

An Act

ENROLLED SENATE
BILL NO. 718

By: Griffin and Pittman of the
Senate

and

Lawson of the House

An Act relating to children; amending 10A O.S. 2011, Sections 1-1-105, as last amended by Section 1, Chapter 210, O.S.L. 2016 and 2-1-103, as last amended by Section 3, Chapter 362, O.S.L. 2014 (10A O.S. Supp. 2016, Sections 1-1-105 and 2-1-103), which relate to definitions; adding and deleting certain definitions; amending 10A O.S. 2011, Section 2-2-101, as last amended by Section 1, Chapter 261, O.S.L. 2015 (10A O.S. Supp. 2016, Section 2-2-101), which relates to children in state custody; deleting certain term; including certain facilities in certain decisions; amending 10A O.S. 2011, Section 2-7-303, as amended by Section 20, Chapter 404, O.S.L. 2013 (10A O.S. Supp. 2016, Section 2-7-303), which relates to community-based programs; modifying term; amending 70 O.S. 2011, Section 1-113, as last amended by Section 1, Chapter 363, O.S.L. 2015 (70 O.S. Supp. 2016, Section 1-113), which relates to residency; including certain facilities; clarifying language; and providing an effective date.

SUBJECT: Oklahoma Children's Code

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

SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-1-105, as last amended by Section 1, Chapter 210, O.S.L. 2016 (10A O.S. Supp. 2016, Section 1-1-105), is amended to read as follows:

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

1. "Abandonment" means:

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

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

- a. "Harm or threatened harm to the health or safety of a child" means any real or threatened physical, mental, or emotional injury or damage to the body or mind that is not accidental including but not limited to sexual abuse, sexual exploitation, neglect, or dependency.
- b. "Sexual abuse" includes but is not limited to rape, incest, and lewd or indecent acts or proposals made to a child, as defined by law, by a person responsible for the health, safety, or welfare of the child.
- c. "Sexual exploitation" includes but is not limited to allowing, permitting, encouraging, or forcing a child

to engage in prostitution, as defined by law, by any person eighteen (18) years of age or older or by a person responsible for the health, safety, or welfare of a child, or allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic, as defined by law, photographing, filming, or depicting of a child in those acts by a person responsible for the health, safety, and welfare of the child;

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

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

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

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

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

6. "Assessment" means a comprehensive review of child safety and evaluation of family functioning and protective capacities that

is conducted in response to a child abuse or neglect referral that does not allege a serious and immediate safety threat to a child;

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

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

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

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

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

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

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

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

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

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

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

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

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

~~17.~~ 18. "Day treatment" means a nonresidential program which provides intensive services to a child who resides in the child's own home, the home of a relative, group home, a foster home or residential child care facility. Day treatment programs include, 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 proper care or guardianship through no fault of his or her parent, legal guardian, or custodian;

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

- a. who is for any reason destitute, homeless, or abandoned,
- b. who does not have the proper parental care or guardianship,
- c. who has been abused, neglected, or is dependent,
- d. whose home is an unfit place for the child by reason of depravity on the part of the parent or legal guardian of the child, or other person responsible for the health or welfare of the child,
- e. who is a child in need of special care and treatment because of the child's physical or mental condition, and the child's parents, legal guardian, or other custodian is unable or willfully fails to provide such special care and treatment. As used in this paragraph, a child in need of special care and treatment includes, but is not limited to, a child who at birth tests positive for alcohol or a controlled dangerous substance and who, pursuant to a drug or alcohol screen of the child and an assessment of the parent, is determined to be at risk of harm or threatened harm to the health or safety of a child,

