

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1551

By: Pederson

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5
6 AS INTRODUCED

7 An Act relating to foster parents; amending 10A O.S.
8 2021, Sections 1-7-103, 1-7-116, and 1-9-119, which
9 relate to duties and powers of the Department of
10 Human Services; providing notice when child is
11 eligible for adoption and statement of foster
12 parent's rights; establishing certain presumption for
13 child placement; requiring priority consideration to
14 certain persons for adoption of child; requiring
15 notification to foster parents of certain rights; and
16 providing an effective date.

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

18 SECTION 1. AMENDATORY 10A O.S. 2021, Section 1-7-103, is
19 amended to read as follows:

20 Section 1-7-103. A. In addition to the other powers and duties
21 prescribed by law, the Department of Human Services shall have the
22 power and duty to:

23 1. Provide for the care and treatment of children taken into
24 protective or emergency custody pursuant to the provisions of the
25 Oklahoma Children's Code, and placed in the Department's custody by
26 an order of the court.

1 In providing for the care and treatment of such children, the
2 Department shall:

3 a. place the children in:

- 4 (1) a kinship care home or other foster care home, or
5 (2) if no such home is available, a group home,
6 children's shelter, or in any licensed facility
7 established for the care of children.

8 In determining any placement for a child who has been
9 removed from the custody of a custodial parent and
10 placed with the Department in emergency custody,
11 priority shall be given by the Department to the
12 placement of such child with the noncustodial parent
13 of the child unless such placement is not in the best
14 interest of the child,

15 b. if ordered by the court, provide supervision of
16 children alleged to be deprived who are placed by the
17 court in the custody of a parent, relative, or other
18 responsible person. Such supervision shall be in
19 accordance with rules promulgated by the Department
20 and shall not exceed the period allowed for the filing
21 of a petition or, if a petition is filed, the period
22 authorized by the court,

23 c. admit an alleged deprived child to a hospital or
24 behavioral health facility as provided in the
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1 Inpatient Mental Health and Substance Abuse Treatment
2 of Minors Act,

- 3 d. provide outpatient behavioral health care and
4 treatment as prescribed by a qualified behavioral
5 health professional,
- 6 e. provide, as soon as practicable, educational
7 instruction through enrollment in a public school or
8 an alternative program consistent with the needs and
9 abilities of the child,
- 10 f. provide or prescribe treatment services for the family
11 of an alleged deprived child placed in the emergency
12 custody of the Department if such services are
13 voluntarily requested and the family is otherwise
14 eligible under applicable law and rules promulgated by
15 the Commission for the services offered, and
- 16 g. provide medical care necessary to preserve the health
17 of the child in accordance with the provisions of this
18 Code; and

19 2. Provide for the care and treatment of an adjudicated
20 deprived child placed in the temporary custody of the Department by
21 an order of the court. In providing for such care and treatment,
22 the Department:

- 23 a. shall review and assess each child to determine the
24 type of placement and services consistent with the
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1 needs of the child in the nearest geographic proximity
2 to the home of the child as possible. In making the
3 review, the Department may use any facilities, public
4 or private, which aid in the assessment,

5 b. shall develop and implement an individualized service
6 plan for each child in accord with the requirements of
7 Section 1-4-704 of this title,

8 c. may return a deprived child to the home of the parent
9 or legal guardian from whom the child was removed with
10 prior approval of the court, or place the child in the
11 home of a noncustodial parent, in a foster care home,
12 in a children's shelter, in a group home, in an
13 independent living program, or in any licensed
14 facility established for the care of children,

15 d. may admit a deprived child to a hospital or behavioral
16 health facility as provided in the Inpatient Mental
17 Health and Substance Abuse Treatment of Minors Act,

18 e. may provide outpatient behavioral health care and
19 treatment as prescribed by a qualified behavioral
20 health professional,

21 f. shall, if ordered by the court, provide supervision of
22 children adjudicated deprived who are placed by the
23 court in the custody of a parent, relative, or other
24 responsible person. Such supervision shall be in

1 accordance with rules promulgated by the Department,
2 and

3 g. shall provide medical care necessary to preserve the
4 health of the child in accordance with the provisions
5 of the Oklahoma Children's Code.

6 B. 1. The Department may move a child in its custody from any
7 authorized placement to another authorized placement if consistent
8 with the needs of the child or as may be required in an emergency,
9 subject to the provisions of Section 1-4-804 and 1-4-805 of this
10 title.

11 2. The Department, in placing a child who has reentered foster
12 care, shall consider previous foster placements as well as a kinship
13 foster home placement if available. The placement shall be
14 consistent with the best interests of the child.

15 3. If a child is in the custody of the Department through an
16 emergency, temporary, or permanent court order as a result of
17 neglect or abuse and has been in the same foster placement for
18 twelve (12) months, there shall be a presumption that the Department
19 has not identified any other placement options and the child shall
20 remain in such foster placement unless the Department has concerns
21 for the child's well-being. If parental rights are terminated in
22 such case, the foster parent or parents in the foster placement
23 shall receive priority consideration for adoption of the child
24 pursuant to subsection B of Section 1-7-116 of this title.

