

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 HOUSE BILL 3190

By: Williams

4
5 AS INTRODUCED

6 An Act relating to children; amending 10A O.S. 2021,
7 Sections 1-1-105, 1-4-306, 1-4-502, 1-4-704, 1-4-902
8 and 1-4-904, which relate to the Oklahoma Children's
9 Code; defining term; permitting court to impose
10 sanctions in certain situations; providing procedures
11 to demand jury trial; providing that jury trial is
12 waived in certain circumstances; requiring
13 consideration of circumstances when preparing an
14 individualized service plan; providing for filing
15 petition or motion for termination of parental rights
16 by the district attorney in certain circumstances;
17 providing circumstance in which a court may terminate
18 the rights of a parent to a child; providing
19 exceptions; amending 12 O.S. 2021, Section 591, which
20 relates to jury trials; providing when jury trial may
21 be waived; and providing an effective date.

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

26 SECTION 1. AMENDATORY 10A O.S. 2021, Section 1-1-105, is
27 amended to read as follows:

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

30 1. "Abandonment" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 j. whose parent, legal guardian, or custodian has
22 subjected another child to abuse or neglect or has
23 allowed another child to be subjected to abuse or
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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. "Dispositional hearing" means a hearing by the court as
19 provided by Section 1-4-706 of this title;

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

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

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

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

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

22 27. "Family-style living program" means a residential program
23 providing sustained care and supervision to residents in a homelike
24 environment not located in a building used for commercial activity;

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

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

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

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

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

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

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

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

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

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

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

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

1 d. any other similar aggravating circumstance;

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

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

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

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

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

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

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

21 (1) "substantiated" means the Department has
22 determined, after an investigation of a report of
23 child abuse or neglect and based upon some
24 credible evidence, that child abuse or neglect

1 has occurred. When child abuse or neglect is
2 substantiated, the Department may recommend:

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

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

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

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

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

5 42. "Kinship guardianship" means a permanent guardianship as
6 defined in this section;

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

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

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

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

21 47. "Multidisciplinary child abuse team" means any team
22 established pursuant to Section 1-9-102 of this title of three or
23 more persons who are trained in the prevention, identification,
24 investigation, prosecution, and treatment of physical and sexual

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

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

9 49. a. "Neglect" means:

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

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

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

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

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

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

19 51. "Permanent custody" means the court-ordered custody of an
20 adjudicated deprived child when a parent-child relationship no
21 longer exists due to termination of parental rights or due to the
22 death of a parent or parents;

23 52. "Permanent guardianship" means a judicially created
24 relationship between a child, a kinship relation of the child, or

1 other adult established pursuant to the provisions of Section 1-4-
2 709 of this title;

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

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

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

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

22 57. "Qualified residential treatment program" means a program
23 that:
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- 1 a. has a trauma-informed treatment model that is designed
2 to address the needs including clinical needs as
3 appropriate, of children with serious emotional or
4 behavioral disorders or disturbances and, with respect
5 to a child, is able to implement the treatment
6 identified for the child from a required assessment,
- 7 b. has registered or licensed nursing staff and other
8 licensed clinical staff who:
- 9 (1) provide care within the scope of their practice
10 as defined by the laws of this state,
11 (2) are on-site according to the treatment model
12 referred to in subparagraph a of this paragraph,
13 and
14 (3) are available twenty-four (24) hours a day and
15 seven (7) days a week,
- 16 c. to the extent appropriate, and in accordance with the
17 child's best interest, facilitates participation of
18 family members in the child's treatment program,
- 19 d. facilitates outreach to the family members of the
20 child including siblings, documents how the outreach
21 is made including contact information, and maintains
22 contact information for any known biological family of
23 the child,
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- 1 e. documents how family members are integrated into the
2 treatment process for the child including post-
3 discharge, and how sibling connections are maintained,
4 f. provides discharge planning and family-based aftercare
5 support for at least six (6) months post-discharge,
6 and
7 g. is licensed and accredited by any of the following
8 independent, not-for-profit organizations:
- 9 (1) The Commission on Accreditation of Rehabilitation
10 Facilities (CARF),
 - 11 (2) The Joint Commission on Accreditation of
12 Healthcare Organizations (JCAHO),
 - 13 (3) The Council on Accreditation (COA), or
 - 14 (4) any other federally approved independent, not-
15 for-profit accrediting organization;

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

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

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

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

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

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

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

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

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

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

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

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

20 68. "Specialized foster care" means foster care provided to a
21 child in a foster home or agency-contracted home which:

- 22 a. has been certified by the Developmental Disabilities
23 Services Division of the Department of Human Services,
- 24 b. is monitored by the Division, and

1 c. is funded through the Home- and Community-Based Waiver
2 Services Program administered by the Division;

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

12 70. "Temporary custody" means court-ordered custody of an
13 adjudicated deprived child;

