

An Act

ENROLLED SENATE
BILL NO. 727

By: Griffin and Pittman of the
Senate

and

Ownbey of the House

An Act relating to foster care; amending 10A O.S. 2011, Section 1-1-105, as last amended by Section 1 of Enrolled Senate Bill No. 718 of the 1st Session of the 56th Oklahoma Legislature, which relates to the Oklahoma Children's Code; expanding scope of certain definition; amending 10A O.S. 2011, Section 1-2-105, as last amended by Section 2, Chapter 130, O.S.L. 2016 (10A O.S. Supp. 2016, Section 1-2-105), which relates to investigations of abuse or neglect; directing collaboration for certain decisions; providing timeline for removal; amending 10A O.S. 2011, Section 1-4-204, as amended by Section 1, Chapter 245, O.S.L. 2016 (10A O.S. Supp. 2016, Section 1-4-204), which relates to placement preferences of child; modifying guidelines related to placement of siblings; amending 10A O.S. 2011, Section 1-7-107, as amended by Section 2, Chapter 245, O.S.L. 2016 (10A O.S. Supp. 2016, Section 1-7-107), which relates to placement of child in foster care; modifying guidelines related to placement of siblings; directing the Department of Human Services to disseminate information when a child is eligible for adoption; authorizing reimbursement of expenses incurred in completed adoption; amending Section 1, Chapter 143, O.S.L. 2014, as amended by Section 1, Chapter 189, O.S.L. 2015 (10A O.S. Supp. 2016, Section 1-8-111), which relates to annual credit report for youth in custody; reducing age of youth in custody of the Department that shall be provided with an annual credit report; clarifying language;

amending 10A O.S. 2011, Section 1-9-105, which relates to program planning and monitoring; requiring certain report; specifying delivery of report; stipulating contents; eliminating liability for foster parents for property damage or injuries in certain circumstances; providing certain acts and omissions shall not limit liability; amending 10A O.S. 2011, Section 1-9-119, as last amended by Section 4, Chapter 257, O.S.L. 2014 (10A O.S. Supp. 2016, Section 1-9-119), which relates to foster parent rights; including certain meetings and services; providing for codification; and providing an effective date.

SUBJECT: Foster care

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 of Enrolled Senate Bill No. 718 of the 1st Session of the 56th Oklahoma Legislature, 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 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;

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;

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;

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;

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;

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;

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

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;

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;

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

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;

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;

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;

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;

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;

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;

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;

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;

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;

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;

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;

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;

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;

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;

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

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

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;

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

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

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;

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;

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

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;

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;

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

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;

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

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;

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;

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;

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

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

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;

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;

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;

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

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

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;

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;

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;

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;

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

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;

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;

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

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;

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, patronizing or soliciting 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, patronizing or soliciting 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;

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

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 1-2-105, as last amended by Section 2, Chapter 130, O.S.L. 2016 (10A O.S. Supp. 2016, Section 1-2-105), is amended to read as follows:

Section 1-2-105. A. 1. Any county office of the Department of Human Services receiving a child abuse or neglect report shall promptly respond to the report by initiating an investigation of the report or an assessment of the family in accordance with priority

guidelines established by the Department. The Department may prioritize reports of alleged child abuse or neglect based on the severity and immediacy of the alleged harm to the child. The Department shall adopt a priority system pursuant to rules promulgated by the Department. The primary purpose of the investigation or assessment shall be the protection of the child. For investigations or assessments, the Department shall give special consideration to the risks of any minor, including a child with a disability, who is unable to communicate effectively about abuse, neglect or other safety threat or who is in a vulnerable position due to the inability to communicate effectively.

2. If an investigation or assessment conducted by the Department in response to any report of child abuse or neglect shows that the incident reported was the result of the reasonable exercise of parental discipline involving the use of ordinary force, including, but not limited to, spanking, switching, or paddling, the investigation or assessment will proceed no further and all records regarding the incident shall be expunged.

B. 1. The investigation or assessment shall include a visit to the home of the child, unless there is reason to believe that there is an extreme safety risk to the child or worker or it appears that the referral has been made in bad faith. The visit shall include an interview with and examination of the subject child and may be conducted at any reasonable time and at any place including, but not limited to, the child's school. The Department shall notify the person responsible for the health, safety, and welfare of the child that the child has been interviewed at a school. The investigation or assessment may include an interview with the parents of the child or any other person responsible for the health, safety, or welfare of the child and an interview with and examination of any child in the home.