- f. who is a child with a disability deprived of the nutrition necessary to sustain life or of the medical treatment necessary to remedy or relieve a life-threatening medical condition in order to cause or allow the death of the child if such nutrition or medical treatment is generally provided to similarly situated children without a disability or children with disabilities; provided that no medical treatment shall be necessary if, in the reasonable medical judgment of the attending physician, such treatment would be futile in saving the life of the child,
- g. who, due to improper parental care and guardianship, is absent from school as specified in Section 10-106 of Title 70 of the Oklahoma Statutes, if the child is subject to compulsory school attendance,
- h. whose parent, legal guardian or custodian for good cause desires to be relieved of custody,
- i. who has been born to a parent whose parental rights to another child have been involuntarily terminated by the court and the conditions which led to the making of the finding, which resulted in the termination of the parental rights of the parent to the other child, have not been corrected, or
- j. whose parent, legal guardian, or custodian has subjected another child to abuse or neglect or has allowed another child to be subjected to abuse or neglect and is currently a respondent in a deprived proceeding.

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

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

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

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

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

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

~~25.~~ 26. "Failure to protect" means failure to take reasonable action to remedy or prevent child abuse or neglect, and includes the conduct of a non-abusing parent or guardian who knows the identity of the abuser or the person neglecting the child, but lies, conceals or fails to report the child abuse or neglect or otherwise take reasonable action to end the abuse or neglect;

~~26.~~ 27. "Foster care" or "foster care services" means continuous twenty-four-hour care and supportive services provided

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

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

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

~~29.~~ 30. "Guardian ad litem" means a person appointed by the court pursuant to the provisions of Section 1-4-306 of this title having those duties and responsibilities as set forth in that section. The term "guardian ad litem" shall refer to a court-appointed special advocate as well as to any other person appointed pursuant to the provisions of Section 1-4-306 of this title to serve as a guardian ad litem;

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

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

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

~~33.~~ 34. "Heinous and shocking abuse" includes, but is not limited to, aggravated physical abuse that results in serious

bodily, mental, or emotional injury. "Serious bodily injury" means injury that involves:

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

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

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

- b. neglect that has resulted in a diagnosis of the child as a failure to thrive,
- 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
- d. any other similar aggravating circumstance;

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

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

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

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

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

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

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

(1) "substantiated" means the Department has determined, after an investigation of a report of child abuse or neglect and based upon some

credible evidence, that child abuse or neglect has occurred. When child abuse or neglect is substantiated, the Department may recommend:

- (a) court intervention if the Department finds the health, safety, or welfare of the child is threatened, or
 - (b) child abuse and neglect prevention- and intervention-related services for the child, parents or persons responsible for the care of the child if court intervention is not determined to be necessary,
- (2) "unsubstantiated" means the Department has determined, after an investigation of a report of child abuse or neglect, that insufficient evidence exists to fully determine whether child abuse or neglect has occurred. If child abuse or neglect is unsubstantiated, the Department may recommend, when determined to be necessary, that the parents or persons responsible for the care of the child obtain child abuse and neglect prevention- and intervention-related services, or
- (3) "ruled out" means a report in which a child protective services specialist has determined, after an investigation of a report of child abuse or neglect, that no child abuse or neglect has occurred;

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

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

~~41.~~ 42. "Kinship relation" or "kinship relationship" means relatives, stepparents, or other responsible adults who have a bond or tie with a child and/or to whom has been ascribed a family relationship role with the child's parents or the child; provided,

however, in cases where the Indian Child Welfare Act applies, the definitions contained in 25 U.S.C., Section 1903 shall control;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~54.~~ 55. "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 representative of a group home where a child has been placed or a designated official for a residential child care facility where a child in foster care has been placed;

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

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

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

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

~~59.~~ 60. "Safety threat" means the threat of serious harm due to child abuse or neglect occurring in the present or in the very near future and without the intervention of another person, a child would likely or in all probability sustain severe or permanent disability or injury, illness, or death;

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

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

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

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

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

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

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

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

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

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

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

~~69.~~ 70. "Transitional living program" means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting children to develop the skills and abilities necessary for successful adult living. The program may include, but shall not be limited to, reduced staff supervision, vocational training, educational services, employment and employment training, and other appropriate independent living skills training as a part of the transitional living program; and

~~70.~~ 71. "Voluntary foster care placement" means the temporary placement of a child by the parent, legal guardian or custodian of the child in foster care pursuant to a signed placement agreement between the Department or a child-placing agency and the child's parent, legal guardian or custodian.