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

19 72. "Time-limited reunification services" shall mean
20 reunification services provided only during the first period of
21 fifteen (15) months that begins on the date the child is considered
22 to have entered foster care;

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

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

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

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

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

19 ~~73.~~ 74. "Transitional living program" means a residential
20 program that may be attached to an existing facility or operated
21 solely for the purpose of assisting children to develop the skills
22 and abilities necessary for successful adult living. The program
23 may include, but shall not be limited to, reduced staff supervision,
24 vocational training, educational services, employment and employment

1 training, and other appropriate independent living skills training
2 as a part of the transitional living program; and

3 ~~74.~~ 75. "Voluntary foster care placement" means the temporary
4 placement of a child by the parent, legal guardian or custodian of
5 the child in foster care pursuant to a signed placement agreement
6 between the Department or a child-placing agency and the child's
7 parent, legal guardian or custodian.

8 SECTION 2. AMENDATORY 10A O.S. 2021, Section 1-4-306, is
9 amended to read as follows:

10 Section 1-4-306.

11 A. 1. a. If a parent or legal guardian of the child requests an
12 attorney and is found to be indigent, counsel may be
13 appointed by the court at the emergency custody
14 hearing and shall be appointed if a petition has been
15 filed alleging that the child is a deprived child;
16 provided, that the court may appoint counsel without
17 such request, if it deems representation by counsel
18 necessary to protect the interest of the parent, legal
19 guardian, or custodian.

20 b. The court shall not be required to appoint an attorney
21 for any person other than a parent, or legal guardian
22 of the child pursuant to the provisions of this
23 paragraph.

24

1 2. a. The court may appoint an attorney or a guardian ad
2 litem for the child when an emergency custody hearing
3 is held; provided, that when a petition is filed
4 alleging the child to be deprived, the court shall
5 appoint a separate attorney for the child, who shall
6 not be a district attorney, regardless of any
7 attempted waiver by the parent, legal guardian or
8 custodian of the child of the right of the child to be
9 represented by counsel. The child's attorney shall be
10 independent of and not selected by the district
11 attorney, the child's parent, legal guardian, or
12 custodian. If financially capable, the parent, legal
13 guardian or custodian shall reimburse the Court Fund
14 for the services of a court-appointed attorney for the
15 child.

16 b. The attorney appointed for the child shall make
17 arrangements to meet with the child as soon as
18 possible after receiving notification of the
19 appointment. Except for good cause shown, the
20 attorney shall meet with the child prior to any
21 hearing in such proceeding. The attorney may speak
22 with the child over the telephone if a personal visit
23 is not possible due to exigent circumstances. If a
24 meaningful attorney-client relationship between the

1 child and the attorney is prohibited due to age or
2 disability of the child, the attorney shall contact
3 the custodian or caretaker of the child prior to the
4 hearing.

5 c. The attorney shall represent the child and any
6 expressed interests of the child. To the extent that
7 a child is unable to express an interest, either
8 because the child is preverbal, very young or for any
9 reason is incapable of judgment and meaningful
10 communication, the attorney shall substitute his or
11 her judgment for that of the child and formulate and
12 present a position which serves the best interests of
13 the child. Such formulation must be accomplished
14 through the use of objective criteria rather than
15 solely the life experience or instinct of the
16 attorney. The objective criteria shall include, but
17 not be limited to:

- 18 (1) a determination of the circumstances of the child
19 through a full and efficient investigation,
- 20 (2) assessment of the child at the moment of the
21 determination,
- 22 (3) examination of all options in light of the
23 permanency plans available to the child, and
24

1 (4) utilization of medical, mental health and
2 educational professionals, social workers and
3 other related experts.

4 d. The court may impose sanctions against the attorney
5 for failure to comply with subparagraphs a through c
6 of this paragraph. The sanctions that may be imposed
7 may include the reasonable expenses incurred because
8 of the failure to adequately communicate with the
9 child, including reasonable attorney fees.

10 The attorney shall make such further inquiry as the attorney
11 deems necessary to ascertain the facts, to interview witnesses,
12 examine and cross-examine witnesses, make recommendations to the
13 court and participate further in the proceedings to the degree
14 appropriate for adequately representing the interests of the child.
15 A child is a party to all deprived proceedings and is therefore able
16 to participate as fully as the parents and the district attorney in
17 all aspects of the proceedings including, but not limited to, voir
18 dire, cross-examination, the subpoena of witnesses, and opening and
19 closing statements.

20 3. The attorney shall be allowed a reasonable fee for such
21 services as determined by the court.

22 4. When an attorney is required to travel to more than one
23 district court location in order to represent a child or children
24 whom the attorney has been court-appointed to represent, the court

1 may in its discretion allow the attorney a reasonable reimbursement
2 for mileage.

3 5. The court shall ensure that the child is represented by
4 independent counsel throughout the pendency of the deprived action.

