

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1048

By: Lawson

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to children; amending 10A O.S. 2021,
10 Section 1-1-105, which relates to definitions;
11 defining terms; authorizing court to establish a
12 Minor's Public Guardianship in certain situations;
13 directing the district attorney or child's attorney
14 to file motion; setting forth information the motion
15 shall include; providing notice of hearing and
16 service requirements; directing the court to make
17 certain findings; authorizing court to order
18 visitation; setting forth certain requirements of
19 order; authorizing certain office, the child, or the
20 district attorney to file a motion; providing for
21 codification; and providing an effective date.

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

23 SECTION 1. AMENDATORY 10A O.S. 2021, Section 1-1-105, is
24 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:

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

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

- 17 a. "Harm or threatened harm to the health or safety of a
18 child" means any real or threatened physical, mental,
19 or emotional injury or damage to the body or mind that
20 is not accidental including but not limited to sexual
21 abuse, sexual exploitation, neglect, or dependency.
22 b. "Sexual abuse" includes but is not limited to rape,
23 incest, and lewd or indecent acts or proposals made to
24

1 a child, as defined by law, by a person responsible
2 for the health, safety, or welfare of the child.

3 c. "Sexual exploitation" includes but is not limited to
4 allowing, permitting, encouraging, or forcing a child
5 to engage in prostitution, as defined by law, by any
6 person eighteen (18) years of age or older or by a
7 person responsible for the health, safety, or welfare
8 of a child, or allowing, permitting, encouraging, or
9 engaging in the lewd, obscene, or pornographic, as
10 defined by law, photographing, filming, or depicting
11 of a child in those acts by a person responsible for
12 the health, safety, and welfare of the child;

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

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

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

19 a. activities or items that are generally accepted as
20 suitable for children of the same age or level of
21 maturity or that are determined to be developmentally
22 appropriate for a child, based on the development of
23 cognitive, emotional, physical, and behavioral

1 capacities that are typical for an age or age group,
2 and

3 b. in the case of a specific child, activities or items
4 that are suitable for that child based on the
5 developmental stages attained by the child with
6 respect to the cognitive, emotional, physical, and
7 behavioral capacities of the specific child.

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

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

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

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

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

- 7 a. nonurban centers in districts with child populations
8 that are less than sixty thousand (60,000), and
- 9 b. midlevel nonurban centers in districts with child
10 populations equal to or greater than sixty thousand
11 (60,000), but not including Oklahoma and Tulsa
12 Counties;

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

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

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

1 training; transition services; assessments; family reunification;
2 respite care; transportation to or from school, doctors'
3 appointments, visitations and other social, school, court or other
4 activities when necessary; and a stable environment for children in
5 crisis who are in custody of the Department of Human Services if
6 permitted under the Department's policies and regulations, or who
7 have been voluntarily placed by a parent or custodian during a
8 temporary crisis;

9 13. "Community-based services" or "community-based programs"
10 means services or programs which maintain community participation or
11 supervision in their planning, operation, and evaluation.

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

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

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

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

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

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

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

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

1 21. "Deprived child" means a child:

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

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

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

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

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

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

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

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

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

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

18 22. "Developmental disability" means a severe chronic
19 disability that:

- 20 a. is attributable to a mental or physical impairment or
21 combination of mental and physical impairments,
22 b. is manifested before the person is twenty-two (22)
23 years of age,
24 c. is likely to continue indefinitely,

1 d. results in substantial functional limitations in three
2 or more major life activity areas, which are:

3 (1) self-care,

4 (2) receptive and expressive language,

5 (3) learning,

6 (4) mobility,

7 (5) self-direction,

8 (6) capacity for independent living, and

9 (7) economic self-sufficiency, and

10 e. reflects the person's need for a combination and
11 sequence of special, interdisciplinary, or generic
12 care, treatment, or other services which are of
13 lifelong or extended duration and are individually
14 planned and coordinated. The term developmental
15 disability shall not include mentally ill persons, as
16 those persons are defined by Section 1-103 of Title
17 43A of the Oklahoma Statutes, whose sole disability is
18 mental illness;