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

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

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

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

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

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

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

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

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

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

- a. has repeatedly disobeyed reasonable and lawful commands or directives of the parent, legal guardian, or other custodian,
- b. is willfully and voluntarily absent from his or her home without the consent of the parent, legal guardian, or other custodian for a substantial length of time or without intent to return,
- c. is willfully and voluntarily absent from school, as specified in Section 10-106 of Title 70 of the Oklahoma Statutes, if the juvenile is subject to compulsory school attendance, or
- d. has been served with an ex parte or final protective order pursuant to the Protection from Domestic Abuse Act;

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

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

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

- a. screening, evaluation and assessment which includes a face-to-face screening and evaluation to establish problem identification and to determine the risk level of a child or adolescent and may result in clinical diagnosis or diagnostic impression,
- b. treatment planning which includes preparation of an individualized treatment plan which is usually done as part of the screening, evaluation and assessment,
- c. treatment plan reviewing which includes a comprehensive review and evaluation of the effectiveness of the treatment plan,
- d. individual counseling which includes face-to-face, one-on-one interaction between a counselor and a juvenile to promote emotional or psychological change to alleviate the issues, problems, and difficulties that led to a referral, including ongoing assessment

of the status and response of the juvenile to treatment as well as psychoeducational intervention,

- e. group counseling which includes a method of treating a group of individuals using the interaction between a counselor and two or more juveniles or parents or guardians to promote positive emotional or behavioral change, not including social skills development or daily living skills,
- f. family counseling which includes a face-to-face interaction between a counselor and the family of the juvenile to facilitate emotional, psychological or behavior changes and promote successful communication and understanding,
- g. crisis intervention counseling which includes unanticipated, unscheduled face-to-face emergency intervention provided by a licensed level or qualified staff with immediate access to a licensed provider to resolve immediate, overwhelming problems that severely impair the ability of the juvenile to function or maintain in the community,
- h. crisis intervention telephone support which includes supportive telephone assistance provided by a licensed level provider or qualified staff with immediate access to a licensed provider to resolve immediate, overwhelming problems that severely impair the ability of the juvenile to function or maintain in the community,
- i. case management which includes planned linkage, advocacy and referral assistance provided in partnership with a client to support that client in self-sufficiency and community tenure,
- j. case management and home-based services which includes that part of case management services dedicated to travel for the purpose of linkage, advocacy and referral assistance and travel to provide counseling and support services to families of children as needed

to support specific youth and families in self-sufficiency and community tenure,

- k. individual rehabilitative treatment which includes face-to-face service provided one-on-one by qualified staff to maintain or develop skills necessary to perform activities of daily living and successful integration into community life, including educational and supportive services regarding independent living, self-care, social skills regarding development, lifestyle changes and recovery principles and practices,
- l. group rehabilitative treatment which includes face-to-face group services provided by qualified staff to maintain or develop skills necessary to perform activities of daily living and successful integration into community life, including educational and supportive services regarding independent living, self-care, social skills regarding development, lifestyle changes and recovery principles and practices,
- m. community-based prevention services which include services delivered in an individual or group setting by a qualified provider designed to meet the services needs of a child or youth and family of the child or youth who has been referred because of identified problems in the family or community. The group prevention planned activities must be focused on reducing the risk that individuals will experience behavioral, substance abuse or delinquency-related problems. Appropriate curriculum-based group activities include, but are not limited to, First Offender groups, prevention and relationship enhancement groups, anger management groups, life skills groups, substance abuse education groups, smoking cessation groups, STD/HIV groups and parenting groups,
- n. individual paraprofessional services which include services delineated in the treatment plan of the

juvenile which are necessary for full integration of the juvenile into the home and community, but do not require a professional level of education and experience. Activities include assisting families with Medicaid applications, assisting with school and General Educational Development (GED) enrollment, assisting youth with independent living arrangements, providing assistance with educational problems and deficiencies, acting as a role model for youth while engaging them in community activities, assisting youth in seeking and obtaining employment, providing transportation for required appointments and activities, participating in recreational activities and accessing other required community support services necessary for full community integration and successful treatment,