5 B. 1. After a petition is filed, the court shall appoint a
6 guardian ad litem upon the request of the child or the attorney of
7 the child, and may appoint a guardian ad litem sua sponte or upon
8 the request of the Department of Human Services, a licensed child-
9 placing agency, or another party to the action.

10 2. A guardian ad litem shall not be a district attorney, an
11 employee of the office of the district attorney, the child's
12 attorney, an employee of the court, an employee of a juvenile
13 bureau, or an employee of any public agency having duties or
14 responsibilities towards the child.

15 3. The guardian ad litem shall be appointed to objectively
16 advocate on behalf of the child and act as an officer of the court
17 to investigate all matters concerning the best interests of the
18 child. In addition to other duties required by the court and as
19 specified by the court, a guardian ad litem shall have the following
20 responsibilities:

21 a. review documents, reports, records and other
22 information relevant to the case, meet with and
23 observe the child in appropriate settings, including
24 the child's current placement, and interview parents,

1 foster parents, health care providers, child
2 protective services workers and any other person with
3 knowledge relevant to the case,

- 4 b. advocate for the best interests of the child by
5 participating in the case, attending any hearings in
6 the matter and advocating for appropriate services for
7 the child when necessary,
- 8 c. monitor the best interests of the child throughout any
9 judicial proceeding, and
- 10 d. present written reports on the best interests of the
11 child that include conclusions and recommendations and
12 the facts upon which they are based.

13 4. The guardian ad litem shall be given access to the court
14 files and agency files and access to all documents, reports, records
15 and other information relevant to the case and to any records and
16 reports of examination of the child's parent or other custodian,
17 made pursuant to the laws relating to child abuse and neglect
18 including reports generated by service providers.

19 5. The Oklahoma Bar Association shall develop a standard
20 operating manual for guardians ad litem which shall include, but not
21 be limited to, legal obligations and responsibilities, information
22 concerning child abuse, child development, domestic abuse, sexual
23 abuse, and parent and child behavioral health and management
24 including best practices. After publication of the manual, all

1 guardians ad litem shall certify to the court in which he or she is
2 appointed as a guardian ad litem that the manual has been read and
3 all provisions contained therein are understood. The guardian ad
4 litem shall also certify that he or she agrees to follow the best
5 practices described within the standard operating manual. The
6 Administrative Office of the Courts shall provide public access to
7 the standard operating manual by providing a link to the manual on
8 the Oklahoma State Courts Network (OSCN) website.

9 C. 1. Whenever a court-appointed special advocate program is
10 available to the court to serve as a guardian ad litem, priority may
11 be given to appointment of the court-appointed special advocate to
12 serve as guardian ad litem for the child regardless of whether a
13 guardian ad litem has been requested pursuant to the provisions of
14 this subsection.

15 2. For purposes of the Oklahoma Children's Code, a "court-
16 appointed special advocate" and a "guardian ad litem" shall have the
17 same function except as otherwise provided by law. In like manner,
18 a court-appointed special advocate, except as specifically otherwise
19 provided by law or by the court, shall have the same power, duties,
20 and responsibilities as assigned to a guardian ad litem by law and
21 shall have such other qualifications, duties, and responsibilities
22 as may be prescribed by rule by the Supreme Court.

23 3. A court-appointed special advocate shall serve without
24 compensation.

1 SECTION 3. AMENDATORY 10A O.S. 2021, Section 1-4-502, is
2 amended to read as follows:

3 Section 1-4-502. A. A parent entitled to service of summons,
4 the state or a child shall have the right to demand a trial by jury
5 on the sole issue of termination of parental rights only in the
6 following circumstances:

7 1. When the initial petition to determine if a child is
8 deprived also contains a request for termination of parental rights
9 in which case the court shall determine if the child should be
10 adjudicated deprived and, if so, the jury shall determine if
11 parental rights should be terminated; or

12 2. When, following a hearing in which the child is adjudicated
13 deprived, a request for termination of parental rights is filed by
14 the state or the child.

15 B. The demand for jury trial shall be in writing and filed with
16 the court no later than thirty (30) days prior to the date set for
17 the initial hearing for termination of parental rights. If no
18 demand for jury trial is filed within thirty (30) days, the right to
19 trial by jury is waived by the parent, and the initial hearing for
20 termination of parental rights or any continued hearing for
21 termination of parental rights may proceed as a bench trial.

22 C. The demand for a jury trial shall be granted unless waived,
23 or the court on its own motion may call a jury to try any
24 termination of parental rights case. Such jury shall consist of six

1 (6) persons. A party who requests a jury trial and fails to appear
2 in person for such trial, after proper notice and without good
3 cause, may be deemed by the court to have waived the right to such
4 jury trial, and the termination of parental rights shall be by
5 nonjury trial unless another party demands a jury trial or the court
6 determines on its own motion to try the case to a jury.

7 SECTION 4. AMENDATORY 10A O.S. 2021, Section 1-4-704, is
8 amended to read as follows:

9 Section 1-4-704. A. The Department of Human Services or
10 licensed child-placing agency shall prepare and maintain a written
11 individualized service plan for any child that has been adjudicated
12 to be a deprived child.

