

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 HOUSE BILL 2594

By: Morrissette

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7 AS INTRODUCED

8 An Act relating to Department of Human Services;
9 creating the Department of Child Welfare; placing the
10 Child Welfare Services Division under the Department
11 of Child Welfare; transferring property and other
12 items; providing for transfer of personnel and
13 related benefits; transferring donated or accruing
14 monies; specifying contractual rights and
15 responsibilities; providing for rules; directing
16 Governor to select a Director of Child Welfare for
17 Department; describing qualifications for Director;
18 requiring Senate confirmation; providing for Governor
19 to set salary; mandating cooperation with federal
20 agencies in order to qualify for funding; prescribing
21 annual report; providing deadline and presentment for
22 report; listing contents of report; construing
23 specified references to Department of Human Services
24 to mean Department of Child Welfare; creating the
Department of Aged and Disabled; placing the Aging
Services Division and Developmental Disabilities
Services Division under the Department of Aged and
Disabled; providing for transfer of property and
other items; transferring personnel and related
benefits; providing for transfer of donated or
accruing monies; clarifying contractual rights and
responsibilities; providing for rules; authorizing
Governor to select a Director of Aged and Disabled
for Department; providing qualifications for
Director; mandating Senate confirmation; requiring
Governor to set salary; requiring cooperation with
federal agencies in order to qualify for funding;
providing for annual report; prescribing deadline and
presentment for report; specifying contents of
report; construing specified references to mean

1 Department of Aged and Disabled; amending 10A O.S.
2 2011, Section 1-1-105, as last amended by Section 1,
3 Chapter 274, O.S.L. 2015 (10A O.S. Supp. 2015,
4 Section 1-1-105), which relates to the Oklahoma
5 Children's Code; modifying terms; providing for
6 codification; and providing an effective date.

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

8 SECTION 1. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1-1-106 of Title 10A, unless
10 there is created a duplication in numbering, reads as follows:

11 A. There is hereby created a Department of Child Welfare.

12 Effective November 1, 2016, the Child Welfare Services Division of
13 the Department of Human Services shall be placed under the authority
14 of the Department of Child Welfare. Except as otherwise provided
15 for in this section, the transfer shall include all real property,
16 buildings, furniture, equipment, supplies, records, personnel,
17 assets, current and future liabilities, fund balances, encumbrances,
18 obligations and indebtedness associated with the Child Welfare
19 Services Division of the Department of Human Services.

20 B. All employees of the Child Welfare Services Division of the
21 Department of Human Services on the effective date of this act,
22 including related liabilities for sick leave, annual leave,
23 holidays, unemployment benefits and workers' compensation benefits
24 accruing prior to November 1, 2016, to such personnel shall be
transferred to the Department of Child Welfare as of November 1,

1 2016. It is the intent of the Legislature that, to the extent
2 possible, the Department of Child Welfare ensures that the employees
3 retain pay and benefits, as much as possible, including longevity,
4 dependent insurance benefits, seniority, rights, and other
5 privileges or benefits.

6 C. Appropriate conveyances and other documents shall be
7 executed by January 1, 2017, to effectuate the transfer of property
8 owned by the Child Welfare Services Division of the Department of
9 Human Services to the Department of Child Welfare.

10 D. Any monies donated or accruing to or in the name of the
11 Child Welfare Services Division of the Department of Human Services
12 after November 1, 2016, shall be transferred to the Department of
13 Child Welfare. Any other monies from appropriations, fees,
14 licenses, fines, penalties or other similar types of monies that
15 accrue in any funds or accounts after November 1, 2016, in the name
16 of the Child Welfare Services Division of the Department of Human
17 Services or maintained for the benefit of the Child Welfare Services
18 Division of the Department of Human Services shall be transferred to
19 the Department of Child Welfare.

20 E. The Department of Child Welfare shall succeed to any
21 contractual rights and responsibilities incurred by the Child
22 Welfare Services Division of the Department of Human Services.

