

1 ENGROSSED HOUSE  
2 BILL NO. 1274

By: Lawson of the House

and

Smalley of the Senate

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6  
7 An Act relating to child welfare; amending 10A O.S.  
8 2011, Sections 1-1-105, as last amended by Section 1,  
9 Chapter 256, O.S.L. 2018 and 1-4-201, as amended by  
10 Section 3, Chapter 355, O.S.L. 2014 (10A O.S. Supp.  
11 2018, Sections 1-1-105 and 1-4-201), which relate to  
12 the Oklahoma Children's Code; adding definition for  
13 situational neglect; prohibiting removal of child for  
14 situational neglect; providing exception; authorizing  
15 Department of Human Services to recommend in-home  
16 placement; directing Department to assist family in  
17 obtaining necessary support services; and providing  
18 an effective date.

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

22 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-1-105, as  
23 last amended by Section 1, Chapter 256, O.S.L. 2018 (10A O.S. Supp.  
24 2018, 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

- 1           b.    the failure to maintain a significant parental  
2                    relationship with a child through visitation or  
3                    communication in which incidental or token visits or  
4                    communication are not considered significant, or  
5           c.    the failure to respond to notice of deprived  
6                    proceedings;

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

- 15           a.    "Harm or threatened harm to the health or safety of a  
16                    child" means any real or threatened physical, mental,  
17                    or emotional injury or damage to the body or mind that  
18                    is not accidental including but not limited to sexual  
19                    abuse, sexual exploitation, neglect, or dependency.  
20           b.    "Sexual abuse" includes but is not limited to rape,  
21                    incest, and lewd or indecent acts or proposals made to  
22                    a child, as defined by law, by a person responsible  
23                    for the health, safety, or welfare of the child.  
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1 c. "Sexual exploitation" includes but is not limited to  
2 allowing, permitting, encouraging, or forcing a child  
3 to engage in prostitution, as defined by law, by any  
4 person eighteen (18) years of age or older or by a  
5 person responsible for the health, safety, or welfare  
6 of a child, or allowing, permitting, encouraging, or  
7 engaging in the lewd, obscene, or pornographic, as  
8 defined by law, photographing, filming, or depicting  
9 of a child in those acts by a person responsible for  
10 the health, safety, and welfare of the child;

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

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

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

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

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

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

17           7.    "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           8.    "Child" means any unmarried person under eighteen (18) years  
22 of age;

23           9.    "Child advocacy center" means a center and the  
24 multidisciplinary child abuse team of which it is a member that is

1 accredited by the National Children's Alliance or that is completing  
2 a sixth year of reaccreditation. Child advocacy centers shall be  
3 classified, based on the child population of a district attorney's  
4 district, as follows:

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

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

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

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

1 appointments, visitations and other social, school, court or other  
2 activities when necessary; and a stable environment for children in  
3 crisis who are in custody of the Department of Human Services if  
4 permitted under the Department's policies and regulations, or who  
5 have been voluntarily placed by a parent or custodian during a  
6 temporary crisis;

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

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

23 15. "Court-appointed special advocate" or "CASA" means a  
24 responsible adult volunteer who has been trained and is supervised

1 by a court-appointed special advocate program recognized by the  
2 court, and when appointed by the court, serves as an officer of the  
3 court in the capacity as a guardian ad litem;

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (1) "substantiated" means the Department has  
19 determined, after an investigation of a report of  
20 child abuse or neglect and based upon some  
21 credible evidence, that child abuse or neglect  
22 has occurred. When child abuse or neglect is  
23 substantiated, the Department may recommend:  
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1 (a) court intervention if the Department finds  
2 the health, safety, or welfare of the child  
3 is threatened, or

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

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

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

24



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

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

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

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

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

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

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

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

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

7 48. "Neglect" means:

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

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

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

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

24 c. abandonment.