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

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

1 person responsible for the health, safety or welfare of the child,
2 as defined in this section. This term includes circumstances
3 wherein the substance abuse of the person responsible for the
4 health, safety or welfare of the child interferes with that person's
5 ability to parent and provide a safe and nurturing environment for
6 the child;

7 ~~24.~~ 25. "Emergency custody" means the custody of a child prior
8 to adjudication of the child following issuance of an order of the
9 district court pursuant to Section 1-4-201 of this title or
10 following issuance of an order of the district court pursuant to an
11 emergency custody hearing, as specified by Section 1-4-203 of this
12 title;

13 ~~25.~~ 26. "Facility" means a place, an institution, a building or
14 part thereof, a set of buildings, or an area whether or not
15 enclosing a building or set of buildings used for the lawful custody
16 and treatment of children;

17 ~~26.~~ 27. "Failure to protect" means failure to take reasonable
18 action to remedy or prevent child abuse or neglect, and includes the
19 conduct of a nonabusing parent or guardian who knows the identity of
20 the abuser or the person neglecting the child, but lies, conceals or
21 fails to report the child abuse or neglect or otherwise take
22 reasonable action to end the abuse or neglect;

23 ~~27.~~ 28. "Family-style living program" means a residential
24 program providing sustained care and supervision to residents in a

1 homelike environment not located in a building used for commercial
2 activity;

3 ~~28.~~ 29. "Foster care" or "foster care services" means
4 continuous twenty-four-hour care and supportive services provided
5 for a child in foster placement including, but not limited to, the
6 care, supervision, guidance, and rearing of a foster child by the
7 foster parent;

8 ~~29.~~ 30. "Foster family home" means the private residence of a
9 foster parent who provides foster care services to a child. Such
10 term shall include a nonkinship foster family home, a therapeutic
11 foster family home, or the home of a relative or other kinship care
12 home;

13 ~~30.~~ 31. "Foster parent eligibility assessment" includes a
14 criminal background investigation including, but not limited to, a
15 national criminal history records search based upon the submission
16 of fingerprints, home assessments, and any other assessment required
17 by the Department of Human Services, the Office of Juvenile Affairs,
18 or any child-placing agency pursuant to the provisions of the
19 Oklahoma Child Care Facilities Licensing Act;

20 ~~31.~~ 32. "Guardian ad litem" means a person appointed by the
21 court pursuant to the provisions of Section 1-4-306 of this title
22 having those duties and responsibilities as set forth in that
23 section. The term "guardian ad litem" shall refer to a court-
24 appointed special advocate as well as to any other person appointed

1 pursuant to the provisions of Section 1-4-306 of this title to serve
2 as a guardian ad litem;

3 ~~32.~~ 33. "Guardian ad litem of the estate of the child" means a
4 person appointed by the court to protect the property interests of a
5 child pursuant to Section 1-8-108 of this title;

6 ~~33.~~ 34. "Group home" means a residential facility licensed by
7 the Department to provide full-time care and community-based
8 services for more than five but fewer than thirteen children;

9 ~~34.~~ 35. "Harm or threatened harm to the health or safety of a
10 child" means any real or threatened physical, mental, or emotional
11 injury or damage to the body or mind that is not accidental
12 including, but not limited to, sexual abuse, sexual exploitation,
13 neglect, or dependency;

14 ~~35.~~ 36. "Heinous and shocking abuse" includes, but is not
15 limited to, aggravated physical abuse that results in serious
16 bodily, mental, or emotional injury. "Serious bodily injury" means
17 injury that involves:

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

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

14 ~~36.~~ 37. "Heinous and shocking neglect" includes, but is not
15 limited to:

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

1 exploitation, or presents an imminent risk of serious
2 harm to a child, or

3 d. any other similar aggravating circumstance;

4 ~~37.~~ 38. "Individualized service plan" means a document written
5 pursuant to Section 1-4-704 of this title that has the same meaning
6 as "service plan" or "treatment plan" where those terms are used in
7 the Oklahoma Children's Code;

8 ~~38.~~ 39. "Infant" means a child who is twelve (12) months of age
9 or younger;

10 ~~39.~~ 40. "Institution" means a residential facility offering
11 care and treatment for more than twenty residents;

12 ~~40.~~ 41. a. "Investigation" means a response to an
13 allegation of abuse or neglect that involves a serious
14 and immediate threat to the safety of the child,
15 making it necessary to determine:

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

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

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

23 (1) "substantiated" means the Department has
24 determined, after an investigation of a report of

1 child abuse or neglect and based upon some
2 credible evidence, that child abuse or neglect
3 has occurred. When child abuse or neglect is
4 substantiated, the Department may recommend:

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

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

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

23 (3) "ruled out" means a report in which a child
24 protective services specialist has determined,

1 after an investigation of a report of child abuse
2 or neglect, that no child abuse or neglect has
3 occurred;

4 ~~41.~~ 42. "Kinship care" means full-time care of a child by a
5 kinship relation;

6 ~~42.~~ 43. "Kinship guardianship" means a permanent guardianship
7 as defined in this section;

8 ~~43.~~ 44. "Kinship relation" or "kinship relationship" means
9 relatives, stepparents, or other responsible adults who have a bond
10 or tie with a child and/or to whom has been ascribed a family
11 relationship role with the child's parents or the child; provided,
12 however, in cases where the Indian Child Welfare Act applies, the
13 definitions contained in 25 U.S.C., Section 1903 shall control;

14 ~~44.~~ 45. "Mental health facility" means a mental health or
15 substance abuse treatment facility as defined by the Inpatient
16 Mental Health and Substance Abuse Treatment of Minors Act;

17 ~~45.~~ 46. "Minor" means the same as the term "child" as defined
18 in this section;

19 ~~46.~~ 47. "Minor in need of treatment" means a child in need of
20 mental health or substance abuse treatment as defined by the
21 Inpatient Mental Health and Substance Abuse Treatment of Minors Act;

22 ~~47.~~ 48. "Multidisciplinary child abuse team" means any team
23 established pursuant to Section 1-9-102 of this title of three or
24 more persons who are trained in the prevention, identification,

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

7 ~~48.~~ 49. "Near death" means a child is in serious or critical
8 condition, as certified by a physician, as a result of abuse or
9 neglect;

10 ~~49.~~ 50. a. "Neglect" means:

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

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

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

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

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

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

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

5 (b) illegal activities, or

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

8 (3) abandonment.

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

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

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

20 (3) engaging in outdoor play,

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

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

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

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

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

17 51. "Office of Public Guardian" means the Office of Public
18 Guardian within the Oklahoma Department of Human Services, created
19 pursuant to Section 6-101 of Title 30 of the Oklahoma Statutes;

20 ~~50.~~ 52. "Permanency hearing" means a hearing by the court
21 pursuant to Section 1-4-811 of this title;

22 ~~51.~~ 53. "Permanent custody" means the court-ordered custody of
23 an adjudicated deprived child when a parent-child relationship no
24

1 longer exists due to termination of parental rights or due to the
2 death of a parent or parents;

3 ~~52.~~ 54. "Permanent guardianship" means a judicially created
4 relationship between a child, a kinship relation of the child, or
5 other adult established pursuant to the provisions of Section 1-4-
6 709 of this title;