2. The investigation or assessment may include a medical, psychological, or psychiatric examination of any child in the home. If admission to the home, school, or any place where the child may be located cannot be obtained, then the district court having jurisdiction, upon application by the district attorney and upon cause shown, shall order the person responsible for the health, safety, or welfare of the child, or the person in charge of any place where the child may be located, to allow entrance for the

interview, the examination, and the investigation or assessment. If the person responsible for the health, safety, or welfare of the child does not consent to a medical, psychological, or psychiatric examination of the child that is requested by the Department, the district court having jurisdiction, upon application by the district attorney and upon cause shown, shall order the examination to be made at the times and places designated by the court.

3. The investigation or assessment may include an inquiry into the possibility that the child or a person responsible for the health, safety, or welfare of the child has a history of mental illness. If the person responsible for the child's health, safety, or welfare does not allow the Department to have access to behavioral health records or treatment plans requested by the Department, which may be relevant to the alleged abuse or neglect, the district court having jurisdiction, upon application by the district attorney and upon good cause shown, shall by order allow the Department to have access to the records pursuant to terms and conditions prescribed by the court.

4. a. If the court determines that the subject of the behavioral health records is indigent, the court shall appoint an attorney to represent that person at the hearing to obtain behavioral health records.
- b. A person responsible for the health, safety, or welfare of the child is entitled to notice and a hearing when the Department seeks a court order to allow a psychological or psychiatric examination or access to behavioral health records.
- c. Access to behavioral health records does not constitute a waiver of confidentiality.

5. The investigation of a report of sexual abuse or serious physical abuse or both sexual abuse and serious physical abuse shall be conducted, when appropriate and possible, using a multidisciplinary team approach as provided by Section 1-9-102 of this title. Law enforcement and the Department shall exchange investigation information.

6. The investigation or assessment shall include an inquiry into whether the person responsible for the health, safety or welfare of the child is an active duty service member of the military or the spouse of an active duty service member. The Department shall collect and report information related to the military affiliation of the person or spouse responsible for the health, safety or welfare of the child to the designated federal authorities at the federal military installation where the service member is assigned as provided by paragraph 4 of subsection A of Section 1-2-102 of this title.

C. 1. Every physician, surgeon, or other health care provider making a report of abuse or neglect as required by this section or examining a child to determine the likelihood of abuse or neglect and every hospital or related institution in which the child was examined or treated shall provide copies of the results of the examination or copies of the examination on which the report was based and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to law enforcement officers conducting a criminal investigation into the case and to employees of the Department conducting an assessment or investigation of alleged abuse or neglect in the case.

2. As necessary in the course of conducting an assessment or investigation, the Department may request and obtain, without a court order, copies of all prior medical records of a child including, but not limited to, hospital records, medical, and dental records. The physician-patient privilege shall not constitute grounds for failure to produce such records.

D. 1. The Department shall engage in a collaborative decision-making process to address each child's needs related to safety and whether the child's condition warrants a safety intervention including but not limited to a change in placement, and:

a. those involved in the collaborative decision-making process shall include at a minimum appropriate Department staff, the parents of the child and, if the parent requests, an advocate or representative,

- b. to protect the safety of those involved and to promote efficiency, the Department may limit participants as determined to be in the best interests of the child,
- c. the Department shall make reasonable efforts to provide a trained facilitator to guide the decision-making process, and
- d. any determination that a collaborative decision-making process is not possible or is unnecessary shall require supervisor approval and documentation of the reasons supporting the determination.

2. If, before the assessment or investigation is complete, the Department determines that immediate removal of the child is necessary to protect the child from further abuse or neglect, the Department shall recommend that the child be taken into custody and, if feasible, utilize the collaborative decision-making process provided by paragraph 1 of this subsection prior to the emergency custody hearing.

E. The Department shall make a complete written report of the investigation. The investigation report, together with its recommendations, shall be submitted to the appropriate district attorney's office. Reports of assessment recommendations shall be submitted to appropriate district attorneys.