23 F. The rules of the Child Welfare Services Division of the
24 Department of Human Services that are in effect on November 1, 2016,

1 shall be enforceable by the Department of Child Welfare until the
2 Department establishes rules.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1-1-107 of Title 10A, unless
5 there is created a duplication in numbering, reads as follows:

6 A. The Governor shall have the power and duty to select a
7 Director of Child Welfare who shall serve as executive and
8 administrative officer of the Department of Child Welfare created in
9 Section 1 of this act. The Director shall be appointed wholly on
10 the qualifications and basis of ability, training and experience in
11 child welfare administration. The Director shall serve, subject to
12 the confirmation of the Senate, at the pleasure of the Governor.
13 The salary of the Director shall be fixed by the Governor.

14 B. The Director shall cooperate with the United States
15 Department of Health and Human Services, or other similar agencies
16 created by Congress, in any reasonable manner as may be necessary to
17 qualify for federal aid to states in providing child welfare, foster
18 care, and adoption programs and services in conformity with the
19 provisions of the Oklahoma Children's Code, including the making of
20 reports in the form and containing information as a federal agency
21 may from time to time require, and comply with any other similar
22 federal agency requirements necessary to ensure the correctness and
23 verification of the reports.

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1 C. The Director shall publish an annual report not later than
2 four (4) months after the close of each fiscal year. The report
3 shall be presented to the Governor, the Speaker of the House of
4 Representatives and the President Pro Tempore of the Senate. Annual
5 reports shall provide information about the operations and programs
6 administered by the Department and shall include, but shall not be
7 limited to:

8 1. Statistical information regarding services provided and the
9 number of persons served by Department programs;

10 2. Financial data including a reasonable amount of detailed
11 information regarding revenues and expenditures and a breakdown and
12 comparison of the Department budget with actual expenditures;

13 3. Status of the workforce and productivity of the Department;

14 4. Information about Department efforts to ensure program
15 accountability and service delivery quality and integrity;

16 5. Demographic data and trends and their anticipated impact on
17 demand for services; and

18 6. Information regarding public and private institution-based
19 services.

20 D. Wherever the laws of this state related to child welfare,
21 foster care, and adoption programs and services refer to the
22 Department of Human Services or the Child Welfare Services Division
23 of the Department of Human Services, the references shall be
24 construed to mean the Department of Child Welfare.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 30 of Title 56, unless there is
3 created a duplication in numbering, reads as follows:

4 A. There is hereby created a Department of Aged and Disabled.
5 Effective November 1, 2016, the Aging Services Division and
6 Developmental Disabilities Services Division of the Department of
7 Human Services shall be placed under the authority of the Department
8 of Aged and Disabled. Except as otherwise provided for in this
9 section, the transfer shall include all real property, buildings,
10 furniture, equipment, supplies, records, personnel, assets, current
11 and future liabilities, fund balances, encumbrances, obligations and
12 indebtedness associated with the Aging Services Division and
13 Developmental Disabilities Services Division of the Department of
14 Human Services.

15 B. All employees of the Aging Services Division and
16 Developmental Disabilities Services Division of the Department of
17 Human Services on the effective date of this act, including related
18 liabilities for sick leave, annual leave, holidays, unemployment
19 benefits and workers' compensation benefits accruing prior to
20 November 1, 2016, to such personnel shall be transferred to the
21 Department of Aged and Disabled as of November 1, 2016. It is the
22 intent of the Legislature that, to the extent possible, the
23 Department of Aged and Disabled ensures that the employees retain
24 pay and benefits, as much as possible, including longevity,

1 dependent insurance benefits, seniority, rights, and other
2 privileges or benefits.

3 C. Appropriate conveyances and other documents shall be
4 executed by January 1, 2017, to effectuate the transfer of property
5 owned by the Aging Services Division and Developmental Disabilities
6 Services Division of the Department of Human Services to the
7 Department of Aged and Disabled.

8 D. Any monies donated or accruing to or in the name of the
9 Aging Services Division and Developmental Disabilities Services
10 Division of the Department of Human Services after November 1, 2016,
11 shall be transferred to the Department of Aged and Disabled. Any
12 other monies from appropriations, fees, licenses, fines, penalties
13 or other similar types of monies that accrue in any funds or
14 accounts after November 1, 2016, in the name of the Aging Services
15 Division and Developmental Disabilities Services Division of the
16 Department of Human Services or maintained for the benefit of the
17 Aging Services Division and Developmental Disabilities Services
18 Division of the Department of Human Services shall be transferred to
19 the Department of Aged and Disabled.