7 ~~53.~~ 55. "Person responsible for a child's health, safety, or
8 welfare" includes a parent; a legal guardian; custodian; a foster
9 parent; a person eighteen (18) years of age or older with whom the
10 child's parent cohabitates or any other adult residing in the home
11 of the child; an agent or employee of a public or private
12 residential home, institution, facility or day treatment program as
13 defined in Section 175.20 of Title 10 of the Oklahoma Statutes; or
14 an owner, operator, or employee of a child care facility as defined
15 by Section 402 of Title 10 of the Oklahoma Statutes;

16 ~~54.~~ 56. "Plan of safe care" means a plan developed for an
17 infant with Neonatal Abstinence Syndrome or a Fetal Alcohol Spectrum
18 Disorder upon release from the care of a health care provider that
19 addresses the health and substance use treatment needs of the infant
20 and mother or caregiver;

21 ~~55.~~ 57. "Protective custody" means custody of a child taken by
22 a law enforcement officer or designated employee of the court
23 without a court order;

24

1 ~~56.~~ 58. "Putative father" means an alleged father as that term
2 is defined in Section 7700-102 of Title 10 of the Oklahoma Statutes;

3 ~~57.~~ 59. "Qualified residential treatment program" means a
4 program that:

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

1 is made including contact information, and maintains
2 contact information for any known biological family of
3 the child,

4 e. documents how family members are integrated into the
5 treatment process for the child including post-
6 discharge, and how sibling connections are maintained,

7 f. provides discharge planning and family-based aftercare
8 support for at least six (6) months post-discharge,
9 and

10 g. is licensed and accredited by any of the following
11 independent, not-for-profit organizations:

12 (1) The Commission on Accreditation of Rehabilitation
13 Facilities (CARF),

14 (2) The Joint Commission on Accreditation of
15 Healthcare Organizations (JCAHO),

16 (3) The Council on Accreditation (COA), or

17 (4) any other federally approved independent, not-
18 for-profit accrediting organization;

19 ~~58.~~ 60. "Reasonable and prudent parent standard" means the
20 standard characterized by careful and sensible parental decisions
21 that maintain the health, safety, and best interests of a child
22 while at the same time encouraging the emotional and developmental
23 growth of the child. This standard shall be used by the child's
24 caregiver when determining whether to allow a child to participate

1 in extracurricular, enrichment, cultural, and social activities.
2 For purposes of this definition, the term "caregiver" means a foster
3 parent with whom a child in foster care has been placed, a
4 representative of a group home where a child has been placed or a
5 designated official for a residential child care facility where a
6 child in foster care has been placed;

7 ~~59.~~ 61. "Relative" means a grandparent, great-grandparent,
8 brother or sister of whole or half blood, aunt, uncle or any other
9 person related to the child;

10 ~~60.~~ 62. "Residential child care facility" means a twenty-four-
11 hour residential facility where children live together with or are
12 supervised by adults who are not their parents or relatives;

13 ~~61.~~ 63. "Review hearing" means a hearing by the court pursuant
14 to Section 1-4-807 of this title;

15 ~~62.~~ 64. "Risk" means the likelihood that an incident of child
16 abuse or neglect will occur in the future;

17 ~~63.~~ 65. "Safety threat" means the threat of serious harm due to
18 child abuse or neglect occurring in the present or in the very near
19 future and without the intervention of another person, a child would
20 likely or in all probability sustain severe or permanent disability
21 or injury, illness, or death;

22 ~~64.~~ 66. "Safety analysis" means action taken by the Department
23 in response to a report of alleged child abuse or neglect that may
24 include an assessment or investigation based upon an analysis of the

1 information received according to priority guidelines and other
2 criteria adopted by the Department;

3 ~~65.~~ 67. "Safety evaluation" means evaluation of a child's
4 situation by the Department using a structured, evidence-based tool
5 to determine if the child is subject to a safety threat;

6 ~~66.~~ 68. "Secure facility" means a facility which is designed
7 and operated to ensure that all entrances and exits from the
8 facility are subject to the exclusive control of the staff of the
9 facility, whether or not the juvenile being detained has freedom of
10 movement within the perimeter of the facility, or a facility which
11 relies on locked rooms and buildings, fences, or physical restraint
12 in order to control behavior of its residents;

