

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 727 By: Griffin of the Senate
3 and
4 Ownbey of the House
5
6

7 An Act relating to foster care; amending 10A O.S.
8 2011, Section 1-2-105, as last amended by Section 2,
9 Chapter 130, O.S.L. 2016 (10A O.S. Supp. 2016,
10 Section 1-2-105), which relates to investigations of
11 abuse or neglect; directing collaboration for certain
12 decisions; providing timeline for removal; amending
13 Section 1, Chapter 143, O.S.L. 2014, as amended by
14 Section 1, Chapter 189, O.S.L. 2015 (10A O.S. Supp.
15 2016, Section 1-8-111), which relates to annual
16 credit report for youth in custody; reducing age of
17 youth in custody of the Department that shall be
18 provided with an annual credit report; clarifying
19 language; amending 10A O.S. 2011, Section 1-9-105,
20 which relates to program planning and monitoring;
21 requiring certain report; specifying delivery of
22 report; stipulating contents; eliminating liability
23 for foster parents for property damage or injuries in
24 certain circumstances; providing certain acts and
omissions shall not limit liability; amending 10A
O.S. 2011, Section 1-9-119, as last amended by
Section 4, Chapter 257, O.S.L. 2014 (10A O.S. Supp.
2016, Section 1-9-119), which relates to foster
parent rights; including certain meetings and
services; providing for codification; and providing
an effective date.

21 AUTHOR: Add the following Senate Coauthor: Pittman

22 AMENDMENT NO. 1. Replace the title, enacting clause and entire bill
23 and insert
24

1 "An Act relating to foster care; amending 10A O.S.
2 2011, Section 1-1-105, as last amended by Section 1,
3 Chapter 210, O.S.L. 2016 (10A O.S. Supp. 2016,
4 Section 1-1-105), which relates to the Oklahoma
5 Children's Code; expanding scope of certain
6 definition; amending 10A O.S. 2011, Section 1-2-105,
7 as last amended by Section 2, Chapter 130, O.S.L.
8 2016 (10A O.S. Supp. 2016, Section 1-2-105), which
9 relates to investigations of abuse or neglect;
10 directing collaboration for certain decisions;
11 providing timeline for removal; amending 10A O.S.
12 2011, Section 1-4-204, as amended by Section 1,
13 Chapter 245, O.S.L. 2016 (10A O.S. Supp. 2016,
14 Section 1-4-204), which relates to placement
15 preferences of child; modifying guidelines related
16 to placement of siblings; amending 10A O.S. 2011,
17 Section 1-7-107, as amended by Section 2, Chapter
18 245, O.S.L. 2016 (10A O.S. Supp. 2016, Section 1-7-
19 107), which relates to placement of child in foster
20 care; modifying guidelines related to placement of
21 siblings; amending Section 1, Chapter 143, O.S.L.
22 2014, as amended by Section 1, Chapter 189, O.S.L.
23 2015 (10A O.S. Supp. 2016, Section 1-8-111), which
24 relates to annual credit report for youth in
custody; reducing age of youth in custody of the
Department that shall be provided with an annual
credit report; clarifying language; amending 10A
O.S. 2011, Section 1-9-105, which relates to program
planning and monitoring; requiring certain report;
specifying delivery of report; stipulating contents;
eliminating liability for foster parents for
property damage or injuries in certain
circumstances; providing certain acts and omissions
shall not limit liability; amending 10A O.S. 2011,
Section 1-9-119, as last amended by Section 4,
Chapter 257, O.S.L. 2014 (10A O.S. Supp. 2016,
Section 1-9-119), which relates to foster parent
rights; including certain meetings and services;
providing for codification; and providing an
effective date.

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

1 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-1-105, as
2 last amended by Section 1, Chapter 210, O.S.L. 2016 (10A O.S. Supp.
3 2016, Section 1-1-105), is amended to read as follows:

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

6 1. "Abandonment" means:

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

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

13 c. the failure to respond to notice of deprived
14 proceedings;

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

23 a. "Harm or threatened harm to the health or safety of a
24 child" means any real or threatened physical, mental,

1 or emotional injury or damage to the body or mind that
2 is not accidental including but not limited to sexual
3 abuse, sexual exploitation, neglect, or dependency.

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

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

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

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

23 5. "Age-appropriate or developmentally appropriate" means:
24

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

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

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

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

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

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

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

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

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

4 12. "Community-based services" or "community-based programs"
5 means services or programs which maintain community participation or
6 supervision in their planning, operation, and evaluation.

