

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 2475

By: Hill

AS INTRODUCED

An Act relating to the children and juvenile code; amending 10A O.S. 2021, Section 1-1-105, which relates to the Oklahoma Children's Code; clarifying scope of certain defined term; amending 21 O.S. 2021, Section 152, which relates to persons capable of committing crimes; exempting certain class of children from criminal liability provision; and providing an effective date.

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

SECTION 1. AMENDATORY 10A O.S. 2021, 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

1 communication in which incidental or token visits or
2 communication are not considered significant, or
3 c. the failure to respond to notice of deprived
4 proceedings;

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

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

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

22 c. "Sexual exploitation" includes but is not limited to
23 allowing, permitting, encouraging, or forcing a child
24 to engage in prostitution, as defined by law, by any

1 person eighteen (18) years of age or older or by a
2 person responsible for the health, safety, or welfare
3 of a child, or allowing, permitting, encouraging, or
4 engaging in the lewd, obscene, or pornographic, as
5 defined by law, photographing, filming, or depicting
6 of a child in those acts by a person responsible for
7 the health, safety, and welfare of the child;

8 3. "Adjudication" means a finding by the court that the
9 allegations in a petition alleging that a child twelve (12) years of
10 age or older is deprived are supported by a preponderance of the
11 evidence;

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

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

- 15 a. activities or items that are generally accepted as
16 suitable for children of the same age or level of
17 maturity or that are determined to be developmentally
18 appropriate for a child, based on the development of
19 cognitive, emotional, physical, and behavioral
20 capacities that are typical for an age or age group,
21 and
22 b. in the case of a specific child, activities or items
23 that are suitable for that child based on the
24 developmental stages attained by the child with

1 respect to the cognitive, emotional, physical, and
2 behavioral capacities of the specific child.

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

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

14 7. "Behavioral health" means mental health, substance abuse, or
15 co-occurring mental health and substance abuse diagnoses, and the
16 continuum of mental health, substance abuse, or co-occurring mental
17 health and substance abuse treatment;

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

20 9. "Child advocacy center" means a center and the
21 multidisciplinary child abuse team of which it is a member that is
22 accredited by the National Children's Alliance or that is completing
23 a sixth year of reaccreditation. Child advocacy centers shall be
24

1 classified, based on the child population of a district attorney's
2 district, as follows:

- 3 a. nonurban centers in districts with child populations
4 that are less than sixty thousand (60,000), and
- 5 b. midlevel nonurban centers in districts with child
6 populations equal to or greater than sixty thousand
7 (60,000), but not including Oklahoma and Tulsa
8 Counties;

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

13 11. "Child-placing agency" means an agency that arranges for or
14 places a child in a foster family home, family-style living program,
15 group home, adoptive home, or a successful adulthood program;

16 12. "Children's emergency resource center" means a community-
17 based program that may provide emergency care and a safe and
18 structured homelike environment or a host home for children
19 providing food, clothing, shelter and hygiene products to each child
20 served; after-school tutoring; counseling services; life-skills
21 training; transition services; assessments; family reunification;
22 respite care; transportation to or from school, doctors'
23 appointments, visitations and other social, school, court or other
24 activities when necessary; and a stable environment for children in

1 crisis who are in custody of the Department of Human Services if
2 permitted under the Department's policies and regulations, or who
3 have been voluntarily placed by a parent or custodian during a
4 temporary crisis;

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

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

21 15. "Court-appointed special advocate" or "CASA" means a
22 responsible adult volunteer who has been trained and is supervised
23 by a court-appointed special advocate program recognized by the
24

1 court, and when appointed by the court, serves as an officer of the
2 court in the capacity as a guardian ad litem;

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

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

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

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

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

22 21. "Deprived child" means a child:

- 23 a. who is for any reason destitute, homeless, or
24 abandoned,

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

1 medical treatment is generally provided to similarly
2 situated children without a disability or children
3 with disabilities; provided that no medical treatment
4 shall be necessary if, in the reasonable medical
5 judgment of the attending physician, such treatment
6 would be futile in saving the life of the child,

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

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

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

19 j. whose parent, legal guardian, or custodian has
20 subjected another child to abuse or neglect or has
21 allowed another child to be subjected to abuse or
22 neglect and is currently a respondent in a deprived
23 proceeding.
24

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

8 Evidence of material, educational or cultural disadvantage as
9 compared to other children shall not be sufficient to prove that a
10 child is deprived; the state shall prove that the child is deprived
11 as defined pursuant to this title.