13 ~~67.~~ 69. "Sibling" means a biologically or legally related
14 brother or sister of a child. This includes an individual who
15 satisfies at least one of the following conditions with respect to a
16 child:

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

23 ~~68.~~ 70. "Specialized foster care" means foster care provided to
24 a child in a foster home or agency-contracted home which:

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

6 ~~69.~~ 71. "Successful adulthood program" means a program
7 specifically designed to assist a child to enhance those skills and
8 abilities necessary for successful adult living. A successful
9 adulthood program may include, but shall not be limited to, such
10 features as minimal direct staff supervision, and the provision of
11 supportive services to assist children with activities necessary for
12 finding an appropriate place of residence, completing an education
13 or vocational training, obtaining employment, or obtaining other
14 similar services;

15 ~~70.~~ 72. "Temporary custody" means court-ordered custody of an
16 adjudicated deprived child;

17 ~~71.~~ 73. "Therapeutic foster family home" means a foster family
18 home which provides specific treatment services, pursuant to a
19 therapeutic foster care contract, which are designed to remedy
20 social and behavioral problems of a foster child residing in the
21 home;

22 ~~72.~~ 74. "Trafficking in persons" means sex trafficking or
23 severe forms of trafficking in persons as described in Section 7102
24 of Title 22 of the United States Code:

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

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

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

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

16 ~~73.~~ 75. "Transitional living program" means a residential
17 program that may be attached to an existing facility or operated
18 solely for the purpose of assisting children to develop the skills
19 and abilities necessary for successful adult living. The program
20 may include, but shall not be limited to, reduced staff supervision,
21 vocational training, educational services, employment and employment
22 training, and other appropriate independent living skills training
23 as a part of the transitional living program; and
24

1 ~~74.~~ 76. "Voluntary foster care placement" means the temporary
2 placement of a child by the parent, legal guardian or custodian of
3 the child in foster care pursuant to a signed placement agreement
4 between the Department or a child-placing agency and the child's
5 parent, legal guardian or custodian.

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1-4-815 of Title 10A, unless
8 there is created a duplication in numbering, reads as follows:

9 A. The court may establish a Minor's Public Guardianship
10 between a child and the Office of Public Guardian if the court
11 agrees a guardianship is in the child's best interest and that all
12 of the following conditions are substantially satisfied:

13 1. The child has been adjudicated to be a deprived child;

14 2. The parent(s) has:

15 a. had his or her parental rights terminated;

16 b. failed to be identified or has not been located
17 despite reasonably diligent efforts to ascertain the
18 whereabouts of the parent; or

19 c. died;

20 3. The child has been assessed as developmentally disabled;

21 4. The child consents to the guardianship if the court finds
22 the child to be of sufficient intelligence, understanding, and
23 experience to provide consent or the court receives a recommendation
24

1 from the child's guardian ad litem that the guardianship is in the
2 child's best interest;

3 5. Termination of the parent's rights is either not legally
4 possible because the parent has not been located or is deceased, or
5 termination has occurred and adoption is not the permanency plan for
6 the child;

7 6. The Office of the Public Guardian agrees and is committed to
8 providing oversight of placement and care for the child until the
9 child reaches the age of majority and to preparing the child for
10 adulthood;

11 7. The Office of the Public Guardian agrees not to return the
12 child to the care of the person from whom the child was removed nor
13 to allow visitation without the approval of the court; and

14 8. A specific family-like placement for the child has been
15 identified by the Developmental Disabilities Services Division of
16 Oklahoma Human Services, and the child has been residing in the
17 placement for at least one (1) year.

18 B. In proceedings for a Minor's Public Guardianship, the court
19 shall give primary consideration to the physical and behavioral
20 health needs of the child.