- o. tutoring which includes a tutor and student working together as a learning team to bring about overall academic success, improved self-esteem and increased independence as a learner for the student,
- p. community relations which include public or community relations activities directed toward the community or public at large or any segment of the public to encourage understanding, accessibility and use of community-based facilities, programs or services,
- q. ~~emergency shelters and shelter host homes which include emergency living accommodations twenty-four (24) hours a day for a short term, usually ninety (90) days or less, for children and youth in a crisis situation such as abandonment, abuse, neglect, runaway, respite, or law enforcement or court involvement. The shelter or shelter host homes may provide care, education, mental health assessment and treatment, counseling, recreational activities, medical care and referrals needed by children and youth to minimize trauma and aid the transition to a permanent placement~~ children's emergency resource centers that are community-based and that may provide emergency care and a safe and structured homelike

environment or a host home for children providing food, clothing, shelter and hygiene products to each child served; after-school tutoring; counseling services; life-skills training; transition services; assessments; family reunification; respite care; transportation to or from school, doctors' appointments, visitations and other social, school, court or other activities when necessary; and a stable environment for children who have been detained as delinquent or in need of supervision and temporarily placed by a court, or children in crisis who are in custody of the Office of Juvenile Affairs if permitted under the Office's policies and regulations or who have been voluntarily placed by a parent or custodian during a temporary crisis,

- r. transitional living programs which include a structured program to help older homeless youth achieve self-sufficiency and avoid long-term dependence on social services,
- s. community-at-risk services (C.A.R.S.) which include a program provided to juveniles in custody or under the supervision of the Office of Juvenile Affairs or a juvenile bureau to prevent out-of-home placement and to reintegrate juveniles returning from placements. The program shall include, but not be limited to, treatment plan development, counseling, diagnostic and evaluation services, mentoring, tutoring, and supervision of youth in independent living,
- t. first offender programs which include alternative diversion programs, as defined by Section 2-2-404 of this title, and
- u. other community-based facilities, programs or services designated by the Board as core community-based facilities, programs or services;

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

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

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

- a. has violated any federal or state law or municipal ordinance except a traffic statute or traffic ordinance or any provision of the Oklahoma Wildlife Conservation Code, the Oklahoma Vessel and Motor Regulation Act or the Oklahoma Boating Safety Regulation Act, or has violated any lawful order of the court made pursuant to the provisions of the Oklahoma Juvenile Code, or
- b. has habitually violated traffic laws, traffic ordinances or boating safety laws or rules;

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

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

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

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

18. "Group home" means a residential facility with a program which emphasizes family-style living in a homelike environment. Said group home may also offer a program within the community to meet the specialized treatment needs of its residents. A group home

shall not be considered a correctional facility subject to the provisions of Title 57 of the Oklahoma Statutes;

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

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

- a. have a program which includes community participation and community-based services, or
- b. be a secure facility with a program exclusively designed for a particular category of resident;

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

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

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

24. "Peer Review" means an initial or annual review and report to the Office of Juvenile Affairs of the organization, programs, records and financial condition of a Youth Services Agency by the Oklahoma Association of Youth Services, or another Oklahoma nonprofit corporation whose membership consists solely of Youth

Services Agencies and of whom at least a majority of Youth Services Agencies are members. An annual review may consist of a review of one or more major areas of the operation of the Youth Services Agency being reviewed;

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

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

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

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

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

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

- a. while under the continuing jurisdiction of the court pending court disposition, or
- b. pending placement by the Office of Juvenile Affairs after adjudication;

