention shall be
8 reported immediately to any judge regularly serving within the
9 judicial administrative district. If detained, a reasonable bond
10 for release shall be set. Pending further disposition of the case,
11 a child whose custody has been assumed by the court may be released
12 to the custody of a parent, legal guardian, legal custodian, or
13 other responsible adult or to any other person appointed by the
14 court, or be detained pursuant to Chapter 3 of the Oklahoma Juvenile
15 Code in such place as shall be designated by the court, subject to
16 further order.

17 C. When a child is taken into custody as a child in need of
18 supervision, the child shall be detained and held temporarily in the
19 custodial care of a peace officer or placed within a community
20 intervention center as defined in subsection D of Section 2-7-305 of
21 this title, ~~an emergency shelter, emergency shelter host home, a~~
22 children's emergency support center or host home or be released to
23 the custody of the parent of the child, legal guardian, legal
24 custodian, attorney or other responsible adult, upon the written

1 promise of such person to bring the child to court at the time fixed
2 if a petition is to be filed. A child who is alleged or adjudicated
3 to be in need of supervision shall not be detained in any jail,
4 lockup, or other place used for adults convicted of a crime or under
5 arrest and charged with a crime.

6 D. When any child is taken into custody pursuant to this title
7 and it reasonably appears to the peace officer, employee of the
8 court or person acting pursuant to court order that the child is in
9 need of medical treatment to preserve the health of the child, any
10 peace officer, any employee of the court or person acting pursuant
11 to court order shall have the authority to authorize medical
12 examination and medical treatment for any child found to be in need
13 of medical treatment as diagnosed by a competent medical authority
14 in the absence of the parent of the child, legal guardian, legal
15 custodian, or other person having custody and control of the child
16 who is competent to authorize medical treatment. The officer or the
17 employee of the court or person acting pursuant to court order shall
18 authorize said medical treatment only after exercising due diligence
19 to locate the parent of the child, legal guardian, legal custodian,
20 or other person legally competent to authorize said medical
21 treatment. The parent of the child, legal guardian, legal
22 custodian, or other person having custody and control shall be
23 responsible for such medical expenses as ordered by the court. No
24 peace officer, any employee of the court or person acting pursuant

1 to court order authorizing such treatment in accordance with the
2 provisions of this section for any child found in need of such
3 medical treatment shall have any liability, civil or criminal, for
4 giving such authorization.

5 E. A child who has been taken into custody as otherwise
6 provided by this Code who appears to be a minor in need of
7 treatment, as defined by the Inpatient Mental Health and Substance
8 Abuse Treatment of Minors Act, may be admitted to a behavioral
9 health treatment facility in accordance with the provisions of the
10 Inpatient Mental Health and Substance Abuse Treatment of Minors Act.
11 The parent of the child, legal guardian, legal custodian, or other
12 person having custody and control shall be responsible for such
13 behavioral health expenses as ordered by the court. No peace
14 officer, any employee of the court or person acting pursuant to
15 court order authorizing such treatment in accordance with the
16 provisions of this section for any child found in need of such
17 behavioral health evaluation or treatment shall have any liability,
18 civil or criminal, for giving such authorization.

19 F. 1. A child may be taken into custody pursuant to an order
20 of the court specifying that the child is in need of medical
21 treatment or other action to protect the health or welfare of the
22 child and the parent, legal guardian, legal custodian, or other
23 responsible adult having custody or control of a child is unwilling
24 or unavailable to consent to such medical treatment or other action.

1 2. If the child is in need of immediate medical treatment or
2 other action to protect the health or welfare of the child, the
3 court may issue an emergency ex parte order upon application of the
4 district attorney of the county in which the child is located. The
5 application for an ex parte order may be verbal or in writing and
6 shall be supported by facts sufficient to demonstrate to the court
7 that there is reasonable cause to believe that the child is in need
8 of immediate medical treatment or other action to protect the health
9 or welfare of the child. The emergency ex parte order shall be in
10 effect until a full hearing is conducted. A copy of the
11 application, notice for full hearing and a copy of any ex parte
12 order issued by the court shall be served upon such parent, legal
13 guardian, legal custodian, or other responsible adult having custody
14 or control of the child. Within twenty-four (24) hours of the
15 filing of the application the court shall schedule a full hearing on
16 the application, regardless of whether an emergency ex parte order
17 had been issued or denied.

