An Act

ENROLLED HOUSE
BILL NO. 1741

By: Peters, Shumate, Shelton, Walker, Smithson, McAffrey, Tibbs and Martin (Steve) of the House

and

Burrage, Gumm, Leftwich, Garrison, Sparks and Ivester of the Senate

An Act relating to children; amending 10 O.S. 2001, Section 7003-1.1, as renumbered by Section 213, Chapter 233, O.S.L. 2009, and as last amended by Section 4, Chapter 338, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-2-102), which relates to child abuse or neglect safety analysis requirements; updating statutory reference; amending 10 O.S. 2001, Section 7106, as renumbered by Section 216, Chapter 233, O.S.L. 2009 and as last amended by Section 11, Chapter 338, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-2-105), which relates to abuse and neglect report investigation requirements; authorizing Department of Human Services to refer certain families to certain services; amending Section 112, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-3-102), which relates to medical care and treatment; designating the provision of psychotropic medications as routine and ordinary medical care and treatment; amending 10 O.S. 2001, Section 7003-3.5, as renumbered by Section 232, Chapter 233, O.S.L. 2009, and as last amended by Section 6, Chapter 338, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-4-304), which relates to service of summons requirements; authorizing notice by a single publication; amending 10 O.S. 2001, Section 7003-3.8, as amended by Section 1, Chapter 473, O.S.L. 2002, and as renumbered by Section 236, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-4-502), which relates to parental

right to a jury trial; clarifying requirements; amending 10 O.S. 2001, Section 7003-4.1, as last amended by Section 27, Chapter 233, O.S.L. 2009, and as renumbered by Section 237, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-4-503), which relates to certain deprived hearings; specifying certain hearings shall be conducted informally; authorizing the use of certain telecommunication devices for certain hearings; specifying applicability to certain mental health hearings; creating the family drug court program; authorizing court to establish a family drug court program; requiring Department of Mental Health and Substance Abuse Services to assist in the establishment of family drug courts; providing procedural guidelines for drug court; authorizing assessment requirements in certain circumstances; providing deadline for eligibility determinations; providing procedure for certain denial; requiring certain assessment upon application into program; establishing standards for certain assessments; providing for the determination of certain elements of treatment plan; requiring certain staff to make recommendation; specifying certain statements shall not be admissible in other proceedings; providing certain exception; requiring certain hearing; requiring participants to submit to jurisdiction of court; specifying consequences of certain failure to submit to jurisdiction; requiring certain documentation; requiring participation in program for certain period of time; requiring treatment providers be certified by the Department of Mental Health and Substance Abuse Services; providing guidelines and authority for eligibility assessments; providing for periodic review of participant compliance with drug court program; providing penalties for noncompliance with drug court program; allowing court to modify treatment plan; authorizing court to order certain fees and costs; authorizing creation of Family Drug Court Revolving Fund; providing for appropriation and expenditure of revolving fund; specifying requirements of claims against revolving fund; authorizing State Auditor and Inspector to develop forms and procedures for the administration of fund; specifying the use of certain costs; amending 10 O.S. 2001, Section 7003-5.4a, as