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

32. "Transitional living program" means a residential program that may be attached to an existing facility or operated solely for the purpose of assisting juveniles to develop the skills and abilities necessary for successful adult living. Said program may include but shall not be limited to reduced staff supervision, vocational training, educational services, employment and employment training, and other appropriate independent living skills training as a part of the transitional living program; and

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

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

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

1. By a peace officer, without a court order for any criminal offense for which the officer is authorized to arrest an adult without a warrant, or if the child is willfully and voluntarily absent from the home of the child without the consent of the parent,

legal guardian, legal custodian or other person having custody and control of the child for a substantial length of time or without intent to return, or if the surroundings of the child are such as to endanger the welfare of the child;

2. By a peace officer or an employee of the court without a court order, if the child is willfully and voluntarily absent from the home of the child without the consent of the parent, legal guardian, legal custodian or other person having custody and control of the child if the surroundings of the child are such as to endanger the welfare of the child or, in the reasonable belief of the employee of the court or peace officer, the child appears to have run away from home without just cause. For purposes of this section, a peace officer may reasonably believe that a child has run away from home when the child refuses to give his or her name or the name and address of a parent or other person legally responsible for the care of the child or when the peace officer has reason to doubt that the name and address given by the child are the actual name and address of the parent or other person legally responsible for the care of the child. A peace officer or court employee is authorized by the court to take a child who has run away from home or who, in the reasonable belief of the peace officer, appears to have run away from home, to a facility designated by administrative order of the court for such purposes if the peace officer or court employee is unable to or has determined that it is unsafe to return the child to the home of the child or to the custody of his or her parent or other person legally responsible for the care of the child. Any such facility receiving a child shall inform a parent or other person responsible for the care of the child;

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

4. By order of the district court pursuant to subsection F of this section when the child is in need of medical or behavioral health treatment or other action in order to protect the health or

welfare of the child and the parent, legal guardian, legal custodian or other person having custody or control of the child is unwilling or unavailable to consent to such medical or behavioral health treatment or other action; and

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

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

B. Whenever a child is taken into custody as a delinquent child, the child shall be detained, held temporarily in the custodial care of a peace officer or other person employed by a police department, or be released to the custody of the parent of the child, legal guardian, legal custodian, attorney or other responsible adult, upon the written promise of such person to bring the child to the court at the time fixed if a petition is to be filed and to assume responsibility for costs for damages caused by the child if the child commits any delinquent acts after being released regardless of whether or not a petition is to be filed. It shall be a misdemeanor for any person to sign the written promise and then fail to comply with the terms of the promise. Any person convicted of violating the terms of the written promise shall be subject to imprisonment in the county jail for not more than six (6) months or a fine of not more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment. In addition, if a parent, legal guardian, legal custodian, attorney or other responsible adult is notified that the child has been taken into custody, it shall be a misdemeanor for such person to refuse to assume custody of the child within a timely manner. If detained, the child shall be taken immediately before a judge of the district court in the county in which the child is sought to be detained, or to the place of detention or ~~shelter~~ a children's emergency resource center or host home designated by the court. If no judge be available locally, the person having the child in custody shall immediately report the detention of the child to the presiding judge of the judicial administrative district, provided that the child shall not be detained in custody beyond the next judicial day or for good cause shown due to problems of arranging for and transporting the child to and from a secure juvenile detention center, beyond the second

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

C. When a child is taken into custody as a child in need of supervision, the child shall be detained and held temporarily in the custodial care of a peace officer or placed within a community intervention center as defined in subsection D of Section 2-7-305 of this title, an a children's emergency shelter, emergency shelter resource center or host home, or be released to the custody of the parent of the child, legal guardian, legal custodian, attorney or other responsible adult, upon the written promise of such person to bring the child to court at the time fixed if a petition is to be filed. A child who is alleged or adjudicated to be in need of supervision shall not be detained in any jail, lockup, or other place used for adults convicted of a crime or under arrest and charged with a crime.