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

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

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

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

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

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

7 53. "Plan of safe care" means a plan developed for an infant  
8 with Neonatal Abstinence Syndrome or a Fetal Alcohol Spectrum  
9 Disorder upon release from the care of a health care provider that  
10 addresses the health and substance use treatment needs of the infant  
11 and mother or caregiver;

12 54. "Protective custody" means custody of a child taken by a  
13 law enforcement officer or designated employee of the court without  
14 a court order;

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

17 56. "Reasonable and prudent parent standard" means the standard  
18 characterized by careful and sensible parental decisions that  
19 maintain the health, safety, and best interests of a child while at  
20 the same time encouraging the emotional and developmental growth of  
21 the child. This standard shall be used by the child's caregiver  
22 when determining whether to allow a child to participate in  
23 extracurricular, enrichment, cultural, and social activities. For  
24 purposes of this definition, the term "caregiver" means a foster

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

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

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

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

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

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

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

1       63. "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       64. "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       65. "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       66. "Situational neglect" means neglect that occurs because of  
21 a specific situation or crisis, including but not limited to  
22 bereavement or poverty, and as such tends to only last for a period  
23 of time, depending on the situation;  
24

1        67. "Specialized foster care" means foster care provided to a  
2 child in a foster home or agency-contracted home which:

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

8        ~~67.~~ 68. "Successful adulthood program" means a program  
9 specifically designed to assist a child to enhance those skills and  
10 abilities necessary for successful adult living. A successful  
11 adulthood program may include, but shall not be limited to, such  
12 features as minimal direct staff supervision, and the provision of  
13 supportive services to assist children with activities necessary for  
14 finding an appropriate place of residence, completing an education  
15 or vocational training, obtaining employment, or obtaining other  
16 similar services;

17        ~~68.~~ 69. "Temporary custody" means court-ordered custody of an  
18 adjudicated deprived child;

19        ~~69.~~ 70. "Therapeutic foster family home" means a foster family  
20 home which provides specific treatment services, pursuant to a  
21 therapeutic foster care contract, which are designed to remedy  
22 social and behavioral problems of a foster child residing in the  
23 home;

1       ~~70.~~ 71. "Trafficking in persons" means sex trafficking or  
2 severe forms of trafficking in persons as described in Section 7102  
3 of Title 22 of the United States Code:

4           a. "sex trafficking" means the recruitment, harboring,  
5 transportation, provision, obtaining, patronizing or  
6 soliciting of a person for the purpose of a commercial  
7 sex act, and

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

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

13               (2) the recruitment, harboring, transportation,  
14 provision, obtaining, patronizing or soliciting  
15 of a person for labor or services, through the  
16 use of force, fraud, or coercion for the purpose  
17 of subjection to involuntary servitude, peonage,  
18 debt bondage, or slavery;

19       ~~71.~~ 72. "Transitional living program" means a residential  
20 program that may be attached to an existing facility or operated  
21 solely for the purpose of assisting children to develop the skills  
22 and abilities necessary for successful adult living. The program  
23 may 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 ~~72.~~ 73. "Voluntary foster care placement" means the temporary  
4 placement of a child by the parent, legal guardian or custodian of  
5 the child in foster care pursuant to a signed placement agreement  
6 between the Department or a child-placing agency and the child's  
7 parent, legal guardian or custodian.

8 SECTION 2. AMENDATORY 10A O.S. 2011, Section 1-4-201, as  
9 amended by Section 3, Chapter 355, O.S.L. 2014 (10A O.S. Supp. 2018,  
10 Section 1-4-201), is amended to read as follows:

11 Section 1-4-201. A. Pursuant to the provisions of this  
12 section, a child may be taken into custody prior to the filing of a  
13 petition:

14 1. By a peace officer or employee of the court, without a court  
15 order if the officer or employee has reasonable suspicion that:

16 a. the child is in need of immediate protection due to an  
17 imminent safety threat,

18 b. the circumstances or surroundings of the child are  
19 such that continuation in the child's home or in the  
20 care or custody of the parent, legal guardian, or  
21 custodian would present an imminent safety threat to  
22 the child, or

23 c. the child, including a child with a disability, is  
24 unable to communicate effectively about abuse, neglect

1 or other safety threat or is in a vulnerable position  
2 due to the inability to communicate effectively and  
3 the child is in need of immediate protection due to an  
4 imminent safety threat; or

5 2. By an order of the district court issued upon the  
6 application of the office of the district attorney. The application  
7 presented by the district attorney may be supported by a sworn  
8 affidavit which may be based upon information and belief. The  
9 application shall state facts sufficient to demonstrate to the court  
10 that a continuation of the child in the home or with the caretaker  
11 of the child is contrary to the child's welfare and there is  
12 reasonable suspicion that:

- 13 a. the child is in need of immediate protection due to an  
14 imminent safety threat,
- 15 b. the circumstances or surroundings of the child are  
16 such that continuation in the child's home or in the  
17 care or custody of the parent, legal guardian, or  
18 custodian would present an imminent safety threat to  
19 the child, or
- 20 c. the child, including a child with a disability, is  
21 unable to communicate effectively about abuse, neglect  
22 or other safety threat or is in a vulnerable position  
23 due to the inability to communicate effectively and  
24

1           the child is in need of immediate protection due to an  
2           imminent safety threat.

3 The application and order may be verbal and upon being advised by  
4 the district attorney or the court of the verbal order, law  
5 enforcement shall act on such order. If verbal, the district  
6 attorney shall submit a written application and proposed order to  
7 the district court within one (1) judicial day from the issuance of  
8 the verbal order. Upon approval, the application and order shall be  
9 filed with the court clerk; or

10         3. By order of the district court when the child is in need of  
11 medical or behavioral health treatment in order to protect the  
12 health, safety, or welfare of the child and the parent, legal  
13 guardian, or custodian of the child is unwilling or unavailable to  
14 consent to such medical or behavioral health treatment or other  
15 action, the court shall specifically include in the emergency order  
16 authorization for such medical or behavioral health evaluation or  
17 treatment as it deems necessary.

18         B. 1. By January 1, 2010, the Department in consultation with  
19 law enforcement and the district courts shall develop and implement  
20 a system for joint response when a child is taken into protective  
21 custody by a peace officer pursuant to paragraph 1 of subsection A  
22 of this section. The system shall include:

- a. designation of persons to serve as contact points for peace officers, including at least one backup contact for each initial contact point,
- b. a protocol for conducting a safety evaluation at the scene where protective custody is assumed to determine whether the child faces an imminent safety threat and, if so, whether the child can be protected through placement with relatives or others without the Department assuming emergency custody,
- c. the development of reception centers for accepting protective custody of children from peace officers when the Department is unable to respond at the scene within a reasonable time period,
- d. a protocol for conducting a safety evaluation at the reception center within twenty-three (23) hours of the assumption of protective custody of a child to determine whether the child faces an imminent safety threat and, if so, whether the child can be protected through placement with relatives or others without the Department assuming emergency custody, and
- e. a protocol, when the child cannot safely be left in the home, for transporting a child to the home of a relative, kinship care home, an emergency foster care home, a shelter, or any other site at which the

1 Department believes the child can be protected,  
2 provided that the Department shall utilize a shelter  
3 only when the home of a relative, kinship care home,  
4 or emergency foster care home is unavailable or  
5 inappropriate.

6 2. Beginning January 1, 2010, no child taken into protective  
7 custody under paragraph 1 of subsection A of this section shall be  
8 considered to be in the emergency custody of the Department until  
9 the Department has completed a safety evaluation and has concluded  
10 that the child faces an imminent safety threat and the court has  
11 issued an order for emergency custody.

12 3. If the safety evaluation performed by the Department of a  
13 child taken into protective custody under paragraph 1 of subsection  
14 A of this section indicates that the child does not face an imminent  
15 safety threat, the Department shall restore the child to the custody  
16 and control of the parent, legal guardian, or custodian of the  
17 child.

18 C. When an order issued by the district court pursuant to  
19 subsection A of this section places the child in the emergency  
20 custody of the Department of Human Services pending further hearing  
21 specified by Section 1-4-203 of this title, an employee of the  
22 Department may execute such order and physically take the child into  
23 custody in the following limited circumstance:  
24

1        1. The child is located in a hospital, school, or day care  
2 facility; and

3        2. It is believed that assumption of the custody of the child  
4 from the facility can occur without risk to the child or the  
5 employee of the Department.

6 Otherwise, the order shall be executed and the child taken into  
7 custody by a peace officer or employee of the court.