amended by Section 37, Chapter 233, O.S.L. 2009, and as renumbered by Section 250, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-4-804), which relates to notice requirements for certain child placement actions; requiring Department provide certain notice prior to certain action; amending 10 O.S. 2001, Section 7003-5.5a, as last amended by Section 39, Chapter 233, O.S.L. 2009, and as renumbered by Section 252, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-4-806), which relates to trial reunifications; authorizing court discretion in extending trial reunifications; authorizing court to award legal custody in certain circumstances; limiting duration of extended supervision in certain circumstances; amending 10 O.S. 2001, Section 7005-1.3, as last amended by Section 73, Chapter 233, O.S.L. 2009 and as renumbered by Section 271, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-6-103), which relates to inspection of certain records; authorizing Department to disclose certain confidential records; amending 10 O.S. 2001, Section 7303-1.2, as last amended by Section 41, Chapter 234, O.S.L. 2009, and as renumbered by Section 178, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2009, Section 2-2-102), which relates to venue for certain juvenile proceedings; authorizing certain transfers; amending 10 O.S. 2001, Section 7303-7.5, as amended by Section 62, Chapter 234, O.S.L. 2009, and as renumbered by Section 183, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2009, Section 2-2-702), which relates to certain referee requirements; modifying requirements; amending 10 O.S. 2001, Section 7305-1.1, as last amended by Section 73, Chapter 234, O.S.L. 2009, and as renumbered by Section 186, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2009, Section 2-4-101), which relates to certain advisory committees; removing designation of juvenile bureaus and juvenile bureau facilities as a department of a county for legal representation purposes; amending 10 O.S. 2001, Section 7115, as last amended by Section 5, Chapter 3, O.S.L. 2008, and as renumbered by Section 207, Chapter 233, O.S.L. 2009 (21 O.S. Supp. 2009, Section 843.5), which relates to penalties for certain child abuse and neglect; updating statutory references; amending 22 O.S. 2001, Section 20, as

amended by Section 126, Chapter 234, O.S.L. 2009 (22 O.S. Supp. 2009, Section 20), which relates to custody of children upon parental incarceration; requiring court to make certain referral to Department in certain circumstances; removing certain placement priority determinations and investigative requirements; amending 43A O.S. 2001, Section 5-511, as last amended by Section 142, Chapter 234, O.S.L. 2009 (43A O.S. Supp. 2009, Section 5-511), which relates to hearings for children in need of inpatient treatment; authorizing the use of certain videoconferencing in certain hearings; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7003-1.1, as renumbered by Section 213, Chapter 233, O.S.L. 2009 and as last amended by Section 4, Chapter 338, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-2-102), is amended to read as follows:

Section 1-2-102. A. 1. Upon receipt of a report that a child may be abused or neglected, the Department of Human Services shall conduct a safety analysis.

2. The Department shall forward a report of its assessment or investigation and findings to any district attorney's office which may have jurisdiction to file a petition pursuant to Section ~~1-4-902~~ 1-4-101 of this title.

B. 1. If, upon receipt of a report alleging abuse or neglect or during the assessment or investigation, the Department determines that:

a. the alleged perpetrator is someone other than a person responsible for the child's health, safety, or welfare, and

b. the alleged abuse or neglect of the child does not appear to be attributable to failure on the part of a person responsible for the child's health, safety, or welfare to provide protection for the child,

the Department shall immediately make a referral, either verbally or in writing, to the appropriate local law enforcement agency for the purpose of conducting a possible criminal investigation.

2. After making the referral to the law enforcement agency, the Department shall not be responsible for further investigation unless:

a. the Department has reason to believe the alleged perpetrator is a parent of another child, not the subject of the criminal investigation, or is otherwise a person responsible for the health, safety, or welfare of another child,

b. notice is received from a law enforcement agency that it has determined the alleged perpetrator is a parent of or a person responsible for the health, safety, or welfare of another child not the subject of the criminal investigation, or

c. the appropriate law enforcement agency requests the Department, in writing, to participate in the investigation. If funds and personnel are available, as determined by the Director of the Department or a designee, the Department may assist law enforcement in interviewing children alleged to be victims of physical or sexual abuse.

C. 1. Any law enforcement agency receiving a referral as provided in this section shall provide the Department with a copy of the report of any investigation resulting from a referral from the Department.

2. Whenever, in the course of any criminal investigation, a law enforcement agency determines that there is cause to believe that a child may be abused or neglected by reason of the acts, omissions, or failures on the part of a person responsible for the health, safety, or welfare of the child, the law enforcement agency shall immediately contact the Department for the purpose of an investigation.