D. When any child is taken into custody pursuant to this title and it reasonably appears to the peace officer, employee of the court or person acting pursuant to court order that the child is in need of medical treatment to preserve the health of the child, any peace officer, any employee of the court or person acting pursuant to court order shall have the authority to authorize medical examination and medical treatment for any child found to be in need of medical treatment as diagnosed by a competent medical authority in the absence of the parent of the child, legal guardian, legal custodian, or other person having custody and control of the child who is competent to authorize medical treatment. The officer or the

employee of the court or person acting pursuant to court order shall authorize said medical treatment only after exercising due diligence to locate the parent of the child, legal guardian, legal custodian, or other person legally competent to authorize said medical treatment. The parent of the child, legal guardian, legal custodian, or other person having custody and control shall be responsible for such medical expenses as ordered by the court. No peace officer, any employee of the court or person acting pursuant to court order authorizing such treatment in accordance with the provisions of this section for any child found in need of such medical treatment shall have any liability, civil or criminal, for giving such authorization.

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

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

2. If the child is in need of immediate medical treatment or other action to protect the health or welfare of the child, the court may issue an emergency ex parte order upon application of the district attorney of the county in which the child is located. The application for an ex parte order may be verbal or in writing and shall be supported by facts sufficient to demonstrate to the court that there is reasonable cause to believe that the child is in need

of immediate medical treatment or other action to protect the health or welfare of the child. The emergency ex parte order shall be in effect until a full hearing is conducted. A copy of the application, notice for full hearing and a copy of any ex parte order issued by the court shall be served upon such parent, legal guardian, legal custodian, or other responsible adult having custody or control of the child. Within twenty-four (24) hours of the filing of the application the court shall schedule a full hearing on the application, regardless of whether an emergency ex parte order had been issued or denied.

3. Except as otherwise provided by paragraph 2 of this subsection, whenever a child is in need of medical treatment to protect the health or welfare of the child, or whenever any other action is necessary to protect the health or welfare of the child, and the parent of the child, legal guardian, legal custodian, or other person having custody or control of the child is unwilling or unavailable to consent to such medical treatment or other action, the court, upon application of the district attorney of the county in which the child is located, shall hold a full hearing within five (5) days of filing the application. Notice of the hearing and a copy of the application shall be served upon the parent, legal guardian, legal custodian, or other person having custody or control of the child.

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

5. a. The parent, legal guardian, legal custodian, or other person having custody or control of the child shall be responsible for such medical expenses as ordered by the court.
- b. No peace officer, any employee of the court or person acting pursuant to court order authorizing such treatment in accordance with the provisions of this subsection for any child found in need of such medical treatment shall have any liability, civil or criminal.

G. As a part of the intake process, an employee of the Office of Juvenile Affairs or a county juvenile bureau shall inquire as to whether there is any American Indian lineage or ancestry that would make the child eligible for membership or citizenship in a federally recognized American Indian tribe or nation. If the employee of the Office of Juvenile Affairs or a county juvenile bureau determines that the child may have American Indian lineage or ancestry, the employee shall notify the primary tribe or nation of membership or citizenship within three (3) judicial days of completing an intake of such determination. Any information or records related to taking the child into custody shall be confidential, shall not be open to the general public, and shall not be inspected or their contents disclosed.

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

Section 2-7-303. The Office of Juvenile Affairs, in its role as planner and coordinator for juvenile justice and delinquency prevention services, is hereby authorized to and shall enter into contracts for the establishment and maintenance of community-based facilities, services and programs which may include, but are not limited to: ~~Emergency shelter~~ Children's emergency resource center, diagnosis, crisis intervention, counseling, group work, case supervision, job placement, school-based prevention programs, alternative diversion programs for first-time offenders and for youth alleged or adjudicated to be in need of supervision, recruitment and training of volunteers, consultation, case management services, and agency coordination with emphasis on keeping youth with a high potential for delinquency out of the traditional juvenile justice process and community intervention centers. The Office of Juvenile Affairs shall enter into contracts with Youth Services Agencies for core community-based facilities, programs and services based on need as indicated in its State Plan for Youth Services Agencies.