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

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

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

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

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

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

16 18. "Department" means the Department of Human Services;

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

20 20. "Deprived child" means a child:

- 21 a. who is for any reason destitute, homeless, or
- 22 abandoned,
- 23 b. who does not have the proper parental care or
- 24 guardianship,

- 1 c. who has been abused, neglected, or is dependent,
- 2 d. whose home is an unfit place for the child by reason
- 3 of depravity on the part of the parent or legal
- 4 guardian of the child, or other person responsible for
- 5 the health or welfare of the child,
- 6 e. who is a child in need of special care and treatment
- 7 because of the child's physical or mental condition,
- 8 and the child's parents, legal guardian, or other
- 9 custodian is unable or willfully fails to provide such
- 10 special care and treatment. As used in this
- 11 paragraph, a child in need of special care and
- 12 treatment includes, but is not limited to, a child who
- 13 at birth tests positive for alcohol or a controlled
- 14 dangerous substance and who, pursuant to a drug or
- 15 alcohol screen of the child and an assessment of the
- 16 parent, is determined to be at risk of harm or
- 17 threatened harm to the health or safety of a child,
- 18 f. who is a child with a disability deprived of the
- 19 nutrition necessary to sustain life or of the medical
- 20 treatment necessary to remedy or relieve a life-
- 21 threatening medical condition in order to cause or
- 22 allow the death of the child if such nutrition or
- 23 medical treatment is generally provided to similarly
- 24 situated children without a disability or children

1 with disabilities; provided that no medical treatment
2 shall be necessary if, in the reasonable medical
3 judgment of the attending physician, such treatment
4 would be futile in saving the life of the child,

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

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

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

17 j. whose parent, legal guardian, or custodian has
18 subjected another child to abuse or neglect or has
19 allowed another child to be subjected to abuse or
20 neglect and is currently a respondent in a deprived
21 proceeding.

22 Nothing in the Oklahoma Children's Code shall be construed to
23 mean a child is deprived for the sole reason the parent, legal
24 guardian, or person having custody or control of a child, in good

1 faith, selects and depends upon spiritual means alone through
2 prayer, in accordance with the tenets and practice of a recognized
3 church or religious denomination, for the treatment or cure of
4 disease or remedial care of such child.

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

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

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

23 23. "Emergency custody" means the custody of a child prior to
24 adjudication of the child following issuance of an order of the

1 district court pursuant to Section 1-4-201 of this title or
2 following issuance of an order of the district court pursuant to an
3 emergency custody hearing, as specified by Section 1-4-203 of this
4 title;

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

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

15 26. "Foster care" or "foster care services" means continuous
16 twenty-four-hour care and supportive services provided for a child
17 in foster placement including, but not limited to, the care,
18 supervision, guidance, and rearing of a foster child by the foster
19 parent;

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

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

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

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

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

21 32. "Harm or threatened harm to the health or safety of a
22 child" means any real or threatened physical, mental, or emotional
23 injury or damage to the body or mind that is not accidental
24

1 including, but not limited to, sexual abuse, sexual exploitation,
2 neglect, or dependency;

3 33. "Heinous and shocking abuse" includes, but is not limited
4 to, aggravated physical abuse that results in serious bodily,
5 mental, or emotional injury. "Serious bodily injury" means injury
6 that involves:

- 7 a. a substantial risk of death,
- 8 b. extreme physical pain,
- 9 c. protracted disfigurement,
- 10 d. a loss or impairment of the function of a body member,
11 organ, or mental faculty,
- 12 e. an injury to an internal or external organ or the
13 body,
- 14 f. a bone fracture,
- 15 g. sexual abuse or sexual exploitation,
- 16 h. chronic abuse including, but not limited to, physical,
17 emotional, or sexual abuse, or sexual exploitation
18 which is repeated or continuing,
- 19 i. torture that includes, but is not limited to,
20 inflicting, participating in or assisting in
21 inflicting intense physical or emotional pain upon a
22 child repeatedly over a period of time for the purpose
23 of coercing or terrorizing a child or for the purpose
24

1 of satisfying the craven, cruel, or prurient desires
2 of the perpetrator or another person, or

3 j. any other similar aggravated circumstance;

4 34. "Heinous and shocking neglect" includes, but is not limited
5 to:

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

10 b. neglect that has resulted in a diagnosis of the child
11 as a failure to thrive,

12 c. an act or failure to act by a parent that results in
13 the death or near death of a child or sibling, serious
14 physical or emotional harm, sexual abuse, sexual
15 exploitation, or presents an imminent risk of serious
16 harm to a child, or

17 d. any other similar aggravating circumstance;

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

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

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

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

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

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

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

14 (1) "substantiated" means the Department has
15 determined, after an investigation of a report of
16 child abuse or neglect and based upon some
17 credible evidence, that child abuse or neglect
18 has occurred. When child abuse or neglect is
19 substantiated, the Department may recommend:

20 (a) court intervention if the Department finds
21 the health, safety, or welfare of the child
22 is threatened, or

23 (b) child abuse and neglect prevention- and
24 intervention-related services for the child,

1 parents or persons responsible for the care
2 of the child if court intervention is not
3 determined to be necessary,

4 (2) "unsubstantiated" means the Department has
5 determined, after an investigation of a report of
6 child abuse or neglect, that insufficient
7 evidence exists to fully determine whether child
8 abuse or neglect has occurred. If child abuse or
9 neglect is unsubstantiated, the Department may
10 recommend, when determined to be necessary, that
11 the parents or persons responsible for the care
12 of the child obtain child abuse and neglect
13 prevention- and intervention-related services, or

14 (3) "ruled out" means a report in which a child
15 protective services specialist has determined,
16 after an investigation of a report of child abuse
17 or neglect, that no child abuse or neglect has
18 occurred;

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

21 40. "Kinship guardianship" means a permanent guardianship as
22 defined in this section;

23 41. "Kinship relation" or "kinship relationship" means
24 relatives, stepparents, or other responsible adults who have a bond

1 or tie with a child and/or to whom has been ascribed a family
2 relationship role with the child's parents or the child; provided,
3 however, in cases where the Indian Child Welfare Act applies, the
4 definitions contained in 25 U.S.C., Section 1903 shall control;

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

8 43. "Minor" means the same as the term "child" as defined in
9 this section;

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

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

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

1 47. "Neglect" means:

2 a. the failure or omission to provide any of the
3 following:

- 4 (1) adequate nurturance and affection, food,
5 clothing, shelter, sanitation, hygiene, or
6 appropriate education,
7 (2) medical, dental, or behavioral health care,
8 (3) supervision or appropriate caretakers, or
9 (4) special care made necessary by the physical or
10 mental condition of the child,

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

- 13 (1) the use, possession, sale, or manufacture of
14 illegal drugs,
15 (2) illegal activities, or
16 (3) sexual acts or materials that are not age-
17 appropriate, or

18 c. abandonment.

19 Nothing in this paragraph shall be construed to mean a child is
20 abused or neglected for the sole reason the parent, legal guardian
21 or person having custody or control of a child, in good faith,
22 selects and depends upon spiritual means alone through prayer, in
23 accordance with the tenets and practice of a recognized church or
24 religious denomination, for the treatment or cure of disease or

1 remedial care of such child. Nothing contained in this paragraph
2 shall prevent a court from immediately assuming custody of a child,
3 pursuant to the Oklahoma Children's Code, and ordering whatever
4 action may be necessary, including medical treatment, to protect the
5 child's health or welfare;

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

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

12 50. "Permanent guardianship" means a judicially created
13 relationship between a child, a kinship relation of the child, or
14 other adult established pursuant to the provisions of Section 1-4-
15 709 of this title;

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

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

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

6 54. "Reasonable and prudent parent standard" means the standard
7 characterized by careful and sensible parental decisions that
8 maintain the health, safety, and best interests of a child while at
9 the same time encouraging the emotional and developmental growth of
10 the child. This standard shall be used by the child's caregiver
11 when determining whether to allow a child to participate in
12 extracurricular, enrichment, cultural, and social activities. For
13 purposes of this definition, the term "caregiver" means a foster
14 parent with whom a child in foster care has been placed, a
15 representative of a group home where a child has been placed or a
16 designated official for a residential child care facility where a
17 child in foster care has been placed;

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

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

24

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

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

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

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

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

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

1 63. "Sibling" means a biologically or legally related brother
2 or sister of a child;

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

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

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

19 66. "Temporary custody" means court-ordered custody of an
20 adjudicated deprived child;