8        D. The court shall not enter a prepetition emergency custody  
9 order removing a child from the home of the child unless the court  
10 makes a determination:

11        1. That an imminent safety threat exists and continuation in  
12 the home of the child is contrary to the welfare of the child; and

13        2. Whether reasonable efforts have been made to prevent the  
14 removal of the child from the child's home; or

15        3. An absence of efforts to prevent the removal of the child  
16 from the home of the child is reasonable because the removal is due  
17 to an emergency and is for the purpose of providing for the safety  
18 and welfare of the child.

19        E. Whenever a child is taken into custody pursuant to this  
20 section:

21        1. The child may be taken to a kinship care home or an  
22 emergency foster care home designated by the Department, or if no  
23 such home is available, to a children's shelter located within the  
24 county where protective or emergency custody is assumed or, if there

1 is no children's shelter within the county, to a children's shelter  
2 designated by the court;

3 2. Unless otherwise provided by administrative order entered  
4 pursuant to subsection F of this section, the child may be taken  
5 before a judge of the district court or the court may be contacted  
6 verbally for the purpose of obtaining an order for emergency  
7 custody. The court may place the child in the emergency custody of  
8 the Department or some other suitable person or entity pending  
9 further hearing specified by Section 1-4-203 of this title;

10 3. The child may be taken directly to or retained in a health  
11 care facility for medical treatment, when the child is in need of  
12 emergency medical treatment to maintain the child's health, or as  
13 otherwise directed by the court; or

14 4. The child may be taken directly to or retained in a  
15 behavioral health treatment facility for evaluation or inpatient  
16 treatment, in accordance with the provisions of the Inpatient Mental  
17 Health and Substance Abuse Treatment of Minors Act, when the child  
18 is in need of behavioral health care to preserve the child's health,  
19 or as otherwise directed by the court; and

20 5. Unless otherwise provided by administrative order entered  
21 pursuant to subsection F of this section, the district court of the  
22 county where the custody is assumed shall be immediately notified,  
23 verbally or in writing, that the child has been taken into custody.  
24 If notification is verbal, written notification shall be sent to the

1 district court within one (1) judicial day of such verbal  
2 notification.

3 F. The court may provide, in an administrative order issued  
4 pursuant to this section, for the disposition of children taken into  
5 custody and notification of the assumption of such custody.

6 1. Such order or rule shall be consistent with the provisions  
7 of subsection E of this section and may include a process for  
8 release of a child prior to an emergency custody hearing. The  
9 administrative order shall not include a provision to modify  
10 protective custody of a child to emergency custody of the Department  
11 upon admission of a child to a shelter; and

12 2. The administrative order may require joint training of peace  
13 officers and Department staff deemed necessary by the court to carry  
14 out the provisions of the administrative order.

15 G. No child taken into custody pursuant to this section shall  
16 be confined in any jail, adult lockup, or adult or juvenile  
17 detention facility.

18 H. When a determination is made by the Department that there is  
19 a significant risk of abuse or neglect, but there is not an imminent  
20 safety threat to the child, the Department may recommend a court-  
21 supervised and Department-monitored in-home placement. The  
22 Department shall assist the family in obtaining the services  
23 necessary to maintain the in-home care and correct the conditions  
24 leading to the risk determination.



1        I. A child shall not be taken into custody due to situational  
2 neglect unless the Department determines the child is in need of  
3 immediate protection due to an imminent safety threat. The  
4 Department may recommend a court-supervised and Department-monitored  
5 in-home placement in cases of situational neglect. The Department  
6 shall assist the family in obtaining the services necessary to  
7 maintain the in-home care and correct the conditions leading to the  
8 situational neglect.

9        J. Any peace officer, employee of the court, or employee of the  
10 Department is authorized to transport a child when acting pursuant  
11 to this section. Such persons and any other person acting under the  
12 direction of the court, who in good faith transports any child or  
13 carries out duties pursuant to this section, shall be immune from  
14 civil or criminal liability that may result by reason of such act.  
15 For purposes of any proceedings, civil or criminal, the good faith  
16 of any such person shall be presumed. This provision shall not  
17 apply to damage or injury caused by the willful, wanton or gross  
18 negligence or misconduct of a person.

19        ~~J.~~ K. A parent or person responsible for the child who is  
20 arrested on a charge or warrant other than child abuse or neglect or  
21 an act of child endangerment may designate another person to take  
22 physical custody of the child. Upon this request, the peace officer  
23 may release the child to the physical custody of the designated  
24 person.