SECTION 2. AMENDATORY 10 O.S. 2001, Section 7106, as renumbered by Section 216, Chapter 233, O.S.L. 2009, and as last

amended by Section 11, Chapter 338, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-2-105), is amended to read as follows:

Section 1-2-105. A. 1. Any county office of the Department of Human Services receiving a child abuse or neglect report shall promptly respond to the report by initiating an investigation of the report or an assessment of the family in accordance with priority guidelines established by the Department. The Department may prioritize reports of alleged child abuse or neglect based on the severity and immediacy of the alleged harm to the child. The Department shall adopt a priority system pursuant to rules promulgated by the Commission for Human Services. The primary purpose of the investigation or assessment shall be the protection of the child.

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

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

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

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

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

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

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

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

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

C. 1. Every physician, surgeon, or other ~~heath~~ health care provider making a report of abuse or neglect as required by this section or examining a child to determine the likelihood of abuse or neglect and every hospital or related institution in which the child

was examined or treated shall provide copies of the results of the examination or copies of the examination on which the report was based and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to law enforcement officers conducting a criminal investigation into the case and to employees of the Department conducting an assessment or investigation of alleged abuse or neglect in the case.

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

D. If, before the assessment or investigation is complete, the Department determines that immediate removal of the child is necessary to protect the child from further abuse or neglect, the Department shall recommend that the child be taken into custody.

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

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

G. If the Department has reason to believe that a person responsible for the health, safety, and welfare of the child may

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

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

SECTION 3. AMENDATORY Section 112, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-3-102), is amended to read as follows:

Section 1-3-102. A. For purposes of this section:

1. "Routine and ordinary medical care and treatment" includes any necessary medical and dental examinations and treatment, medical screenings, clinical laboratory tests, blood testing, preventative care, health assessments, physical examinations, immunizations, contagious or infectious disease screenings or tests and care required for treatment of illness and injury, including x-rays, stitches and casts, <u>or the provision of psychotropic medications</u> but does not include any type of extraordinary care; and

2. "Extraordinary medical care and treatment" includes, but is not limited to, surgery, general anesthesia, blood transfusions, <u>or</u> invasive or experimental procedures ~~or the provision of psychotropic medications~~.

B. If a child taken into protective custody without a court order requires emergency medical care prior to the emergency custody hearing, and either the treatment is related to the suspected abuse or neglect or the parent or legal guardian is unavailable or unwilling to consent to treatment recommended by a physician, a peace officer, court employee or the court may authorize such treatment as is necessary to safeguard the health or life of the child. Before a peace officer, court employee or the court authorizes treatment based on unavailability of the parent or legal

guardian, law enforcement shall exercise diligence in locating the parent or guardian, if known.

C. 1. If a child has been placed in the custody of the Department of Human Services, the Department shall have the authority to consent to routine and ordinary medical care and treatment. The Department shall make reasonable attempts to notify the child's parent or legal guardian of the provision of routine and ordinary medical care and treatment and to keep the parent or legal guardian involved in such care.

2. In no case shall the Department consent to a child's abortion, sterilization, termination of life support or a "Do Not Resuscitate" order. The court may authorize the withdrawal of life-sustaining medical treatment or the denial of the administration of cardiopulmonary resuscitation on behalf of a child in the Department's custody upon the written recommendation of a licensed physician, after notice to the parties and a hearing.

3. Nothing herein shall prevent the Department from authorizing, in writing, any person, foster parent or administrator of a facility into whose care a child in its custody has been entrusted, to consent to routine and ordinary medical care and treatment to be rendered to a child upon the advice of a licensed physician, including the continuation of psychotropic medication.

D. Consent for a child's extraordinary medical care and treatment shall be obtained from the parent or legal guardian unless the treatment is either related to the abuse or neglect or the parent or legal guardian is unavailable or refuses to consent to such care, in which case in an emergency, based upon recommendation of a physician, the court may enter an ex parte order authorizing such treatment or procedure in order to safeguard the child's health or life. If the recommended extraordinary medical care and treatment is not an emergency, the court shall hold a hearing, upon application by the district attorney and notice to all parties, and may authorize such recommended extraordinary care.