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

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

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

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

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

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

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

21 69. "Transitional living program" means a residential program
22 that may be attached to an existing facility or operated solely for
23 the purpose of assisting children to develop the skills and
24 abilities necessary for successful adult living. The program may

1 include, but shall not be limited to, reduced staff supervision,
2 vocational training, educational services, employment and employment
3 training, and other appropriate independent living skills training
4 as a part of the transitional living program; and

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

10 SECTION 2. AMENDATORY 10A O.S. 2011, Section 1-2-105, as
11 last amended by Section 2, Chapter 130, O.S.L. 2016 (10A O.S. Supp.
12 2016, Section 1-2-105), is amended to read as follows:

13 Section 1-2-105. A. 1. Any county office of the Department of
14 Human Services receiving a child abuse or neglect report shall
15 promptly respond to the report by initiating an investigation of the
16 report or an assessment of the family in accordance with priority
17 guidelines established by the Department. The Department may
18 prioritize reports of alleged child abuse or neglect based on the
19 severity and immediacy of the alleged harm to the child. The
20 Department shall adopt a priority system pursuant to rules
21 promulgated by the Department. The primary purpose of the
22 investigation or assessment shall be the protection of the child.
23 For investigations or assessments, the Department shall give special
24 consideration to the risks of any minor, including a child with a

1 disability, who is unable to communicate effectively about abuse,
2 neglect or other safety threat or who is in a vulnerable position
3 due to the inability to communicate effectively.

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

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

24

1 2. The investigation or assessment may include a medical,
2 psychological, or psychiatric examination of any child in the home.
3 If admission to the home, school, or any place where the child may
4 be located cannot be obtained, then the district court having
5 jurisdiction, upon application by the district attorney and upon
6 cause shown, shall order the person responsible for the health,
7 safety, or welfare of the child, or the person in charge of any
8 place where the child may be located, to allow entrance for the
9 interview, the examination, and the investigation or assessment. If
10 the person responsible for the health, safety, or welfare of the
11 child does not consent to a medical, psychological, or psychiatric
12 examination of the child that is requested by the Department, the
13 district court having jurisdiction, upon application by the district
14 attorney and upon cause shown, shall order the examination to be
15 made at the times and places designated by the court.

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

1 the Department to have access to the records pursuant to terms and
2 conditions prescribed by the court.

3 4. a. If the court determines that the subject of the
4 behavioral health records is indigent, the court shall
5 appoint an attorney to represent that person at the
6 hearing to obtain behavioral health records.

7 b. A person responsible for the health, safety, or
8 welfare of the child is entitled to notice and a
9 hearing when the Department seeks a court order to
10 allow a psychological or psychiatric examination or
11 access to behavioral health records.

12 c. Access to behavioral health records does not
13 constitute a waiver of confidentiality.

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

20 6. The investigation or assessment shall include an inquiry
21 into whether the person responsible for the health, safety or
22 welfare of the child is an active duty service member of the
23 military or the spouse of an active duty service member. The
24 Department shall collect and report information related to the

1 military affiliation of the person or spouse responsible for the
2 health, safety or welfare of the child to the designated federal
3 authorities at the federal military installation where the service
4 member is assigned as provided by paragraph 4 of subsection A of
5 Section 1-2-102 of this title.

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

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

23 D. 1. The Department shall engage in a collaborative decision-
24 making process to address each child's needs related to safety and

1 whether the child's condition warrants a safety intervention
2 including but not limited to a change in placement, and:

- 3 a. those involved in the collaborative decision-making
4 process shall include at a minimum appropriate
5 Department staff, the parents of the child and, if the
6 parent requests, an advocate or representative,
- 7 b. to protect the safety of those involved and to promote
8 efficiency, the Department may limit participants as
9 determined to be in the best interests of the child,
- 10 c. the Department shall make reasonable efforts to
11 provide a trained facilitator to guide the decision-
12 making process, and
- 13 d. any determination that a collaborative decision-making
14 process is not possible or is unnecessary shall
15 require supervisor approval and documentation of the
16 reasons supporting the determination.

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

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

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

21 G. If the Department has reason to believe that a person
22 responsible for the health, safety, and welfare of the child may
23 remove the child from the state before the investigation is
24 completed, the Department may request the district attorney to file

1 an application for a temporary restraining order in any district
2 court in the State of Oklahoma without regard to continuing
3 jurisdiction of the child. Upon cause shown, the court may enter a
4 temporary restraining order prohibiting the parent or other person
5 from removing the child from the state pending completion of the
6 assessment or investigation.