21 SECTION 3. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1-4-816 of Title 10A, unless
23 there is created a duplication in numbering, reads as follows:

24

1 A. The district attorney or child's attorney shall file a
2 motion for a Minor's Public Guardianship with the juvenile court in
3 the deprived case. The motion shall be verified by the Office of
4 Public Guardian and shall include the following:

- 5 1. The name, gender, and date of birth of the child;
- 6 2. The facts and circumstances supporting the grounds for a
7 Minor's Public Guardianship;
- 8 3. A statement that the Office of Public Guardian agrees to
9 accept the duties and responsibility of a Minor's Public
10 Guardianship, and that the Office of Public Guardian will be
11 responsible for oversight of placement and care for the child until
12 the child reaches the age of majority;
- 13 4. Whether the child has resided in the placement prior to the
14 motion being filed, and if so, the length of time and the
15 circumstances surrounding the child's stay in the placement; and
- 16 5. Whether there exists a caring, emotional tie between the
17 child and the placement;

18 B. Notice of the hearing as well as a copy of the motion shall
19 be served upon the parties, the Department of Human Services, and
20 the guardian ad litem of the child. Notice shall also be sent to
21 the tribe of an Indian child as defined by the federal Indian Child
22 Welfare Act. Service shall not be required on the parent whose
23 rights have been previously terminated.

24

1 C. Before issuing an order of a Minor's Public Guardianship,
2 the court shall find by clear and convincing evidence all of the
3 following:

4 1. Termination of parental rights is either not legally
5 possible because the parent has not been located or is deceased, or
6 termination has occurred and adoption is not the permanency plan for
7 the child,

8 2. The child has resided in his or her current placement for at
9 least one year,

10 3. A Minor's Public Guardianship is in the best interests of
11 the child, and

12 4. The Office of Public Guardian has expressly committed to
13 remain the guardian to maintain oversight of placement and care for
14 the duration of the child's minority.

15 D. Upon finding that grounds exist for a Minor's Public
16 Guardianship, the court may also order visitation with siblings or
17 other relatives of the child if such contact would be in the child's
18 best interests as well as any other provision necessary to provide
19 for the child's continuing safety and well-being. The court shall
20 order the parents to contribute to the support of the child pursuant
21 to child-support guidelines as provided for in Sections 118 and 119
22 of Title 43 of the Oklahoma Statutes.

23 E. An order establishing a Minor's Public Guardianship and
24 appointing the Office of Public Guardian shall:

1 1. Require that the circumstances of the placement and well-
2 being of the child be reviewed within one (1) year after appointment
3 and each year thereafter, and may require the Office of Public
4 Guardian to submit any records or reports the court deems necessary
5 for purposes of such review,

6 2. Divest the Department of legal custody of the child.

7 SECTION 4. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1-4-817 of Title 10A, unless
9 there is created a duplication in numbering, reads as follows:

10 A. A motion for modification or termination of the guardianship
11 may be filed by the Office of Public Guardian, the child, or the
12 district attorney. A modification or termination may also be
13 ordered by the court on its own initiative. An order for
14 modification or termination of the Minor's Public Guardianship may
15 only be entered after notice and opportunity for hearing and shall
16 be based on a finding that there has been a substantial change of
17 material circumstances including, but not limited to, the following:

18 1. The Office of Public Guardian is unable to properly exercise
19 oversight over placement and care of the child;

20 2. The child has been abused or neglected in placement, under
21 the oversight of the Office of the Public Guardian.

22 B. The court shall appoint a guardian ad litem for the child in
23 any proceeding for modification or termination of a Minor's Public
24 Guardianship.

1 C. The court may modify or terminate the order granting a
2 Minor's Public Guardianship upon a finding by clear and convincing
3 evidence that there has been a substantial change in material
4 circumstances and that a modification or termination of the
5 guardianship is in the child's best interest.

6 SECTION 5. This act shall become effective November 1, 2024.

7
8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated
9 02/14/2024 - DO PASS, As Amended.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24