20 E. The Department of Aged and Disabled shall succeed to any
21 contractual rights and responsibilities incurred by the Aging
22 Services Division and Developmental Disabilities Services Division
23 of the Department of Human Services.

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1 F. The rules of the Aging Services Division and Developmental
2 Disabilities Services Division of the Department of Human Services
3 that are in effect on November 1, 2016, shall be enforceable by the
4 Department of Aged and Disabled until the Department establishes
5 rules.

6 SECTION 4. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 30.1 of Title 56, unless there
8 is created a duplication in numbering, reads as follows:

9 A. The Governor shall have the power and duty to select a
10 Director of Aged and Disabled who shall serve as executive and
11 administrative officer of the Department of Aged and Disabled
12 created in Section 3 of this act. The Director shall be appointed
13 wholly on the qualifications and basis of ability, training and
14 experience in aging and developmental disability administration.
15 The Director shall serve, subject to the confirmation of the Senate,
16 at the pleasure of the Governor. The salary of the Director shall
17 be fixed by the Governor.

18 B. The Director shall cooperate with the United States
19 Department of Health and Human Services, or other similar agencies
20 created by Congress, in any reasonable manner as may be necessary to
21 qualify for federal aid to states in providing services to the aging
22 and developmentally disabled, including the making of reports in the
23 form and containing information as a federal agency may from time to
24 time require, and comply with any other similar federal agency

1 requirements necessary to ensure the correctness and verification of
2 the reports.

3 C. The Director shall publish an annual report not later than
4 four (4) months after the close of each fiscal year. The report
5 shall be presented to the Governor, the Speaker of the House of
6 Representatives and the President Pro Tempore of the Senate. Annual
7 reports shall provide information about the operations and programs
8 administered by the Department of Aging and Disabled and shall
9 include, but shall not be limited to:

10 1. Statistical information regarding services provided and the
11 number of persons served by Department programs;

12 2. Financial data including a reasonable amount of detailed
13 information regarding revenues and expenditures and a breakdown and
14 comparison of the Department budget with actual expenditures;

15 3. Status of the workforce and productivity of the Department;

16 4. Information about Department efforts to ensure program
17 accountability and service delivery quality and integrity;

18 5. Demographic data and trends and their anticipated impact on
19 demand for services; and

20 6. Information regarding public and private institution-based
21 services.

22 D. Wherever the laws of this state related to aging or
23 developmental disabilities programs and services refer to the
24 Department of Human Services, the Aging Services Division or the

1 Developmental Disabilities Services Division, the references shall
2 be construed to mean the Department of Aged and Disabled.

3 SECTION 5. AMENDATORY 10A O.S. 2011, Section 1-1-105, as
4 last amended by Section 1, Chapter 274, O.S.L. 2015 (10A O.S. Supp.
5 2015, Section 1-1-105), is amended to read as follows:

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

8 1. "Abandonment" means:

9 a. the willful intent by words, actions, or omissions not
10 to return for a child, or

11 b. the failure to maintain a significant parental
12 relationship with a child through visitation or
13 communication in which incidental or token visits or
14 communication are not considered significant, or

15 c. the failure to respond to notice of deprived
16 proceedings;

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

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

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

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

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

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

1 5. "Assessment" means a comprehensive review of child safety
2 and evaluation of family functioning and protective capacities that
3 is conducted in response to a child abuse or neglect referral that
4 does not allege a serious and immediate safety threat to a child;

5 6. "Behavioral health" means mental health, substance abuse, or
6 co-occurring mental health and substance abuse diagnoses, and the
7 continuum of mental health, substance abuse, or co-occurring mental
8 health and substance abuse treatment;

9 7. "Child" means any unmarried person under eighteen (18) years
10 of age;

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

- 17 a. nonurban centers in districts with child populations
18 that are less than sixty thousand (60,000), and
- 19 b. midlevel nonurban centers in districts with child
20 populations equal to or greater than sixty thousand
21 (60,000), but not including Oklahoma and Tulsa
22 counties;

23 9. "Child with a disability" means any child who has a physical
24 or mental impairment which substantially limits one or more of the

1 major life activities of the child, or who is regarded as having
2 such an impairment by a competent medical professional;

3 10. "Child-placing agency" means an agency that arranges for or
4 places a child in a foster family home, group home, adoptive home,
5 or independent living program;

6 11. "Community-based services" or "community-based programs"
7 means services or programs which maintain community participation or
8 supervision in their planning, operation, and evaluation.