18 3. Except as otherwise provided by paragraph 2 of this
19 subsection, whenever a child is in need of medical treatment to
20 protect the health or welfare of the child, or whenever any other
21 action is necessary to protect the health or welfare of the child,
22 and the parent of the child, legal guardian, legal custodian, or
23 other person having custody or control of the child is unwilling or
24 unavailable to consent to such medical treatment or other action,

1 the court, upon application of the district attorney of the county
2 in which the child is located, shall hold a full hearing within five
3 (5) days of filing the application. Notice of the hearing and a
4 copy of the application shall be served upon the parent, legal
5 guardian, legal custodian, or other person having custody or control
6 of the child.

7 4. At any hearing held pursuant to this subsection, the court
8 may grant any order or require such medical treatment or other
9 action as is necessary to protect the health or welfare of the
10 child.

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

15 b. No peace officer, any employee of the court or person
16 acting pursuant to court order authorizing such
17 treatment in accordance with the provisions of this
18 subsection for any child found in need of such medical
19 treatment shall have any liability, civil or criminal.

20 G. As a part of the intake process, an employee of the Office
21 of Juvenile Affairs or a county juvenile bureau shall inquire as to
22 whether there is any American Indian lineage or ancestry that would
23 make the child eligible for membership or citizenship in a federally
24 recognized American Indian tribe or nation. If the employee of the

1 Office of Juvenile Affairs or a county juvenile bureau determines
2 that the child may have American Indian lineage or ancestry, the
3 employee shall notify the primary tribe or nation of membership or
4 citizenship within three (3) judicial days of completing an intake
5 of such determination. Any information or records related to taking
6 the child into custody shall be confidential, shall not be open to
7 the general public, and shall not be inspected or their contents
8 disclosed.

9 SECTION 4. AMENDATORY 10A O.S. 2011, Section 2-7-303, as
10 amended by Section 20, Chapter 404, O.S.L. 2013 (10A O.S. Supp.
11 2016, Section 2-7-303), is amended to read as follows:

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

1 traditional juvenile justice process and community intervention
2 centers. The Office of Juvenile Affairs shall enter into contracts
3 with Youth Services Agencies for core community-based facilities,
4 programs and services based on need as indicated in its State Plan
5 for Youth Services Agencies.

6 SECTION 5. AMENDATORY 70 O.S. 2011, Section 1-113, as
7 last amended by Section 1, Chapter 363, O.S.L. 2015 (70 O.S. Supp.
8 2016, Section 1-113), is amended to read as follows:

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

11 1. The legal residence of the parents, guardian, or person
12 having legal custody.

13 Each school district board of education shall adopt a policy
14 establishing the requirements for student residency for that
15 district which provides for residence as described in this
16 paragraph. Within the discretion of each school district's board of
17 education, the policy may but is not required to allow for
18 establishment of residency by affidavit when an adult, whether a
19 relative or not, who does not fall within one of the categories
20 listed above, who holds legal residence in the school district, and
21 who has assumed permanent care and custody of the child files an
22 affidavit with the school district attesting that they have assumed
23 custody and the reasons for assuming custody. Any policy allowing
24 the establishment of residency by affidavit shall require the adult

1 who provides the affidavit to affirm in such affidavit that the
2 custody arrangement is permanent and that the adult contributes the
3 major degree of support to the child. If the school district policy
4 allows establishment of residency by affidavit, any person who
5 willfully makes a statement in the affidavit which the person knows
6 to be false shall, upon conviction, be guilty of a misdemeanor
7 punishable by imprisonment in the county jail for not more than one
8 (1) year or a fine of not more than Five Hundred Dollars (\$500.00)
9 or both such fine and imprisonment. Each school district shall
10 include in its policy on residency any documentation necessary for
11 the administration of the policy;

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

- 17 a. by the person or agency having legal custody of the
18 child pursuant to a court order, or
19 b. by a state agency having legal custody of the child
20 pursuant to the provisions of Title 10A of the
21 Oklahoma Statutes.