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

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

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

Each school district board of education shall adopt a policy establishing the requirements for student residency for that district which provides for residence as described in this paragraph. Within the discretion of each school district's board of education, the policy may but is not required to allow for establishment of residency by affidavit when an adult, whether a relative or not, who does not fall within one of the categories listed above, who holds legal residence in the school district, and who has assumed permanent care and custody of the child files an affidavit with the school district attesting that they have assumed custody and the reasons for assuming custody. Any policy allowing the establishment of residency by affidavit shall require the adult who provides the affidavit to affirm in such affidavit that the custody arrangement is permanent and that the adult contributes the major degree of support to the child. If the school district policy allows establishment of residency by affidavit, any person who willfully makes a statement in the affidavit which the person knows to be false shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one (1) year or a fine of not more than Five Hundred Dollars (\$500.00) or both such fine and imprisonment. Each school district shall include in its policy on residency any documentation necessary for the administration of the policy;

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

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

Upon request of the foster parent, the residence of a child in foster care for school purposes may be changed to the school district in which the child resided prior to being placed in foster care or the school district in which the previous foster family home of the child is located;

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

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

- a. where child care and services are provided, and
- b. which is funded predominantly by benevolent or charitable funds and is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

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

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

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

8. A state-licensed children's emergency resource center or state-operated emergency shelter.

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

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

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

1. A residential facility;
2. A treatment program or center, including the facility operated pursuant to Section 485.1 of Title 63 of the Oklahoma Statutes;
3. A therapeutic foster family home as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes;
4. A specialized foster home, which is a specialized foster home or an agency-contracted home under the supervision of and certified as meeting the standards set by the Department of Human

Services and is funded through the Department of Human Services Home and Community-Based Waiver Services Program; or

5. An acute psychiatric care facility,

the entity shall, if the child contends he or she resides in a school district other than the district where the entity is located, within eleven (11) days of admittance, notify the school district in which the entity is located of the admittance.

For minors who are persons requiring psychiatric treatment as defined by Title 43A of the Oklahoma Statutes, on-site educational services shall be provided beginning on the eleventh day of admission.

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

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

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

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

2. Prior to location in a school district, the individual or agency operating an entity described in subsection D of this section which requires provision of educational services from the school district shall notify the local board of education of its anticipated educational needs. No school district shall be required to provide educational services for students in the entity until at least sixty (60) calendar days have elapsed from the time in which the local board of education was initially notified of the need unless the school district so agrees to provide the educational services sooner. The provisions of this paragraph shall not apply to therapeutic or specialized foster homes.

3. Educational services provided shall meet or exceed state accreditation standards. No school district shall be responsible for any expenses for students in an entity described in subsection D of this section which are not directly related to the provision of educational services. A school district shall not be obligated for expenses of those students in an entity in the current school year for whom educational services are requested after the first nine (9) weeks of the current school year for the district if educational services are requested for twelve or more students than were served in the first nine (9) weeks, unless the school district chooses to provide educational services for the current school year. Contracts and agreements for provision of educational services may allow for the use of public and private sources of support which are available

to share the costs of educational services and of therapies, treatments, or support services. Otherwise valid obligations to provide or pay for such services, such as Medicaid, shall remain in effect for children who are eligible for the services from sources other than the school district.

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

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

H. The receiving district shall notify the district of residence immediately upon finding that the student requires special education and related services and the district of residence shall participate in planning the Individualized Education Program (IEP) for the student and in subsequent reviews of the program in accordance with the Individuals with Disabilities Education Act (IDEA).

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

Passed the Senate the 4th day of May, 2017.

Presiding Officer of the Senate

Passed the House of Representatives the 18th day of April, 2017.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____