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

16 22. "Dispositional hearing" means a hearing by the court as
17 provided by Section 1-4-706 of this title;

18 23. "Drug-endangered child" means a child who is at risk of
19 suffering physical, psychological or sexual harm as a result of the
20 use, possession, distribution, manufacture or cultivation of
21 controlled substances, or the attempt of any of these acts, by a
22 person responsible for the health, safety or welfare of the child,
23 as defined in this section. This term includes circumstances
24 wherein the substance abuse of the person responsible for the

1 health, safety or welfare of the child interferes with that person's
2 ability to parent and provide a safe and nurturing environment for
3 the child;

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

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

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

20 27. "Family-style living program" means a residential program
21 providing sustained care and supervision to residents in a homelike
22 environment not located in a building used for commercial activity;

23 28. "Foster care" or "foster care services" means continuous
24 twenty-four-hour care and supportive services provided for a child

1 in foster placement including, but not limited to, the care,
2 supervision, guidance, and rearing of a foster child by the foster
3 parent;

4 29. "Foster family home" means the private residence of a
5 foster parent who provides foster care services to a child. Such
6 term shall include a nonkinship foster family home, a therapeutic
7 foster family home, or the home of a relative or other kinship care
8 home;

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

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

1 32. "Guardian ad litem of the estate of the child" means a
2 person appointed by the court to protect the property interests of a
3 child pursuant to Section 1-8-108 of this title;

4 33. "Group home" means a residential facility licensed by the
5 Department to provide full-time care and community-based services
6 for more than five but fewer than thirteen children;

7 34. "Harm or threatened harm to the health or safety of a
8 child" means any real or threatened physical, mental, or emotional
9 injury or damage to the body or mind that is not accidental
10 including, but not limited to, sexual abuse, sexual exploitation,
11 neglect, or dependency;

12 35. "Heinous and shocking abuse" includes, but is not limited
13 to, aggravated physical abuse that results in serious bodily,
14 mental, or emotional injury. "Serious bodily injury" means injury
15 that involves:

- 16 a. a substantial risk of death,
- 17 b. extreme physical pain,
- 18 c. protracted disfigurement,
- 19 d. a loss or impairment of the function of a body member,
- 20 organ, or mental faculty,
- 21 e. an injury to an internal or external organ or the
- 22 body,
- 23 f. a bone fracture,
- 24 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;

36. "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,
- c. an act or failure to act by a parent that results in the death or near death of a child or sibling, serious physical or emotional harm, sexual abuse, sexual exploitation, or presents an imminent risk of serious harm to a child, or

1 d. any other similar aggravating circumstance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 49. a. "Neglect" means:

10 (1) the failure or omission to provide any of the
11 following:

12 (a) adequate nurturance and affection, food,
13 clothing, shelter, sanitation, hygiene, or
14 appropriate education,

15 (b) medical, dental, or behavioral health care,

16 (c) supervision or appropriate caretakers to
17 protect the child from harm or threatened
18 harm of which any reasonable and prudent
19 person responsible for the child's health,
20 safety or welfare would be aware, or

21 (d) special care made necessary for the child's
22 health and safety by the physical or mental
23 condition of the child,
24

1 (2) the failure or omission to protect a child from
2 exposure to any of the following:

3 (a) the use, possession, sale, or manufacture of
4 illegal drugs,

5 (b) illegal activities, or

6 (c) sexual acts or materials that are not age-
7 appropriate, or

8 (3) abandonment.

9 b. "Neglect" shall not mean a child who engages in
10 independent activities, except if the person
11 responsible for the child's health, safety or welfare
12 willfully disregards any harm or threatened harm to
13 the child, given the child's level of maturity,
14 physical condition or mental abilities. Such
15 independent activities include but are not limited to:

16 (1) traveling to and from school including by
17 walking, running or bicycling,

18 (2) traveling to and from nearby commercial or
19 recreational facilities,

20 (3) engaging in outdoor play,

21 (4) remaining at home unattended for a reasonable
22 amount of time,

23 (5) remaining in a vehicle if the temperature inside
24 the vehicle is not or will not become dangerously

1 hot or cold, except under the conditions
2 described in Section 11-1119 of Title 47 of the
3 Oklahoma Statutes, or

4 (6) engaging in similar activities alone or with
5 other children.

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

17 50. "Permanency hearing" means a hearing by the court pursuant
18 to Section 1-4-811 of this title;

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

23 52. "Permanent guardianship" means a judicially created
24 relationship between a child, a kinship relation of the child, or

1 other adult established pursuant to the provisions of Section 1-4-
2 709 of this title;

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

12 54. "Plan of safe care" means a plan developed for an infant
13 with Neonatal Abstinence Syndrome or a Fetal Alcohol Spectrum
14 Disorder upon release from the care of a health care provider that
15 addresses the health and substance use treatment needs of the infant
16 and mother or caregiver;

17 55. "Protective custody" means custody of a child taken by a
18 law enforcement officer or designated employee of the court without
19 a court order;