13 B. The plan shall be furnished to the court within thirty (30)
14 days after the adjudication of the child and shall be made available
15 to counsel for the parties and any applicable tribe by the
16 Department or the licensed child-placing agency having custody of
17 the child or responsibility for the supervision of the case.

18 C. 1. The individualized service plan shall be based upon a
19 comprehensive assessment and evaluation of the child and family and
20 shall be developed with the participation of the parent, legal
21 guardian, or legal custodian of the child, the attorney for the
22 child, the guardian ad litem for the child, if any, the child's
23 tribe, and the child, if appropriate. The health and safety of the
24 child shall be the paramount concern in the development of the plan.

1 2. If any part of the plan is disputed or not approved by the
2 court, an evidentiary hearing may be held and at its conclusion, the
3 court shall determine the content of the individualized service plan
4 in accord with the evidence presented and the best interests of the
5 child.

6 3. When approved by the court, each individualized service plan
7 shall be incorporated and made a part of the dispositional order of
8 the court.

9 4. The plan shall be signed by:

- 10 a. the parent or parents or legal guardian of the child,
- 11 b. the attorney for the parent or parents or legal
12 guardian of the child,
- 13 c. the child's attorney,
- 14 d. the guardian ad litem of the child, which may be a
15 court-appointed special advocate,
- 16 e. a representative of the child's tribe,
- 17 f. the child, if possible, and
- 18 g. the Department or other responsible agency.

19 D. 1. Every service plan prepared shall be individualized and
20 specific to each child and the family of the child and shall require
21 consideration of each child's and family's circumstances, including,
22 but not limited to, the parents' work schedule, mode of
23 transportation, and distance from their place of living and place of
24 work to service providers.

1 2. The individualized service plan shall be written in simple
2 and clear English. If English is not the principal language of the
3 parent, legal guardian, or custodian of the child, and such person
4 is unable to read or comprehend the English language, to the extent
5 possible the plan shall be written in the principal language of the
6 person.

7 3. The individualized service plan may be modified based on
8 changing circumstances consistent with the correction of the
9 conditions that led to the adjudication of the child or other
10 conditions inconsistent with the health, safety, or welfare of the
11 child.

12 4. The individualized service plan shall be measurable,
13 realistic and consistent with the requirements of other court
14 orders.

15 E. The individualized service plan shall include, but not be
16 limited to:

17 1. A history of the child and family, including identification
18 of the problems or conditions leading to the deprived child
19 adjudication and the changes the parent or parents must make in
20 order for the child to safely remain in or return to the home;

21 2. Identification of time-limited reunification services to be
22 provided to the parent, legal guardian, or legal custodian,
23 stepparent, other adult person living in the home, or other family
24 members. Provided, however, that such reunification services shall

1 be part of any individualized service plan for the first period of
2 fifteen (15) months that begins on the date the child entered foster
3 care. If a parent has not corrected the circumstances which led the
4 child to be adjudicated to be a deprived child after such period of
5 fifteen (15) months and if the court makes a finding pursuant to
6 paragraph 16 of subsection B of Section 1-4-904 of this title, then
7 a petition or motion for termination of parental rights shall be
8 filed by the district attorney pursuant to Section 1-4-902 of this
9 title;

10 3. Identification of the specific services to be provided to
11 the child including, but not limited to, educational, vocational
12 educational, medical, drug or alcohol abuse treatment, or counseling
13 or other treatment services. The most recent available health and
14 educational records of the child shall be provided to the court upon
15 the court's request including:

- 16 a. the names and addresses of the child's health and
- 17 educational providers,
- 18 b. the child's grade-level performance,
- 19 c. the child's school record,
- 20 d. a record of the child's immunizations,
- 21 e. the child's known medical problems, including any
- 22 known communicable diseases,
- 23 f. the child's medications, and
- 24 g. any other relevant health and education information;

1 4. A schedule of the frequency of services and the means by
2 which delivery of the services will be assured or, as necessary, the
3 proposed means by which support services or other assistance will be
4 provided to enable the parent or the child to obtain the services;

5 5. The name of the social worker assigned to the case;

6 6. A projected date for the completion of the individualized
7 service plan;

8 7. Performance criteria that will measure the progress of the
9 child and family toward completion of the individualized service
10 plan including, but not limited to, time frames for achieving
11 objectives and addressing the identified problems;

12 8. The name and business address of the attorney representing
13 the child;

14 9. If the child is placed outside the home, the individualized
15 service plan shall further provide:

16 a. the sequence and time frame for services to be
17 provided to the parent, the child, and if the child is
18 placed in foster care, the foster parent, to
19 facilitate the child's return home or to another
20 permanent placement,

21 b. a description of the child's placement and explanation
22 about whether it is the least-restrictive placement
23 available and in as close proximity as possible to the
24 home of the parent or parents or legal guardian of the