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

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

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

21 Section 1-4-204. A. 1. When awarding custody or determining
22 the placement of a child, a preference shall be given to relatives
23 and persons who have a kinship relationship with the child. The
24 Department of Human Services shall make diligent efforts to place

1 the child with such persons and shall report to the court the
2 efforts made to secure that placement. In cases where the Indian
3 Child Welfare Act applies, the placement preferences of the act
4 shall be followed.

5 2. When two or more children are siblings, every reasonable
6 attempt shall be made to place the siblings in the same home, except
7 as provided in paragraph 3 of this subsection. In making a
8 permanent placement, siblings shall be placed in the same permanent
9 home or, if the siblings are separated, shall be allowed contact or
10 visitation with each other; provided, however, the best interests of
11 each sibling shall be the standard for determining the appropriate
12 custodian or placement as well as the contact and visitation with
13 the other siblings.

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

- 17 a. one sibling has resided in a foster family home for
18 six (6) or more months and has established a
19 relationship with the foster family,
- 20 b. the siblings have never resided in the same home
21 together ~~or there is no established relationship~~
22 ~~between the siblings,~~

23
24

- 1 c. ~~placement of siblings together would be contrary to~~
2 ~~the safety or well-being of any of the~~ there is no
3 established relationship between the siblings, ~~and~~ or
4 d. it is in the best interests of the child to remain in
5 the current foster family home placement.

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

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

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

18 3. The ability of the person being considered to meet the
19 child's physical, emotional, and educational needs, including the
20 child's need to continue in the same school or educational
21 placement;

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

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

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

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

9 8. The best interests of the child.

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

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

23 3. A decision by a relative to not participate in the child's
24 placement planning at the beginning of the case or to cooperate with

1 the Department to expedite procedures for placement of the child in
2 the child's home may affect whether that relative will be considered
3 for permanent placement of the child if the child cannot be safely
4 returned to the home of the child's parent or parents.

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

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

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

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

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

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

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

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

24

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

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

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

7 SECTION 5. AMENDATORY Section 1, Chapter 143, O.S.L.
8 2014, as amended by Section 1, Chapter 189, O.S.L. 2015 (10A O.S.
9 Supp. 2016, Section 1-8-111), is amended to read as follows:

10 Section 1-8-111. A. The Department of Human Services shall
11 provide each youth in its custody ~~sixteen (16)~~ fourteen (14) years
12 and older an annual credit report. The Department shall inform the
13 court with jurisdiction over the youth of any inaccuracies in a
14 credit report displaying evidence of identity theft or any other
15 activity fraudulently made on behalf of the youth in custody. The
16 Department may implement the requirements of this section in stages
17 beginning with youth in the independent living program whose credit
18 rating may inhibit employment and housing opportunities when the
19 child is no longer in custody.

20 B. Within one (1) year of ~~the effective date of this act~~
21 November 1, 2014, the Department of Human Services shall submit
22 annual reports on the implementation of the provisions of this ~~act~~
23 section to the Chair and Vice Chair of the Senate Health and Human
24 Services Committee and the Chair and Vice Chair of the House Human

1 Services Committee. Such reports shall include, but not be limited
2 to, the number of youths in the Department's custody receiving
3 credit score reports, the frequency of such reports, and
4 administrative issues faced by the Department in the implementation
5 of this ~~act~~ section. Such reports shall continue to be issued by
6 the Department until November 1, 2018.

7 SECTION 6. AMENDATORY 10A O.S. 2011, Section 1-9-105, is
8 amended to read as follows:

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

22 1. All programs and services shall be designed to ensure the
23 accessibility of the program to the persons served. Provision for
24 transportation, child care and similar services necessary in order

1 to assist persons to access the services shall be made. If the
2 service is provided in an office setting, the service shall be
3 available during the evening.