E. If a child has been placed in the custody of a person, other than a parent or legal guardian, or an institution or agency other than the Department, the court shall determine the authority of the person, institution, or agency to consent to medical care including routine and ordinary medical care and treatment and extraordinary care. The parent, legal guardian, or person having legal custody

shall be responsible for the costs of medical care as determined by the court.

SECTION 4. AMENDATORY 10 O.S. 2001, Section 7003-3.5, as renumbered by Section 232, Chapter 233, O.S.L. 2009, and as last amended by Section 6, Chapter 338, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-4-304), is amended to read as follows:

Section 1-4-304. A. 1. Service of summons shall be made by personal delivery, by mail, or by publication as provided for in civil actions pursuant to Section 2004 of Title 12 of the Oklahoma Statutes or any successor statute.

2. The court shall not hold the adjudication hearing until at least forty-eight (48) hours after the service of summons.

3. If the parent or legal guardian is not served within the state, the court shall not hold the hearing until at least five (5) days after the date of mailing the summons.

4. The state shall conduct a distinct and meaningful search of all reasonably available sources to locate and notify the parents and legal guardians of proceedings being held pursuant to the Oklahoma Children's Code; provided, that a hearing shall not be delayed if a parent or legal guardian cannot be located.

B. 1. Before service by publication is authorized, the state shall file an affidavit with the court stating that after a distinct and meaningful search of all reasonably available sources, the parent or legal guardian of the child could not be identified or located, as applicable, and describing the diligent efforts made to identify, locate, and serve the party. The affidavit shall be sufficient evidence of the diligence exercised by the state to identify or locate a party who is the subject of the publication notice. An affidavit prepared by the Department describing a distinct and meaningful search of all reasonably available sources to locate a party may be adopted by the state as evidence of additional efforts made to locate or identify the party.

2. Upon complying with this subsection, the state may obtain an order from the court authorizing service to be made upon the party by publication. A copy of the petition and summons shall also be mailed by regular first-class mail to the party at his or her last-known place of residence. Service by publication is complete on the

date of the last publication in accordance with paragraph 3 of this subsection.

3. The publication notice may be directed to all persons known, alleged, presumed, or claiming to be the father, mother, or legal guardian of the child. If the name of a party is unknown, the notice shall be directed to the unknown father, mother, or legal guardian, as applicable, and such notice, when published pursuant to this subsection, shall apply to and be binding upon those persons whose names are unknown. The notice shall contain the name of the court and the case number, the initials of the child who is the subject of the proceedings, the date and location of the birth of the child, the name of the mother and father of the child, if known, the time and date of the hearing, and the purpose of the hearing. The notice shall also contain, in type at least as large as the balance of the document, the following or substantially similar language:

"FAILURE TO APPEAR AT THIS HEARING CONSTITUTES CONSENT TO THE ADJUDICATION OF THIS CHILD AS A DEPRIVED CHILD AND MAY ULTIMATELY RESULT IN LOSS OF CUSTODY OF THIS CHILD OR THE TERMINATION OF PARENTAL RIGHTS TO THIS CHILD."

An affidavit showing publication of the notice shall be filed with the court clerk. The publication of notice shall be deemed equivalent to personal service upon all persons, known or unknown, who have been designated in the notice.

4. Service by publication shall be made by publishing a notice ~~once a week for three (3) consecutive weeks, with the first publication of notice occurring~~ one time at least twenty-five (25) days prior to the date fixed for the hearing. Service shall be made in a newspaper authorized by law to publish legal notices which is published in the county where the petition is filed. If no newspaper authorized by law to publish legal notices is published in the county, the notice shall be published in some such newspaper of general circulation which is published in an adjoining county.

C. Notice by publication may proceed simultaneously with efforts to serve notice by personal delivery or by mail upon a determination by the court that there is reason to believe service by personal delivery or by mail will not be successful.

D. Costs of publication shall be paid by the court fund and assessed as costs against the child's parents and legal guardian as applicable.