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

22 57. "Qualified residential treatment program" means a program
23 that:
24

- 1 a. has a trauma-informed treatment model that is designed
2 to address the needs including clinical needs as
3 appropriate, of children with serious emotional or
4 behavioral disorders or disturbances and, with respect
5 to a child, is able to implement the treatment
6 identified for the child from a required assessment,
- 7 b. has registered or licensed nursing staff and other
8 licensed clinical staff who:
- 9 (1) provide care within the scope of their practice
10 as defined by the laws of this state,
- 11 (2) are on-site according to the treatment model
12 referred to in subparagraph a of this paragraph,
13 and
- 14 (3) are available twenty-four (24) hours a day and
15 seven (7) days a week,
- 16 c. to the extent appropriate, and in accordance with the
17 child's best interest, facilitates participation of
18 family members in the child's treatment program,
- 19 d. facilitates outreach to the family members of the
20 child including siblings, documents how the outreach
21 is made including contact information, and maintains
22 contact information for any known biological family of
23 the child,
- 24

- e. documents how family members are integrated into the treatment process for the child including post-discharge, and how sibling connections are maintained,
- f. provides discharge planning and family-based aftercare support for at least six (6) months post-discharge, and
- g. is licensed and accredited by any of the following independent, not-for-profit organizations:
 - (1) The Commission on Accreditation of Rehabilitation Facilities (CARF),
 - (2) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO),
 - (3) The Council on Accreditation (COA), or
 - (4) any other federally approved independent, not-for-profit accrediting organization;

58. "Reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child. This standard shall be used by the child's caregiver when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities. For purposes of this definition, the term "caregiver" means a foster parent with whom a child in foster care has been placed, a

1 representative of a group home where a child has been placed or a
2 designated official for a residential child care facility where a
3 child in foster care has been placed;

4 59. "Relative" means a grandparent, great-grandparent, brother
5 or sister of whole or half blood, aunt, uncle or any other person
6 related to the child;

7 60. "Residential child care facility" means a twenty-four-hour
8 residential facility where children live together with or are
9 supervised by adults who are not their parents or relatives;

10 61. "Review hearing" means a hearing by the court pursuant to
11 Section 1-4-807 of this title;

12 62. "Risk" means the likelihood that an incident of child abuse
13 or neglect will occur in the future;

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

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

1 65. "Safety evaluation" means evaluation of a child's situation
2 by the Department using a structured, evidence-based tool to
3 determine if the child is subject to a safety threat;

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

11 67. "Sibling" means a biologically or legally related brother
12 or sister of a child. This includes an individual who satisfies at
13 least one of the following conditions with respect to a child:

- 14 a. the individual is considered by state law to be a
15 sibling of the child, or
- 16 b. the individual would have been considered a sibling
17 under state law but for a termination or other
18 disruption of parental rights, such as the death of a
19 parent;

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

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

14 71. "Therapeutic foster family home" means a foster family home
15 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 72. "Trafficking in persons" means sex trafficking or severe
20 forms of trafficking in persons as described in Section 7102 of
21 Title 22 of the United States Code:

22 a. "sex trafficking" means the recruitment, harboring,
23 transportation, provision, obtaining, patronizing or
24

1 soliciting of a person for the purpose of a commercial
2 sex act, and

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

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

8 (2) the recruitment, harboring, transportation,
9 provision, obtaining, patronizing or soliciting
10 of a person for labor or services, through the
11 use of force, fraud, or coercion for the purpose
12 of subjection to involuntary servitude, peonage,
13 debt bondage, or slavery;

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

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

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

3 SECTION 2. AMENDATORY 21 O.S. 2021, Section 152, is
4 amended to read as follows:

5 Section 152. All persons are capable of committing crimes,
6 except those belonging to the following classes:

7 1. Children under the age of seven (7) years;

8 2. Children over the age of seven (7) years, but under the age
9 of fourteen (14) years, in the absence of proof that at the time of
10 committing the act or neglect charged against them, they knew its
11 wrongfulness;

12 3. Children twelve (12) years of age and under may not be
13 adjudicated under state statute in accordance with Section 1-1-105
14 of Title 10A of the Oklahoma Statutes;

15 4. Persons who are impaired by reason of an intellectual
16 disability upon proof that at the time of committing the act charged
17 against them they were incapable of knowing its wrongfulness;

18 ~~4.~~ 5. Mentally ill persons, and all persons of unsound mind,
19 including persons temporarily or partially deprived of reason, upon
20 proof that at the time of committing the act charged against them
21 they were incapable of knowing its wrongfulness;

22 ~~5.~~ 6. Persons who committed the act, or made the omission
23 charged, under an ignorance or mistake of fact which disproves any
24

1 criminal intent. But ignorance of the law does not excuse from
2 punishment for its violation;

3 ~~6.~~ 7. Persons who committed the act charged without being
4 conscious thereof; and

5 ~~7.~~ 8. Persons who committed the act, or make the omission
6 charged, while under involuntary subjection to the power of
7 superiors.

8 SECTION 3. This act shall become effective November 1, 2023.

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