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

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

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

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

24

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

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

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

13 3. Statutory changes necessary;

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

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

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

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

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

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

10 SECTION 7. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1-9-116.1 of Title 10A, unless
12 there is created a duplication in numbering, reads as follows:

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

1 SECTION 8. AMENDATORY 10A O.S. 2011, Section 1-9-119, as
2 last amended by Section 4, Chapter 257, O.S.L. 2014 (10A O.S. Supp.
3 2016, Section 1-9-119), is amended to read as follows:

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

7 1. Be treated with dignity, respect, and consideration as a
8 professional member of the child welfare team;

9 2. Be notified of and be given appropriate, ongoing education
10 and continuing education and training to develop and enhance foster
11 parenting skills;

12 3. Be informed about ways to contact the state agency or the
13 child-placing agency in order to receive information and assistance
14 to access supportive services for any child in the foster parent's
15 care;

16 4. Receive timely financial reimbursement for providing foster
17 care services;

18 5. Be notified of any costs or expenses for which the foster
19 parent may be eligible for reimbursement;

20 6. Be provided a clear, written explanation of the individual
21 treatment and service plan concerning the child in the foster
22 parent's home, listing components of the plan pursuant to the
23 provisions of the Oklahoma Children's Code;

24

1 7. Receive, at any time during which a child is placed with the
2 foster parent, additional or necessary information that is relevant
3 to the care of the child;

4 8. Be notified of scheduled review meetings, permanency
5 planning meetings, family team meetings and special staffing
6 ~~concerning the~~ concerns for any foster child placed in the foster
7 parent's home in order to actively participate in the case planning
8 and decision-making process regarding the child;

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

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

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

22 12. Be given, in a timely and consistent manner, any
23 information regarding the child and the child's family which is
24 pertinent to the care and needs of the child and to the making of a

1 permanency plan for the child. Disclosure of information shall be
2 limited to that information which is authorized by the provisions of
3 Chapter VI of the Oklahoma Children's Code for foster parents;

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

7 14. a. Be given written notice of:

- 8 (1) plans to terminate the placement of the child
9 with the foster parent pursuant to Section 1-4-
10 805 of this title, and
11 (2) the reasons for the changes or termination in
12 placement.

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

15 15. Be notified by the applicable state agency in a timely and
16 complete manner of all court hearings, including notice of the date
17 and time of any court hearing, the name of the judge or hearing
18 officer hearing the case, the location of the hearing, and the court
19 docket number of the case;

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

22 17. Be considered as a preferred placement option when a foster
23 child who was formerly placed with the foster parent is to reenter
24 foster care at the same level and type of care, if that placement is

1 consistent with the best interest of the child and other children in
2 the home of the foster parent;

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

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

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

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

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

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

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

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

1 ENGROSSED SENATE
2 BILL NO. 727

By: Griffin of the Senate

and

Ownbey of the House

3
4
5
6 An Act relating to foster care; amending 10A O.S.
7 2011, Section 1-2-105, as last amended by Section 2,
8 Chapter 130, O.S.L. 2016 (10A O.S. Supp. 2016,
9 Section 1-2-105), which relates to investigations of
10 abuse or neglect; directing collaboration for certain
11 decisions; providing timeline for removal; amending
12 Section 1, Chapter 143, O.S.L. 2014, as amended by
13 Section 1, Chapter 189, O.S.L. 2015 (10A O.S. Supp.
14 2016, Section 1-8-111), which relates to annual
15 credit report for youth in custody; reducing age of
16 youth in custody of the Department that shall be
17 provided with an annual credit report; clarifying
18 language; amending 10A O.S. 2011, Section 1-9-105,
19 which relates to program planning and monitoring;
20 requiring certain report; specifying delivery of
21 report; stipulating contents; eliminating liability
22 for foster parents for property damage or injuries in
23 certain circumstances; providing certain acts and
24 omissions shall not limit liability; amending 10A
O.S. 2011, Section 1-9-119, as last amended by
Section 4, Chapter 257, O.S.L. 2014 (10A O.S. Supp.
2016, Section 1-9-119), which relates to foster
parent rights; including certain meetings and
services; providing for codification; and providing
an effective date.

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

SECTION 10. AMENDATORY 10A O.S. 2011, Section 1-2-105,
as last amended by Section 2, Chapter 130, O.S.L. 2016 (10A O.S.
Supp. 2016, Section 1-2-105), is amended to read as follows:

1 Section 1-2-105. A. 1. Any county office of the Department of
2 Human Services receiving a child abuse or neglect report shall
3 promptly respond to the report by initiating an investigation of the
4 report or an assessment of the family in accordance with priority
5 guidelines established by the Department. The Department may
6 prioritize reports of alleged child abuse or neglect based on the
7 severity and immediacy of the alleged harm to the child. The
8 Department shall adopt a priority system pursuant to rules
9 promulgated by the Department. The primary purpose of the
10 investigation or assessment shall be the protection of the child.
11 For investigations or assessments, the Department shall give special
12 consideration to the risks of any minor, including a child with a
13 disability, who is unable to communicate effectively about abuse,
14 neglect or other safety threat or who is in a vulnerable position
15 due to the inability to communicate effectively.