F. The Department, where appropriate and in its discretion, shall identify prevention- and intervention-related services available in the community and refer the family to or arrange for such services when an investigation or assessment indicates the family would benefit from such services, or the Department may provide such services directly. The Department shall document in the record its attempts to provide, refer or arrange for the provision of voluntary services and shall determine within sixty (60) days whether the family has accessed those services directly related to safety of the child. If the family refuses voluntary services or does not access those services directly related to safety of the child, and it is determined by the Department that the child's surroundings endanger the health, safety, or welfare of the child, the Department may recommend that the child be placed in protective or emergency custody or that a petition be filed.

G. If the Department has reason to believe that a person responsible for the health, safety, and welfare of the child may remove the child from the state before the investigation is completed, the Department may request the district attorney to file an application for a temporary restraining order in any district court in the State of Oklahoma without regard to continuing jurisdiction of the child. Upon cause shown, the court may enter a temporary restraining order prohibiting the parent or other person from removing the child from the state pending completion of the assessment or investigation.

H. The Director of the Department or designee may request an investigation be conducted by the Oklahoma State Bureau of Investigation or other law enforcement agency in cases where it reasonably believes that criminally injurious conduct including, but not limited to, physical or sexual abuse of a child has occurred.

I. Child Welfare Services, in collaboration with the Developmental Disabilities Services Division, shall implement a protocol to be used in cases where the subject child is a child with a disability who has complex medical needs, and the protocol shall include, but not be limited to: resource coordination, medical consultation or medical evaluation, when needed.

SECTION 3. AMENDATORY 10A O.S. 2011, Section 1-4-204, as amended by Section 1, Chapter 245, O.S.L. 2016 (10A O.S. Supp. 2016, Section 1-4-204), is amended to read as follows:

Section 1-4-204. A. 1. When awarding custody or determining the placement of a child, a preference shall be given to relatives and persons who have a kinship relationship with the child. The Department of Human Services shall make diligent efforts to place the child with such persons and shall report to the court the efforts made to secure that placement. In cases where the Indian Child Welfare Act applies, the placement preferences of the act shall be followed.

2. When two or more children are siblings, every reasonable attempt shall be made to place the siblings in the same home, except as provided in paragraph 3 of this subsection. In making a permanent placement, siblings shall be placed in the same permanent

home or, if the siblings are separated, shall be allowed contact or visitation with each other; provided, however, the best interests of each sibling shall be the standard for determining the appropriate custodian or placement as well as the contact and visitation with the other siblings.

3. Siblings may be separated if the court and the Department find that placement of siblings together would be contrary to the safety or well-being of any of the siblings, and:

- a. one sibling has resided in a foster family home for six (6) or more months and has established a relationship with the foster family,
- b. the siblings have never resided in the same home together ~~or there is no established relationship between the siblings,~~
- c. ~~placement of siblings together would be contrary to the safety or well-being of any of the~~ there is no established relationship between the siblings, ~~and or~~
- d. it is in the best interests of the child to remain in the current foster family home placement.

B. In determining the appropriate custodian or placement for a child pursuant to subsection A of this section, the court and the Department shall consider, but not be limited to, the following factors:

1. The ability of the person being considered to provide safety for the child, including a willingness to cooperate with any restrictions placed on contact between the child and others, and to prevent others from influencing the child in regard to the allegations of the case;

2. The ability of the person being considered to support the efforts of the Department to implement the permanent plan for the child;

3. The ability of the person being considered to meet the child's physical, emotional, and educational needs, including the

child's need to continue in the same school or educational placement;

4. The person who has the closest existing personal relationship with the child if more than one person requests placement of the child pursuant to this section;

5. The ability of the person being considered to provide a placement for the child's sibling who is also in need of placement or continuation in substitute care;

6. The wishes of the parent, the relative, and the child, if appropriate;

7. The ability of the person being considered to care for the child as long as is necessary and to provide a permanent home if necessary; and

8. The best interests of the child.

C. 1. The Department of Human Services shall consider placement with a relative without delay and shall identify relatives of the child and notify them of the need for temporary placement and the possibility of the need for a permanent out-of-home placement of the child. The relative search shall be reasonable and comprehensive in scope and may continue until a fit and willing relative is identified.

2. The relatives shall be notified of the need to keep the Department informed of their current address in order to receive notice when a permanent out-of-home placement is being sought for the child. A relative who fails to provide a current address may forfeit the right to be considered for the child's permanent out-of-home placement.