22 Upon request of the foster parent, the residence of a child
23 in foster care for school purposes may be changed to the school
24 district in which the child resided prior to being placed in foster

1 care or the school district in which the previous foster family home
2 of the child is located;

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

5 4. Any eleemosynary child care facility in which a child is
6 placed by a parent or guardian for full-time residential care;
7 provided, the provision of this paragraph shall apply only to
8 children who attend a district school by joint agreement of the
9 school district and facility and who are not placed in the facility
10 through a state contract. For purposes of this paragraph,
11 "eleemosynary child care facility" means a facility:

12 a. where child care and services are provided, and

13 b. which is funded predominantly by benevolent or
14 charitable funds and is exempt from taxation pursuant
15 to the provisions of Section 501(c)(3) of the Internal
16 Revenue Code, 26 U.S.C., Section 501(c)(3);

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

22 6. Any facility in which a child has been admitted and is
23 receiving on-site educational services as provided for in Section 3-
24 104.7 of this title;

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

3 8. A state-licensed children's emergency support center or
4 state-operated emergency shelter.

5 B. No school district shall bear the cost of educating children
6 who are not residents of this state. A school district may furnish
7 educational services pursuant to contract as elsewhere provided by
8 law. A school district may furnish educational services pursuant to
9 a contract to children who do not reside in the United States of
10 America; provided, the children shall not be counted in the average
11 daily membership of the school district.

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

1 determines it possesses the ability to provide such child an
2 appropriate education.

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

7 1. A residential facility;

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

11 3. A therapeutic foster family home as defined in Section 1-1-
12 105 of Title 10A of the Oklahoma Statutes;

13 4. A specialized foster home, which is a specialized foster
14 home or an agency-contracted home under the supervision of and
15 certified as meeting the standards set by the Department of Human
16 Services and is funded through the Department of Human Services Home
17 and Community-Based Waiver Services Program; or

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

23 For minors who are persons requiring psychiatric treatment as
24 defined by Title 43A of the Oklahoma Statutes, on-site educational

1 services shall be provided beginning on the eleventh day of
2 admission.

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

7 Access to the due process procedure guaranteed to children with
8 disabilities shall be available to resolve disagreements about the
9 appropriateness of placements of children with disabilities.

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

1 by the school district contracting with the state institution to
2 provide necessary educational services.

3 F. 1. The school district in which an entity as described in
4 subsection D of this section exists to serve children in out-of-home
5 placements shall, upon request of the individual or agency operating
6 the entity, provide the educational services to which the children
7 in the entity are entitled subject to the limitations provided in
8 subsection C of this section. No person operating such an entity
9 may contract for the provision of educational services with any
10 school district other than the school district in which the entity
11 is located unless the school district in which the entity is located
12 agrees in writing to allow another school district to provide the
13 educational services or unless the person operating the entity
14 contracts with another school district for the provision of
15 educational services to be provided through remote Internet-based
16 courses. No person operating such an entity may contract for the
17 provision of educational services with more than one school
18 district.

19 2. Prior to location in a school district, the individual or
20 agency operating an entity described in subsection D of this section
21 which requires provision of educational services from the school
22 district shall notify the local board of education of its
23 anticipated educational needs. No school district shall be required
24 to provide educational services for students in the entity until at

1 least sixty (60) calendar days have elapsed from the time in which
2 the local board of education was initially notified of the need
3 unless the school district so agrees to provide the educational
4 services sooner. The provisions of this paragraph shall not apply
5 to therapeutic or specialized foster homes.

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

1 4. Upon the request of any residential facility which has
2 contracted with the Office of Juvenile Affairs to provide either a
3 regimented juvenile training program or a high-impact wilderness
4 camp to a minimum of forty students who have been adjudicated, a
5 school district may contract for the facility to provide the
6 educational services to those students. Under a contract, the
7 facility shall operate in accordance with all applicable laws,
8 including compliance with Section 18-114.14 of this title. The
9 contract shall include the State Aid generated by the students, less
10 a fee for administrative services which may be retained by the
11 school district, not to exceed ten percent (10%) of the total on an
12 annual basis. The school district shall exercise supervision over
13 the educational program in the facility and bear all responsibility
14 for required educational reporting. The school district shall
15 maintain access to all educational records for students in the
16 facility, and shall provide for the appropriate academic credit and
17 diplomas. The school district shall be indemnified against any
18 actions or penalties on the part of the facility which result in
19 adversity for the school district.

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

23 H. The receiving district shall notify the district of
24 residence immediately upon finding that the student requires special

1 education and related services and the district of residence shall
2 participate in planning the Individualized Education Program (IEP)
3 for the student and in subsequent reviews of the program in
4 accordance with the Individuals with Disabilities Education Act
5 (IDEA) .

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

7
8 56-1-1638 AM 3/20/2017 5:19:07 PM
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24