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

23 B. 1. The investigation or assessment shall include a visit to
24 the home of the child, unless there is reason to believe that there

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

12 2. The investigation or assessment may include a medical,
13 psychological, or psychiatric examination of any child in the home.
14 If admission to the home, school, or any place where the child may
15 be located cannot be obtained, then the district court having
16 jurisdiction, upon application by the district attorney and upon
17 cause shown, shall order the person responsible for the health,
18 safety, or welfare of the child, or the person in charge of any
19 place where the child may be located, to allow entrance for the
20 interview, the examination, and the investigation or assessment. If
21 the person responsible for the health, safety, or welfare of the
22 child does not consent to a medical, psychological, or psychiatric
23 examination of the child that is requested by the Department, the
24 district court having jurisdiction, upon application by the district

1 attorney and upon cause shown, shall order the examination to be
2 made at the times and places designated by the court.

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

14 4. a. If the court determines that the subject of the
15 behavioral health records is indigent, the court shall
16 appoint an attorney to represent that person at the
17 hearing to obtain behavioral health records.

18 b. A person responsible for the health, safety, or
19 welfare of the child is entitled to notice and a
20 hearing when the Department seeks a court order to
21 allow a psychological or psychiatric examination or
22 access to behavioral health records.

23 c. Access to behavioral health records does not
24 constitute a waiver of confidentiality.

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

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

17 C. 1. Every physician, surgeon, or other health care provider
18 making a report of abuse or neglect as required by this section or
19 examining a child to determine the likelihood of abuse or neglect
20 and every hospital or related institution in which the child was
21 examined or treated shall provide copies of the results of the
22 examination or copies of the examination on which the report was
23 based and any other clinical notes, x-rays, photographs, and other
24 previous or current records relevant to the case to law enforcement

1 officers conducting a criminal investigation into the case and to
2 employees of the Department conducting an assessment or
3 investigation of alleged abuse or neglect in the case.

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

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

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

18 b. to protect the safety of those involved and to promote
19 efficiency, the Department may limit participants as
20 determined to be in the best interests of the child,

21 c. the Department shall make reasonable efforts to
22 provide a trained facilitator to guide the decision-
23 making process, and

1 d. any determination that a collaborative decision-making
2 process is not possible or is unnecessary shall
3 require supervisor approval and documentation of the
4 reasons supporting the determination;

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

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

17 F. The Department, where appropriate and in its discretion,
18 shall identify prevention- and intervention-related services
19 available in the community and refer the family to or arrange for
20 such services when an investigation or assessment indicates the
21 family would benefit from such services, or the Department may
22 provide such services directly. The Department shall document in
23 the record its attempts to provide, refer or arrange for the
24 provision of voluntary services and shall determine within sixty

1 (60) days whether the family has accessed those services directly
2 related to safety of the child. If the family refuses voluntary
3 services or does not access those services directly related to
4 safety of the child, and it is determined by the Department that the
5 child's surroundings endanger the health, safety, or welfare of the
6 child, the Department may recommend that the child be placed in
7 protective or emergency custody or that a petition be filed.

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

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

23 I. Child Welfare Services, in collaboration with the
24 Developmental Disabilities Services Division, shall implement a

1 protocol to be used in cases where the subject child is a child with
2 a disability who has complex medical needs, and the protocol shall
3 include, but not be limited to: resource coordination, medical
4 consultation or medical evaluation, when needed.

5 SECTION 11. AMENDATORY Section 1, Chapter 143, O.S.L.
6 2014, as amended by Section 1, Chapter 189, O.S.L. 2015 (10A O.S.
7 Supp. 2016, Section 1-8-111), is amended to read as follows:

8 Section 1-8-111. A. The Department of Human Services shall
9 provide each youth in its custody ~~sixteen (16)~~ fourteen (14) years
10 and older an annual credit report. The Department shall inform the
11 court with jurisdiction over the youth of any inaccuracies in a
12 credit report displaying evidence of identity theft or any other
13 activity fraudulently made on behalf of the youth in custody. The
14 Department may implement the requirements of this section in stages
15 beginning with youth in the independent living program whose credit
16 rating may inhibit employment and housing opportunities when the
17 child is no longer in custody.