1 child when the case plan is reunification, and how the
2 placement is consistent with the best interests and
3 special needs of the child,

4 c. a description of any services or resources that were
5 requested by the child or the parent or legal guardian
6 of the child since the date of the child's placement,
7 and whether those services or resources were provided
8 and if not, the basis for the denial of the services
9 or resources,

10 d. efforts to be made by the parent of the child and the
11 Department to enable the child to return to his or her
12 home,

13 e. a description of the transition planning for a
14 successful adulthood for a child age fourteen (14) or
15 older that includes how the following objectives will
16 be met:

17 (1) education, vocational, or employment planning,

18 (2) health care planning and medical coverage,

19 (3) transportation including, where appropriate,

20 assisting the child in obtaining a driver

21 license,

22 (4) money management,

23 (5) planning for housing,

24 (6) social and recreational skills, and

1 (7) establishing and maintaining connections with the
2 child's family and community,

3 f. for a child in placement due solely or in part to the
4 child's behavioral health or medical health issues,
5 diagnostic and assessment information, specific
6 services relating to meeting the applicable behavioral
7 health and medical care needs of the child, and
8 desired treatment outcomes,

9 g. a plan and schedule for regular and frequent
10 visitation for the child and the child's parent or
11 parents or legal guardian and siblings, unless the
12 court has determined that visitation, even if
13 supervised, would be harmful to the child, and

14 h. a plan for ensuring the educational stability of the
15 child while in out-of-home placement, including:

16 (1) assurances that the placement of the child
17 considers the appropriateness of the current
18 educational setting and the proximity to the
19 school in which the child was enrolled at the
20 time of placement, and

21 (2) where appropriate, an assurance that the
22 Department has coordinated with appropriate local
23 educational agencies to ensure that the child
24

1 remains in the school in which the child was
2 enrolled at the time of placement, or

3 (3) if remaining in the school in which the child was
4 enrolled at the time of placement is not in the
5 best interests of the child, assurances by the
6 Department and the local educational agencies to
7 provide immediate and appropriate enrollment in a
8 new school with all of the educational records of
9 the child provided to the school; and

10 10. The permanency plan for the child, the reason for selection
11 of that plan and a description of the steps being taken by the
12 Department to finalize the plan.

13 a. When the permanency plan is adoption or legal
14 guardianship, the Department shall describe, at a
15 minimum, child-specific recruitment efforts such as
16 relative searches conducted and the use of state,
17 regional, and national adoption exchanges to
18 facilitate the orderly and timely placement of the
19 child, whether in or outside of the state.

20 b. When the child is age fourteen (14) or older, the
21 permanency plan and any revision or addition to the
22 plan, shall include planning for the transition of the
23 child to a successful adulthood.

1 F. Each individualized service plan shall specifically provide
2 for the safety of the child, in accordance with state and federal
3 law, and clearly define what actions or precautions will, or may, be
4 necessary to provide for the safety and protection of the child.

5 G. The individualized service plan shall include the following
6 statement:

7 TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. ITS PURPOSE
8 IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE HOME WITHIN THE
9 REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR
10 UNABLE TO PROVIDE YOUR CHILD WITH A SAFE HOME OR ATTEND COURT
11 HEARINGS, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE
12 RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU.

13 H. Whenever a child who is subject to the provisions of this
14 section is committed for inpatient behavioral health or substance
15 abuse treatment pursuant to the Inpatient Mental Health and
16 Substance Abuse Treatment of Minors Act, the individualized service
17 plan shall be amended as necessary and appropriate, including, but
18 not limited to, identification of the treatment and services to be
19 provided to the child and the child's family upon discharge of the
20 child from inpatient behavioral health or substance abuse treatment.

21 SECTION 5. AMENDATORY 10A O.S. 2021, Section 1-4-902, is
22 amended to read as follows:

23 Section 1-4-902. A. The district attorney shall file a
24 petition or motion for termination of the parent-child relationship

1 and parental rights with respect to a child or shall join in the
2 petition or motion, if filed by the child's attorney, in any of the
3 following circumstances:

4 1. Prior to the end of the fifteenth month when a child has
5 been placed in foster care by the Department of Human Services for
6 fifteen (15) of the most recent twenty-two (22) months. For
7 purposes of this paragraph, a child shall be considered to have
8 entered foster care on the earlier of:

- 9 a. the date of adjudication as a deprived child, or
- 10 b. the date that is sixty (60) days after the date on
11 which the child is removed from the home;

12 2. No later than sixty (60) days after a child has been
13 judicially determined to be an abandoned infant;

14 3. No later than sixty (60) days after a court has determined
15 that reasonable efforts to reunite are not required due to a felony
16 conviction of a parent of any of the following acts:

- 17 a. permitting a child to participate in pornography,
- 18 b. rape, or rape by instrumentation,
- 19 c. lewd molestation of a child under sixteen (16) years
20 of age,
- 21 d. child abuse or neglect,
- 22 e. enabling child abuse or neglect,