SECTION 5. AMENDATORY 10 O.S. 2001, Section 7003-3.8, as amended by Section 1, Chapter 473, O.S.L. 2002, and as renumbered by Section 236, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-4-502), is amended to read as follows:

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

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

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

The demand for a jury trial shall be granted unless waived, or the court on its own motion may call a jury to try any ~~such~~ termination of parental rights case. Such jury shall consist of six (6) persons.

SECTION 6. AMENDATORY 10 O.S. 2001, Section 7003-4.1, as last amended by Section 27, Chapter 233, O.S.L. 2009, and as renumbered by Section 237, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-4-503), is amended to read as follows:

Section 1-4-503. A. All cases initiated by the filing of a petition alleging that a child is deprived shall be heard separately from the trial of other cases against adults. The adjudicative hearings and hearings for termination of parental rights shall be conducted according to the rules of evidence. All other hearings and proceedings conducted pursuant to the Oklahoma Children's Code shall be informal and the rules of evidence shall not apply.

1. a. Except as otherwise provided by this paragraph, all deprived proceedings shall be private unless specifically ordered by the judge to be conducted in

public, but persons having a direct interest in the case shall be admitted, except as otherwise determined by the court.

b. To the extent that deprived proceedings involve discussion of confidential information from any child abuse or neglect report and record, or any information obtained from the Department of Human Services concerning a child or family who is receiving Title IV-B child welfare services, foster care or adoption assistance pursuant to Title IV-E of the Social Security Act (42 U.S.C. 678 et seq.), the confidentiality requirements of those programs apply. Accordingly, such information shall not be discussed in open court. To the extent that confidential information is relevant to the proceedings, it must be discussed in the court's chambers or some other restricted setting, and the pertinent sections of the transcript shall be kept confidential.

2. Stenographic notes or other transcript of the hearings shall be kept as in other cases, but they shall not be open to inspection except by order of the court or as otherwise provided by law.

3. Uniform orders shall be used by the court in all deprived proceedings. The forms shall be prescribed and published by the Administrative Office of the Courts. The Supreme Court Juvenile Justice Oversight and Advisory Committee, the District Attorneys Council, and the Department shall assist in the development of the orders. In addition to the findings and determinations required to be made by the court pursuant to the Oklahoma Children's Code, the forms shall include a section which will require the court to memorialize the recommendations of the parties and participants made at the hearing as it relates to custody or placement of the child or children.

4. If authorized by the court, any proceeding held pursuant to the Oklahoma Children's Code may be conducted via teleconference communication; provided, that when a parent or child appears for a proceeding via teleconference communication, the attorney representing that parent or child shall personally appear at the hearing. For purposes of this paragraph, "teleconference communication" means participation in the hearing by interactive telecommunication, including telephonic communication by the absent party, those parties present in court, the attorneys and others

deemed to be necessary participants to the proceeding including, but not limited to, foster parents and facility staff where a child may be receiving care or treatment. This paragraph shall also apply to proceedings brought pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act when the subject child is alleged or has been adjudicated to be a deprived child.

B. A child shall not refuse to be a witness in a hearing to determine whether or not the child is deprived. The testimony of the child may be given as provided by this part or as otherwise authorized by law for the protection of child witnesses.

C. A decision determining a child to be deprived must be based on sworn testimony and the child must have the opportunity for cross-examination unless the facts are stipulated.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-4-712 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. Each district court is hereby authorized to establish a family drug court for the purpose of treating children adjudicated as deprived and their families in cases where the parent, parents or legal guardian has a substance abuse disorder. The Department of Mental Health and Substance Abuse Services shall assist in the establishment of family drug courts and, if funds are available, may contract for family drug court treatment services.

B. At the adjudicatory or dispositional hearing in a deprived case, the court may determine whether there are any statutory preclusions, other prohibitions, or program limitations that exist and are applicable to considering the family for participation in the drug court program.