9 Community-based services and programs may include, but are not
10 limited to, emergency shelter, crisis intervention, group work, case
11 supervision, job placement, recruitment and training of volunteers,
12 consultation, medical, educational, home-based services, vocational,
13 social, preventive and psychological guidance, training, counseling,
14 early intervention and diversionary substance abuse treatment,
15 sexual abuse treatment, transitional living, independent living, and
16 other related services and programs;

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

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

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 14. "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 15. "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~~ Child
13 Welfare;

14 16. "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 17. "Department" means the Department of ~~Human Services~~ Child
20 Welfare. Any reference to the Department of Human Services in the
21 Oklahoma Children's Code shall be construed to mean the Department
22 of Child Welfare;

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1 18. "Dependency" means a child who is homeless or without
2 proper care or guardianship through no fault of his or her parent,
3 legal guardian, or custodian;

4 19. "Deprived child" means a child:

- 5 a. who is for any reason destitute, homeless, or
6 abandoned,
- 7 b. who does not have the proper parental care or
8 guardianship,
- 9 c. who has been abused, neglected, or is dependent,
- 10 d. whose home is an unfit place for the child by reason
11 of depravity on the part of the parent or legal
12 guardian of the child, or other person responsible for
13 the health or welfare of the child,
- 14 e. who is a child in need of special care and treatment
15 because of the child's physical or mental condition,
16 and the child's parents, legal guardian, or other
17 custodian is unable or willfully fails to provide such
18 special care and treatment. As used in this
19 paragraph, a child in need of special care and
20 treatment includes, but is not limited to, a child who
21 at birth tests positive for alcohol or a controlled
22 dangerous substance and who, pursuant to a drug or
23 alcohol screen of the child and an assessment of the
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- 1 parent, is determined to be at risk of harm or
2 threatened harm to the health or safety of a child,
3 f. who is a child with a disability deprived of the
4 nutrition necessary to sustain life or of the medical
5 treatment necessary to remedy or relieve a life-
6 threatening medical condition in order to cause or
7 allow the death of the child if such nutrition or
8 medical treatment is generally provided to similarly
9 situated children without a disability or children
10 with disabilities; provided that no medical treatment
11 shall be necessary if, in the reasonable medical
12 judgment of the attending physician, such treatment
13 would be futile in saving the life of the child,
14 g. who, due to improper parental care and guardianship,
15 is absent from school as specified in Section 10-106
16 of Title 70 of the Oklahoma Statutes, if the child is
17 subject to compulsory school attendance,
18 h. whose parent, legal guardian or custodian for good
19 cause desires to be relieved of custody,
20 i. who has been born to a parent whose parental rights to
21 another child have been involuntarily terminated by
22 the court and the conditions which led to the making
23 of the finding, which resulted in the termination of
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1 the parental rights of the parent to the other child,
2 have not been corrected, or

3 j. whose parent, legal guardian, or custodian has
4 subjected another child to abuse or neglect or has
5 allowed another child to be subjected to abuse or
6 neglect and is currently a respondent in a deprived
7 proceeding.

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

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

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

21 21. "Drug-endangered child" means a child who is at risk of
22 suffering physical, psychological or sexual harm as a result of the
23 use, possession, distribution, manufacture or cultivation of
24 controlled substances, or the attempt of any of these acts, by a

1 person responsible for the health, safety or welfare of the child,
2 as defined in paragraph 51 of this section. This term includes
3 circumstances wherein the substance abuse of the person responsible
4 for the health, safety or welfare of the child interferes with that
5 person's ability to parent and provide a safe and nurturing
6 environment for the child. The term also includes newborns who test
7 positive for a controlled dangerous substance, with the exception of
8 those substances administered under the care of a physician;

9 22. "Emergency custody" means the custody of a child prior to
10 adjudication of the child following issuance of an order of the
11 district court pursuant to Section 1-4-201 of this title or
12 following issuance of an order of the district court pursuant to an
13 emergency custody hearing, as specified by Section 1-4-203 of this
14 title;