3. A decision by a relative to not participate in the child's placement planning at the beginning of the case or to cooperate with the Department to expedite procedures for placement of the child in the child's home may affect whether that relative will be considered for permanent placement of the child if the child cannot be safely returned to the home of the child's parent or parents.

D. The Department, while assessing the relatives for the possibility of placement, shall be authorized to disclose to the relative, as appropriate, the fact that the child is in custody, the alleged reasons for the custody, and the projected date for the child's return home or other permanent placement as well as any other confidential information deemed necessary and appropriate to secure a suitable placement.

E. Following an initial placement with a relative, whenever a new placement of the child is made, consideration for placement shall again be given as described in this section to approved relatives who will fulfill the reunification or permanent plan requirements of the child. The Department shall consider whether the relative has established and maintained a relationship with the child.

F. If the child is not placed with a relative who has been considered for placement pursuant to this section, the Department shall advise the court, in writing, the reasons why that relative was denied and the written reasons shall be made a part of the court record.

G. The provisions of this section shall apply to all custody or placement proceedings which concern a child alleged or adjudicated to be deprived including, but not limited to, guardianship and adoption proceedings.

SECTION 4. AMENDATORY 10A O.S. 2011, Section 1-7-107, as amended by Section 2, Chapter 245, O.S.L. 2016 (10A O.S. Supp. 2016, Section 1-7-107), is amended to read as follows:

Section 1-7-107. A. When two or more children in foster care are siblings, every reasonable attempt should be made to place them in the same home, except as provided in subsection B of this section. In making a permanent placement, such children should be placed in the same permanent home or, if the siblings are separated, should be allowed contact or visitation with other siblings; provided, however, the best interests of each sibling shall be the standard for determining whether they should be placed in the same foster placement or permanent placement, or allowed contact or visitation with other siblings.

B. Siblings may be separated if the court and the Department of Human Services find that placement of siblings together would be contrary to the safety or well-being of any of the siblings, and:

1. One sibling has resided in a foster family home for six (6) or more months and has established a relationship with the foster family;

2. The siblings have never resided in the same home ~~together or there is no established relationship between the siblings; and~~

3. There is no established relationship between the siblings;
or

4. It is in the best interests of the child to remain in the current foster family home placement.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-7-116 of Title 10A, unless there is created a duplication in numbering, reads as follows:

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

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

SECTION 6. AMENDATORY Section 1, Chapter 143, O.S.L. 2014, as amended by Section 1, Chapter 189, O.S.L. 2015 (10A O.S. Supp. 2016, Section 1-8-111), is amended to read as follows:

Section 1-8-111. A. The Department of Human Services shall provide each youth in its custody ~~sixteen (16)~~ fourteen (14) years and older an annual credit report. The Department shall inform the court with jurisdiction over the youth of any inaccuracies in a credit report displaying evidence of identity theft or any other

activity fraudulently made on behalf of the youth in custody. The Department may implement the requirements of this section in stages beginning with youth in the independent living program whose credit rating may inhibit employment and housing opportunities when the child is no longer in custody.

B. Within one (1) year of ~~the effective date of this act~~ November 1, 2014, the Department of Human Services shall submit annual reports on the implementation of the provisions of this ~~act~~ section to the Chair and Vice Chair of the Senate Health and Human Services Committee and the Chair and Vice Chair of the House Human Services Committee. Such reports shall include, but not be limited to, the number of youths in the Department's custody receiving credit score reports, the frequency of such reports, and administrative issues faced by the Department in the implementation of this ~~act~~ section. Such reports shall continue to be issued by the Department until November 1, 2018.

SECTION 7. AMENDATORY 10A O.S. 2011, Section 1-9-105, is amended to read as follows:

Section 1-9-105. A. The Department of Human Services shall carefully define the children and youth programs of the Department as to their purpose, the population served, and performance expectations. Planning for new programs and services and major modifications to existing ones shall include evaluation of their effect on other programs and services and communication and coordination with other public and private children and youth service providers in order to assure successful and cost-effective implementation of the program. An evaluation component that includes monitoring and evaluation of client outcomes shall be incorporated into all of the Department's programs and services to children and youth, whether provided directly by the agency or through a contract.

1. All programs and services shall be designed to ensure the accessibility of the program to the persons served. Provision for transportation, child care and similar services necessary in order to assist persons to access the services shall be made. If the service is provided in an office setting, the service shall be available during the evening.