23
24

- 1 f. causing the death of a child as a result of the
2 physical or sexual abuse or chronic abuse or chronic
3 neglect of the child,
4 g. causing the death of a sibling of the child as a
5 result of the physical or sexual abuse or chronic
6 abuse or chronic neglect of the child's sibling,
7 h. murder of any child or aiding or abetting, attempting,
8 conspiring in, or soliciting to commit murder of any
9 child,
10 i. voluntary manslaughter of any child,
11 j. a felony assault that has resulted in serious bodily
12 injury to the child or another child of the parent, or
13 k. murder or voluntary manslaughter of the child's parent
14 or aiding or abetting, attempting, conspiring in, or
15 soliciting to commit murder of the child's parent; ~~or~~

16 4. No later than ninety (90) days after the court has ordered
17 the individualized service plan if the parent has made no measurable
18 progress in correcting the conditions which caused the child to be
19 adjudicated deprived; or

20 5. After a period of fifteen (15) months if a parent has not
21 corrected the circumstances which led the child to be adjudicated to
22 be a deprived child and if the court makes a finding pursuant to
23 paragraph 16 of subsection B of Section 1-4-904 of this title.
24

1 B. If any of the following conditions exist, the district
2 attorney is not required to file a petition as provided in
3 subsection A of this section for a deprived child:

4 1. At the option of the Department or by order of the court,
5 the child is properly being cared for by a relative;

6 2. The Department has documented a compelling reason for
7 determining that filing a petition to terminate parental rights
8 would not serve the best interests of the child that may include
9 consideration of any of the following circumstances:

10 a. the parents or legal guardians have maintained a
11 relationship with the child and the child would
12 benefit from continuing this relationship,

13 b. the child, who is twelve (12) years or older, objects
14 to the termination of the parent-child legal
15 relationship,

16 c. the foster parents of the child are unable to adopt
17 the child because of exceptional circumstances which
18 do not include an unwillingness to accept legal
19 responsibility for the child but are willing and
20 capable of providing the child with a stable and
21 permanent environment, and the removal of the child
22 from the physical custody of the foster parents would
23 be seriously detrimental to the emotional well-being
24

1 of the child because the child has substantial
2 psychological ties to the foster parents,

3 d. the child is not capable of achieving stability if
4 placed in a family setting, or

5 e. the child is an unaccompanied, refugee minor and the
6 situation regarding the child involves international
7 legal issues or compelling foreign policy issues; or

8 3. The state has not provided to the family of the child,
9 consistent with the time period in the state case plan, services
10 that the state deems necessary for the safe return of the child to
11 the child's home, if reasonable efforts are required to be made with
12 respect to the child.

13 SECTION 6. AMENDATORY 10A O.S. 2021, Section 1-4-904, is
14 amended to read as follows:

15 Section 1-4-904. A. A court shall not terminate the rights of
16 a parent to a child unless:

17 1. The child has been adjudicated to be deprived either prior
18 to or concurrently with a proceeding to terminate parental rights;
19 and

20 2. Termination of parental rights is in the best interests of
21 the child.

22 B. The court may terminate the rights of a parent to a child
23 based upon the following legal grounds:

1 1. Upon the duly acknowledged written consent of a parent, who
2 voluntarily agrees to termination of parental rights.

3 a. The voluntary consent for termination of parental
4 rights shall be signed under oath and recorded before
5 a judge of a court of competent jurisdiction and
6 accompanied by the judge's certificate that the terms
7 and consequences of the consent were fully explained
8 in detail in English and were fully understood by the
9 parent or that the consent was translated into a
10 language that the parent understood.

11 b. A voluntary consent for termination of parental rights
12 is effective when it is signed and may not be revoked
13 except upon clear and convincing evidence that the
14 consent was executed by reason of fraud or duress.

15 c. However, notwithstanding the provisions in this
16 paragraph, in any proceeding for a voluntary
17 termination of parental rights to an Indian child, the
18 consent of the parent may be withdrawn for any reason
19 at any time prior to the entry of a final decree of
20 termination. Any consent given prior to, or within
21 ten (10) days after, the birth of an Indian child
22 shall not be valid;

23 2. A finding that a parent who is entitled to custody of the
24 child has abandoned the child;

1 3. A finding that the child is an abandoned infant;

2 4. A finding that the parent of a child:

3 a. has voluntarily placed physical custody of the child
4 with the Department of Human Services or with a child-
5 placing agency for out-of-home placement,

6 b. has not complied with the placement agreement, and

7 c. has not demonstrated during such period a firm
8 intention to resume physical custody of the child or
9 to make permanent legal arrangements for the care of
10 the child;

11 5. A finding that:

12 a. the parent has failed to correct the condition which
13 led to the deprived adjudication of the child, and

14 b. the parent has been given at least three (3) months to
15 correct the condition;

16 6. A finding that:

17 a. the rights of the parent to another child have been
18 terminated, and

19 b. the conditions that led to the prior termination of
20 parental rights have not been corrected;

21 7. A finding that a parent who does not have custody of the
22 child has, for at least six (6) out of the twelve (12) months
23 immediately preceding the filing of the petition or motion for
24

1 termination of parental rights, willfully failed or refused or has
2 neglected to contribute to the support of the child:

3 a. as specified by an order entered by a court of
4 competent jurisdiction adjudicating the duty, amount
5 and manner of support, or

6 b. where an order of child support does not exist,
7 according to the financial ability of the parent to
8 contribute to the child's support.