18 B. Within one (1) year of ~~the effective date of this act~~
19 November 1, 2014, the Department of Human Services shall submit
20 annual reports on the implementation of the provisions of this ~~act~~
21 section to the Chair and Vice Chair of the Senate Health and Human
22 Services Committee and the Chair and Vice Chair of the House Human
23 Services Committee. Such reports shall include, but not be limited
24 to, the number of youths in the Department's custody receiving

1 credit score reports, the frequency of such reports, and
2 administrative issues faced by the Department in the implementation
3 of this ~~act~~ section. Such reports shall continue to be issued by
4 the Department until November 1, 2018.

5 SECTION 12. AMENDATORY 10A O.S. 2011, Section 1-9-105,
6 is amended to read as follows:

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

20 1. All programs and services shall be designed to ensure the
21 accessibility of the program to the persons served. Provision for
22 transportation, child care and similar services necessary in order
23 to assist persons to access the services shall be made. If the
24

1 service is provided in an office setting, the service shall be
2 available during the evening.

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

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

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

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

23 C. The Department shall annually review its programs and
24 services and submit a report to the Governor, the Speaker of the

1 House of Representatives, the President Pro Tempore of the Senate,
2 and the Supreme Court of the State of Oklahoma, analyzing and
3 evaluating the effectiveness of the programs and services being
4 carried out by the Department. Such report shall include, but not
5 be limited to:

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

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

11 3. Statutory changes necessary;

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

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

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

22 1. Information concerning the number of children in the
23 Department's custody that are placed in non-family settings,
24

1 including but not limited to the types of settings utilized and the
2 duration of the children's stays in such settings;

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

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

8 SECTION 13. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1-9-116.1 of Title 10A, unless
10 there is created a duplication in numbering, reads as follows:

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

22 SECTION 14. AMENDATORY 10A O.S. 2011, Section 1-9-119,
23 as last amended by Section 4, Chapter 257, O.S.L. 2014 (10A O.S.
24 Supp. 2016, Section 1-9-119), is amended to read as follows:

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

4 1. Be treated with dignity, respect, and consideration as a
5 professional member of the child welfare team;

6 2. Be notified of and be given appropriate, ongoing education
7 and continuing education and training to develop and enhance foster
8 parenting skills;

9 3. Be informed about ways to contact the state agency or the
10 child-placing agency in order to receive information and assistance
11 to access supportive services for any child in the foster parent's
12 care;

13 4. Receive timely financial reimbursement for providing foster
14 care services;

15 5. Be notified of any costs or expenses for which the foster
16 parent may be eligible for reimbursement;

17 6. Be provided a clear, written explanation of the individual
18 treatment and service plan concerning the child in the foster
19 parent's home, listing components of the plan pursuant to the
20 provisions of the Oklahoma Children's Code;

21 7. Receive, at any time during which a child is placed with the
22 foster parent, additional or necessary information that is relevant
23 to the care of the child;

1 8. Be notified of scheduled review meetings, permanency
2 planning meetings, family team meetings and special staffing
3 ~~concerning the~~ concerns for any foster child placed in the foster
4 parent's home in order to actively participate in the case planning
5 and decision-making process regarding the child;

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

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

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

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

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

4 14. a. Be given written notice of:

- 5 (1) plans to terminate the placement of the child
6 with the foster parent pursuant to Section 1-4-
7 805 of this title, and
8 (2) the reasons for the changes or termination in
9 placement.

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

12 15. Be notified by the applicable state agency in a timely and
13 complete manner of all court hearings, including notice of the date
14 and time of any court hearing, the name of the judge or hearing
15 officer hearing the case, the location of the hearing, and the court
16 docket number of the case;

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

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

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

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

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

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

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

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

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

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

22 C. Nothing in this section shall be construed to create a
23 private right of action or claim on the part of any individual, the
24

1 Department, the Office of Juvenile Affairs, or any child-placing
2 agency.

3 SECTION 15. This act shall become effective November 1, 2017.

4 Passed the Senate the 22nd day of March, 2017.

5

6

Presiding Officer of the Senate

7

8 Passed the House of Representatives the ____ day of _____,
9 2017.

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Presiding Officer of the House
of Representatives

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