2. Programs and services shall be targeted to the areas of the state having the greatest need for them. The programs and services shall be designed to meet the needs of the area in which they are located. Programs and services intended for statewide implementation shall be implemented first in those areas that have the greatest need for them.

3. As a part of the Department's program planning and monitoring processes, the Department shall examine its programs and services to children and youth to ensure that the practices within them do not operate to detriment of minority children and youth.

4. All child care services and facilities operated by the Department shall be accredited by the National Council on Accreditation, when applicable.

B. The Department shall develop a five-year plan for children and youth services provided by the agency. The plan shall be reviewed annually and modified as necessary. Agency budget recommendations of the Department for services to children and youth shall be based upon documented needs, and the development of budget recommendations and priorities shall be closely integrated with agency and interagency program planning and management.

C. The Department shall annually review its programs and services and submit a report to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Supreme Court of the State of Oklahoma, analyzing and evaluating the effectiveness of the programs and services being carried out by the Department. Such report shall include, but not be limited to:

1. An analysis and evaluation of programs and services continued, established and discontinued during the period covered by the report;

2. A description of programs and services which should be implemented;

3. Statutory changes necessary;

4. Relevant information concerning the number of children in the Department's custody during the period covered by the report; and

5. Such other information as will enable a user of the report to ascertain the effectiveness of the Department's programs and services.

D. The Department shall, on or before January 31 of each year, submit a report to the Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives and the Oklahoma Supreme Court which shall include:

1. Information concerning the number of children in the Department's custody that are placed in nonfamily settings, including but not limited to the types of settings utilized and the duration of the children's stays in such settings;

2. A census of approved foster homes and the number of children placed in those homes and a comparative review of foster home room-and-board rates; and

3. Information concerning child welfare staff workloads and comparative salaries for such staff.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-116.1 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A foster parent who is acting in good faith and pursuant to the reasonable and prudent parent standard shall not be liable for property damage or injuries caused by the child or injuries to the child placed in his or her care when the child engages in appropriate activities and such damage or injuries result from the inherent risks typically associated with such activities. Nothing in this section shall prevent or limit the liability of a foster parent if the foster parent commits an act or omission that constitutes willful or wanton disregard for the safety of the child or other persons or their property, and that act or omission caused the damage or injuries.

SECTION 9. AMENDATORY 10A O.S. 2011, Section 1-9-119, as last amended by Section 4, Chapter 257, O.S.L. 2014 (10A O.S. Supp. 2016, Section 1-9-119), is amended to read as follows:

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

1. Be treated with dignity, respect, and consideration as a professional member of the child welfare team;
2. Be notified of and be given appropriate, ongoing education and continuing education and training to develop and enhance foster parenting skills;
3. Be informed about ways to contact the state agency or the child-placing agency in order to receive information and assistance to access supportive services for any child in the foster parent's care;
4. Receive timely financial reimbursement for providing foster care services;
5. Be notified of any costs or expenses for which the foster parent may be eligible for reimbursement;
6. Be provided a clear, written explanation of the individual treatment and service plan concerning the child in the foster parent's home, listing components of the plan pursuant to the provisions of the Oklahoma Children's Code;
7. Receive, at any time during which a child is placed with the foster parent, additional or necessary information that is relevant to the care of the child;
8. Be notified of scheduled review meetings, permanency planning meetings, family team meetings and special staffing ~~concerning the concerns for any foster child placed in the foster parent's home~~ in order to actively participate in the case planning and decision-making process regarding the child;

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

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

11. Communicate with other professionals who work with the foster child within the context of the team including, but not limited to, therapists, physicians, and teachers;

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

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

14. a. Be given written notice of:

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

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

15. Be notified by the applicable state agency in a timely and complete manner of all court hearings, including notice of the date and time of any court hearing, the name of the judge or hearing

officer hearing the case, the location of the hearing, and the court docket number of the case;

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

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

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

19. Be provided the opportunity to request and receive a fair and impartial hearing regarding decisions that affect certification retention or placement of children in the home;

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

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

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

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

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

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

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

SECTION 10. This act shall become effective November 1, 2017.

Passed the Senate the 19th day of May, 2017.

Presiding Officer of the Senate

Passed the House of Representatives the 20th day of May, 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: _____