1 C. The Department shall assure that any child who has attained
2 the minimum age for compulsory school attendance and is eligible for
3 a foster care payment under Title IV-E of the Social Security Act,
4 42 U.S.C. 670 et seq., is:

5 1. Enrolled in an institution which provides elementary or
6 secondary education as determined under the law of the state or
7 other jurisdiction in which the institution is located;

8 2. Instructed in elementary or secondary education in any
9 legally authorized education program;

10 3. In an independent study elementary or secondary education
11 program in accordance with the law of the state or jurisdiction in
12 which the program is located, which is administered by the local
13 school or school district; or

14 4. Incapable of attending school on a full-time basis due to a
15 documented medical condition supported by regular updates.

16 D. The Department has the authority to consent to travel for a
17 child in its custody outside the jurisdiction of the court, except
18 that court approval is required for travel outside of the United
19 States. Permission for school or organizational activities
20 requiring consent and not prohibited by Department rule may be given
21 by the foster parent.

22 E. The Department shall receive notice of all court proceedings
23 regarding any child in its custody and shall, upon application, be
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1 allowed to intervene as a party for a specified purpose, to any
2 court proceedings pertaining to the care and custody of the child.

3 F. The Department may participate in federal programs relating
4 to deprived children and services for such children; and apply for,
5 receive, use and administer federal funds for such purposes.

6 G. The Department shall receive interest earnings on the
7 investment by the State Treasurer of monies, to be credited to an
8 agency special account, for the benefit of and held in trust for
9 persons placed in the custody of the Department or in residence at
10 facilities maintained by the Department.

11 SECTION 2. AMENDATORY 10A O.S. 2021, Section 1-7-116, is
12 amended to read as follows:

13 Section 1-7-116. A. When a child in the custody of the
14 Department of Human Services becomes eligible for adoption and the
15 child needs a permanent placement, the Department shall notify and
16 disseminate information about the child to licensed child-placing
17 agencies that have requested in writing to receive such notice in
18 order to locate a possible prospective adoptive parent for the
19 child.

20 B. If a child in the custody of the Department becomes eligible
21 for adoption and the child has been placed in a foster home for a
22 period of at least twelve (12) months, the foster parent or parents
23 shall have priority consideration for adoption of the child.

1 C. Upon completion of an adoption specified in subsection A of
2 this section, the Department may provide reimbursement of expenses
3 incurred by the child-placing agency for recruiting, training and
4 conducting a home study for the adoptive parent.

5 SECTION 3. AMENDATORY 10A O.S. 2021, Section 1-9-119, is
6 amended to read as follows:

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

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

12 2. Be notified of and be given appropriate, ongoing education
13 and continuing education and training to develop and enhance foster
14 parenting skills, and to be notified of and given access to local
15 and statewide support groups;

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

20 4. Receive timely financial reimbursement for providing foster
21 care services;

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

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

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

8 8. Be notified of scheduled review meetings, permanency
9 planning meetings, family team meetings and special staffing
10 concerns for any foster child placed in the foster parent's home ~~in~~
11 ~~order~~ to actively participate in the case planning and decision-
12 making process regarding the child;

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

17 10. Communicate with other foster parents ~~in order~~ to share
18 information regarding the foster child. ~~In particular,~~
19 Specifically, to receive any information concerning the number of
20 times a foster child has been moved and the reasons why, and the
21 names and telephone numbers of the previous foster parent if the
22 previous foster parent has authorized such release;

23 11. Communicate with other professionals who work with the
24 foster child within the context of the team including, but not
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1 limited to, therapists, physicians, and teachers including
2 maintaining a medical passport with all medical history of the
3 foster child;

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

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

13 14. a. Be given written notice of:

- 14 (1) plans to terminate the placement of the child
15 with the foster parent pursuant to Section 1-4-
16 805 of this title, and
17 (2) the reasons for the changes or termination in
18 placement.

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

21 15. Be notified by the applicable state agency in a timely and
22 complete manner of all court hearings, including notice of the date
23 and time of any court hearing, the name of the judge or hearing
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1 officer hearing the case, the location of the hearing, and the court
2 docket number of the case;

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

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

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

12 19. Be provided the opportunity to request and receive a fair
13 and impartial hearing regarding decisions that affect certification
14 retention or placement of children in the home, and to receive upon
15 request all non-confidential information in Department records
16 related to the home and the foster care services provided by the
17 family;

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

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

1 22. Be given the number of the statewide toll-free Foster
2 Parent Hotline;

3 23. File a grievance and be informed of the process for filing
4 a grievance; ~~and~~

5 24. Receive a copy of the liability insurance policy the
6 Department of Human Services maintains for every Department-
7 contracted foster home placement;

8 25. Maintain the values and routines of the foster family while
9 respecting the rights and confidentiality of each foster child in
10 the home including avoidance of scheduling visits on holidays and
11 communications during vacation time; and

12 26. Have a right to attend and be heard at any Department or
13 court proceeding related to a child currently or previously placed
14 in the home. Such right shall not be construed to require a foster
15 parent to be made a party to such proceeding.

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

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

1 SECTION 4. This act shall become effective November 1, 2022.

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