15 23. "Facility" means a place, an institution, a building or
16 part thereof, a set of buildings, or an area whether or not
17 enclosing a building or set of buildings used for the lawful custody
18 and treatment of children;

19 24. "Failure to protect" means failure to take reasonable
20 action to remedy or prevent child abuse or neglect, and includes the
21 conduct of a non-abusing parent or guardian who knows the identity
22 of the abuser or the person neglecting the child, but lies, conceals
23 or fails to report the child abuse or neglect or otherwise take
24 reasonable action to end the abuse or neglect;

1 25. "Foster care" or "foster care services" means continuous
2 twenty-four-hour care and supportive services provided for a child
3 in foster placement including, but not limited to, the care,
4 supervision, guidance, and rearing of a foster child by the foster
5 parent;

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

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

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

1 29. "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 30. "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 31. "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 32. "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,

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

12 33. "Heinous and shocking neglect" includes, but is not limited
13 to:

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

1 d. any other similar aggravating circumstance;

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

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

15 36. "Infant" means a child who is twelve (12) months of age or
16 younger;

17 37. "Institution" means a residential facility offering care
18 and treatment for more than twenty residents;

19 38. a. "Investigation" means a response to an allegation of
20 abuse or neglect that involves a serious and immediate
21 threat to the safety of the child, making it necessary
22 to determine:

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

1 (2) whether child abuse or neglect occurred and
2 whether the family needs prevention- and
3 intervention-related services.

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

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

12 (a) court intervention if the Department finds
13 the health, safety, or welfare of the child
14 is threatened, or

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

20 (2) "Unsubstantiated - Services recommended" means
21 the Department has determined, after an
22 investigation of a report of child abuse or
23 neglect, that insufficient evidence exists to
24 fully determine whether child abuse or neglect

1 has occurred. If child abuse or neglect is
2 unsubstantiated, the Department may recommend,
3 when determined to be necessary, that the parents
4 or persons responsible for the care of the child
5 obtain child abuse and neglect prevention- and
6 intervention-related services, or

7 (3) "Ruled out" means a report in which a child
8 protective services specialist has determined,
9 after an investigation of a report of child abuse
10 or neglect, that no child abuse or neglect has
11 occurred;

12 39. "Kinship care" means full-time care of a child by a kinship
13 relation;

14 40. "Kinship guardianship" means a permanent guardianship as
15 defined in this section;

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

22 42. "Mental health facility" means a mental health or substance
23 abuse treatment facility as defined by the Inpatient Mental Health
24 and Substance Abuse Treatment of Minors Act;

1 43. "Minor" means the same as the term "child" as defined in
2 this section;

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

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

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

18 47. "Neglect" means:

19 a. the failure or omission to provide any of the
20 following:

21 (1) adequate nurturance and affection, food,
22 clothing, shelter, sanitation, hygiene, or
23 appropriate education,

24 (2) medical, dental, or behavioral health care,

- 1 (3) supervision or appropriate caretakers, or
2 (4) special care made necessary by the physical or
3 mental condition of the child,

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

- 6 (1) the use, possession, sale, or manufacture of
7 illegal drugs,
8 (2) illegal activities, or
9 (3) sexual acts or materials that are not age-
10 appropriate, or

11 c. abandonment.

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

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

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

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

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

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

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

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24

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

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

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

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

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

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

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

24

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

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

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

12 a. has been certified by the ~~Developmental Disabilities~~
13 ~~Services Division of the Department of Human Services~~
14 Aged and Disabled,

15 b. is monitored by the ~~Division~~ Department of Aged and
16 Disabled, and

17 c. is funded through the Home- and Community-Based Waiver
18 Services Program administered by the ~~Division~~
19 Department of Aged and Disabled;

20 64. "Temporary custody" means court-ordered custody of an
21 adjudicated deprived child;

22 65. "Therapeutic foster family home" means a foster family home
23 which provides specific treatment services, pursuant to a
24 therapeutic foster care contract, which are designed to remedy

1 social and behavioral problems of a foster child residing in the
2 home;

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

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

16 SECTION 6. This act shall become effective November 1, 2016.

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