9 Incidental or token support shall not be construed or considered in
10 establishing whether a parent has maintained or contributed to the
11 support of the child;

12 8. A finding that the parent has been convicted in a court of
13 competent jurisdiction in any state of any of the following acts:

- 14 a. permitting a child to participate in pornography,
- 15 b. rape, or rape by instrumentation,
- 16 c. lewd molestation of a child under sixteen (16) years
17 of age,
- 18 d. child abuse or neglect,
- 19 e. enabling child abuse or neglect,
- 20 f. causing the death of a child as a result of the
21 physical or sexual abuse or chronic abuse or chronic
22 neglect of the child,

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- 1 g. causing the death of a sibling of the child as a
2 result of the physical or sexual abuse or chronic
3 abuse or chronic neglect of the child's sibling,
4 h. murder of any child or aiding or abetting, attempting,
5 conspiring, or soliciting to commit murder of any
6 child,
7 i. voluntary manslaughter of any child,
8 j. a felony assault that has resulted in serious bodily
9 injury to the child or another child of the parents,
10 or
11 k. murder or voluntary manslaughter of the child's parent
12 or aiding or abetting, attempting, conspiring, or
13 soliciting to commit murder of the child's parent;

14 9. A finding that the parent has abused or neglected any child
15 or failed to protect any child from abuse or neglect that is heinous
16 or shocking;

17 10. A finding that the parent has previously abused or
18 neglected the child or a sibling of the child or failed to protect
19 the child or a sibling of the child from abuse or neglect and the
20 child or a sibling of the child has been subjected to subsequent
21 abuse;

22 11. A finding that the child was conceived as a result of rape
23 perpetrated by the parent whose rights are sought to be terminated;
24

1 12. A finding that the parent whose rights are sought to be
2 terminated is incarcerated, and the continuation of parental rights
3 would result in harm to the child based on consideration of the
4 following factors, among others:

- 5 a. the duration of incarceration and its detrimental
- 6 effect on the parent/child relationship,
- 7 b. any previous convictions resulting in involuntary
- 8 confinement in a secure facility,
- 9 c. the parent's history of criminal behavior, including
- 10 crimes against children,
- 11 d. the age of the child,
- 12 e. any evidence of abuse or neglect or failure to protect
- 13 from abuse or neglect of the child or siblings of the
- 14 child by the parent,
- 15 f. the current relationship between the parent and the
- 16 child, and
- 17 g. the manner in which the parent has exercised parental
- 18 rights and duties in the past.

19 Provided, that the incarceration of a parent shall not in and of
20 itself be sufficient to deprive a parent of parental rights;

21 13. A finding that all of the following exist:

- 22 a. the parent has a diagnosed cognitive disorder, an
- 23 extreme physical incapacity, or a medical condition,
- 24 including behavioral health, which renders the parent

1 incapable of adequately and appropriately exercising
2 parental rights, duties, and responsibilities within a
3 reasonable time considering the age of the child, and

- 4 b. allowing the parent to have custody would cause the
5 child actual harm or harm in the near future.

6 A parent's refusal or pattern of noncompliance with treatment,
7 therapy, medication, or assistance from outside the home can be used
8 as evidence that the parent is incapable of adequately and
9 appropriately exercising parental rights, duties, and
10 responsibilities.

11 A finding that a parent has a diagnosed cognitive disorder, an
12 extreme physical incapacity, or a medical condition, including
13 behavioral health or substance dependency, shall not in and of
14 itself deprive the parent of parental rights;

15 14. A finding that:

- 16 a. the condition that led to the deprived adjudication
17 has been the subject of a previous deprived
18 adjudication of this child or a sibling of this child,
19 and
20 b. the parent has been given an opportunity to correct
21 the conditions which led to the determination of the
22 initial deprived child;

23 15. A finding that there exists a substantial erosion of the
24 relationship between the parent and child caused at least in part by

1 the parent's serious or aggravated neglect of the child, physical or
2 sexual abuse or exploitation of the child, a prolonged and
3 unreasonable absence of the parent from the child or an unreasonable
4 failure by the parent to visit or communicate in a meaningful way
5 with the child;