C. A family drug court assessment shall be ordered by the court, upon the motion of the district attorney, Department of Human Services, the child's attorney, parent, legal guardian or upon the court's own motion, once the requirements of subsection B of this section have been met.

D. The court shall set a date for a hearing to determine final eligibility for admittance into the program which shall not exceed thirty (30) days after the dispositional hearing.

E. Upon denial for consideration in the family drug court program at the initial hearing, the case shall proceed as authorized by the Children's Code.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-4-713 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. When directed by the court, the family drug court treatment staff shall make a family drug court assessment of the deprived child or children and the family under consideration to determine whether:

1. Reunification is the permanency plan for the child or children and that reunification with the parent, parents or legal guardian is in the best interest of the child or children; and

2. The alcohol or substance abuse of the parent, parents or legal guardian is a substantial contributing condition to the adjudication of a child or children as deprived.

B. 1. The family drug court assessment shall be conducted through a standardized screening test and personal interview. A more comprehensive evaluation may take place at the time the family enters the treatment portion of the program and may take place at any time after placement in the program.

2. The family drug court assessment shall determine the elements of the family drug court treatment plan which the parent, parents or legal guardian shall be required to comply with if admitted to the program. Any subsequent assessments or evaluations by the treatment provider may be used to determine modifications needed to the original family drug court treatment plan.

3. The family drug court assessment shall include, but not be limited to, the following information:

a. the age and physical condition of the child or children,

b. family employment,

c. educational background and literacy level,

d. community and family relations,

e. prior and current drug and alcohol use,

f. behavioral health and medical treatment history,

g. demonstrable motivation of the family, and

h. other mitigating or aggravating factors.

C. When a family is determined to be appropriate for admittance to the program, regardless of whether the child or children are in the custody of the Department of Human Services, the treatment staff shall make a recommendation for the treatment program or programs that are available in the jurisdiction and which would benefit the family and child or children.

D. 1. Any statement made by the parent or legal guardian to any supervising staff during the course of any drug court assessment and subsequent to the admission of the parent or legal guardian to the family drug court program, as well as any report of findings and recommendations, shall not be admissible in any other case pending against the parent or legal guardian, nor shall such be grounds for the revocation of a parent or legal guardian from the program.

2. The restrictions provided in this section shall not preclude the admissibility of statements or evidence obtained by the state from independent sources.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-4-714 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. The family drug court judge shall conduct a hearing to determine final eligibility of the family for the family drug court program by considering:

1. Whether the child or children and family are appropriate for placement in drug court, as provided in Section 8 of this act;

2. The findings and recommendations of the family drug court assessment;

3. Whether there is an appropriate treatment program available to the family and whether there is a recommended family drug court treatment plan; and

4. Any information relevant to determining eligibility. A family shall not be denied admittance to any family drug court program based upon the inability of the family to pay court costs or other costs or fees.

B. The judge shall require the family to demonstrate support for participation in the program. In order for the family to be admitted to the program, every person responsible for the health or welfare of the child or children and any adult who establishes a permanent residence in the home where the child or children reside after the child or children have been admitted to the program shall submit to the personal jurisdiction of the court upon being properly served pursuant to Section 1-4-304 of Title 10A of the Oklahoma Statutes or by personally appearing in court. Failure of an adult responsible for the health or welfare of the child or children, or an adult who resides in the home with the child or children, to submit to the personal jurisdiction of the court shall result in either the family's dismissal from the drug court program, contempt of court proceedings for the adult, removal of the child or children from the home, or any combination thereof.

C. When the court accepts the family drug court treatment plan, the child or children and family shall be ordered immediately into the program and the person responsible for the health or welfare of the child or children and any adult who resides in the home of the child or children shall have voluntarily signed the necessary court documents before the child or children and family may be admitted to treatment. The court documents shall include:

1. A written family drug court treatment plan, which is subject to modification at any time during the program, as set forth in Section 8 of this act;

2. A statement requiring the child or children and family to enter the treatment program as directed by the court and to participate until completion, withdrawal, or removal by the court; and

3. A statement signed voluntarily by the person or persons responsible for the health or welfare of the child or children and any adult who resides in the home with the child or children that

such person or persons shall comply with the orders of the court and any conditions of the treatment program and supervising staff for as long as the family participates in the family drug court program.