6 16. ~~A finding that a child four (4) years of age or older at~~
7 ~~the time of placement has been placed in foster care by the~~
8 ~~Department of Human Services for fifteen (15) of the most recent~~
9 ~~twenty-two (22) months preceding the filing of the petition or~~
10 ~~motion for termination of parental rights and the child cannot, at~~
11 ~~the time of the filing of the petition or motion, be safely returned~~
12 ~~to the home of the parent. For purposes of this paragraph, a child~~
13 ~~shall be considered to have entered foster care on the earlier of:~~
14 has been in foster care for not less than fifteen (15) months of the
15 most recent twenty-two (22) months and that the parent has not
16 corrected the circumstances which led the child to be adjudicated to
17 be a deprived child, unless:

18 a. a parent has made substantial progress toward
19 eliminating the problem that caused the child's
20 placement in foster care, it is likely that the child
21 will be able to safely return to the parent's home
22 within three (3) months, and the child's return to the
23 parent's home will be in the child's best interests,

24

- 1 b. the child has a close and positive relationship with a
2 parent and a permanent plan that does not include
3 termination of parental rights will provide the most
4 secure and appropriate placement for the child,
- 5 c. the child is fourteen (14) years of age or older, is
6 firmly opposed to termination of parental rights, and
7 is likely to disrupt an attempt to place the child
8 with an adoptive family,
- 9 d. a parent is terminally ill but in remission, does not
10 want parental rights to be terminated, and has
11 designated a guardian for the child,
- 12 e. the child is not capable of functioning if placed in a
13 family setting. In such a case, the court shall
14 reevaluate the status of the child every ninety (90)
15 days unless there is a final court determination that
16 the child cannot be placed in a family setting;
- 17 f. the child is an unaccompanied, refugee minor and the
18 case involves international legal issues or compelling
19 foreign policy issues,
- 20 g. adoption is not an appropriate plan for the child,
- 21 h. the parent's incarceration or participation in a
22 court-ordered residential substance abuse treatment
23 program constitutes the primary factor in the child's
24

1 placement in substitute care and termination of
2 parental rights is not in the child's best interest,

3 i. for purposes of this paragraph, a child shall be
4 considered to have entered foster care on the earlier
5 of:

6 (1) the adjudication date, or

7 (2) the date that is sixty (60) days after the date
8 on which the child is removed from the home; or

9 j. the court may also consider:

10 (1) circumstances of the failure of the parent to
11 develop and maintain a parental bond with the
12 child in a meaningful, supportive manner, and

13 (2) whether allowing the parent to have custody would
14 likely cause the child actual serious
15 psychological harm or harm in the near future as
16 a result of the removal of the child from the
17 substitute caregiver due to the existence of a
18 strong and positive bond between the child and
19 caregiver.

20 ~~a. the adjudication date, or~~

21 ~~b. the date that is sixty (60) days after the date on~~
22 ~~which the child is removed from the home; and~~

23 ~~17. A finding that a child younger than four (4) years of age~~
24 ~~at the time of placement has been placed in foster care by the~~

1 ~~Department of Human Services for at least six (6) of the twelve (12)~~
2 ~~months preceding the filing of the petition or motion for~~
3 ~~termination of parental rights and the child cannot be safely~~
4 ~~returned to the home of the parent.~~

5 a. ~~For purposes of this paragraph, a child shall be~~
6 ~~considered to have entered foster care on the earlier~~
7 ~~of:~~

8 ~~(1) the adjudication date, or~~

9 ~~(2) the date that is sixty (60) days after the date~~
10 ~~on which the child is removed from the home.~~

11 b. ~~For purposes of this paragraph, the court may~~
12 ~~consider:~~

13 ~~(1) circumstances of the failure of the parent to~~
14 ~~develop and maintain a parental bond with the~~
15 ~~child in a meaningful, supportive manner, and~~

16 ~~(2) whether allowing the parent to have custody would~~
17 ~~likely cause the child actual serious~~
18 ~~psychological harm or harm in the near future as~~
19 ~~a result of the removal of the child from the~~
20 ~~substitute caregiver due to the existence of a~~
21 ~~strong, positive bond between the child and~~
22 ~~caregiver.~~

23 C. An order directing the termination of parental rights is a
24 final appealable order.

1 D. The provisions of this section shall not apply to adoption
2 proceedings and actions to terminate parental rights which do not
3 involve a petition for deprived status of the child. Such
4 proceedings and actions shall be governed by the Oklahoma Adoption
5 Code.

6 SECTION 7. AMENDATORY 12 O.S. 2021, Section 591, is
7 amended to read as follows:

8 Section 591. The trial by jury may be waived by the parties, in
9 actions arising on contract, and with the assent of the court in
10 other actions, in the following manner: By the consent of the party
11 appearing, when the other party fails to appear at the trial by
12 himself or attorney. By written consent, in person or by attorney,
13 filed with the clerk. By oral consent, in open court, entered on
14 the journal. By failure to request in writing a jury trial within
15 the time period set forth by applicable statute.

16 SECTION 8. This act shall become effective November 1, 2022.

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