D. If admission into the family drug court program is denied, the case shall be returned to the traditional juvenile docket and shall proceed as provided for any other juvenile case.

E. At the time a child or children and family is admitted to the family drug court program, any bond, bail or undertaking on behalf of the child or children or family shall be exonerated.

F. 1. A family shall actively participate in treatment for a period of not less than six (6) months while participating in the family drug court program.

2. All participating treatment providers shall be certified by the Department of Mental Health and Substance Abuse Services. Treatment programs shall be designed to be completed within twelve (12) months and shall have relapse prevention and evaluation components.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-4-715 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. The family drug court judge shall make all judicial decisions concerning any case assigned to the family drug court docket or program. The judge shall require progress reports and a periodic review of each family during their period of participation in the family drug court program or for purposes of collecting costs and fees after completion of the treatment portion of the program. Reports from the treatment providers and the supervising staff shall be presented to the drug court judge as specified by the treatment plan or as ordered by the court.

B. The judge may establish a regular schedule for progress hearings for any family in the family drug court program. The district attorney, the Department of Human Services, the child or children and family, including any adult who resides in the home with the child or children, the attorney for the child or children and family, including any adult who resides in the home with the child or children, and the treatment provider shall be required to attend regular progress hearings, and shall be required to be present upon the motion of any party to a family drug court case.

C. The treatment provider, the supervising staff, the district attorney, the Department of Human Services, and the attorney for the child or children and family shall be allowed access to all information in the family drug court case file of the child or children and all information presented to the judge during any family drug court hearing.

D. 1. The family drug court judge shall recognize relapses and restarts in the program which are considered to be part of the rehabilitation and recovery process.

2. The family drug court judge shall order progressively increasing sanctions or provide incentives, rather than removing the family from the program when relapse occurs, except when the conduct of the child or children or family requires removal from the program.

3. Any removal from the family drug court program shall require notice to the child or children and family and other participating parties in the case and a hearing.

4. At any family drug court hearing, if the child or children or an adult responsible for the health and welfare of the child or children is found to have violated the conditions of the treatment plan and disciplinary sanctions have been insufficient to gain compliance, the child or children and family shall be removed from the program, and the child or children shall be returned to the regular deprived court docket and set for redisposition or permanency hearing.

E. Upon application of any participating party to a family drug court case, the judge may modify a family drug court treatment plan at any hearing when it is determined that the treatment is not beneficial to the child or children. The primary objective of the judge in monitoring the progress of the child or children, the family and the family drug court treatment plan shall be to keep the child or children and family in treatment for a sufficient time to change behaviors and attitudes. Modification of the treatment plan requires a consultation with the treatment provider, supervising staff, district attorney, the Department of Human Services, the attorney for the child or children and the attorney for the family in open court.

F. The family drug court judge shall be authorized to modify the family drug court treatment plan of any person responsible for the health and welfare of the child or children and any adult residing with the child or children for noncompliance with any condition established by the court. The family drug court judge is also authorized to sanction the person responsible for the health and welfare of the child or children or any adult residing with the child or children for noncompliance of such person with any condition established in the court.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-4-716 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. 1. The family drug court judge may order the family, or a member of the family, to pay court costs, treatment costs, drug-testing costs, and supervision fees. The family drug court judge may order an adult member or members of the family responsible for the health or welfare of the child or children to pay a program user fee, not to exceed Twenty Dollars ($20.00) per month.

2. The family drug court judge may establish a schedule for the payment of costs and fees.

B. There shall be created with the county treasurer of each county within this state a cash fund to be designated as the "Family Drug Court Revolving Fund".

1. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received and any other monies designated by law for deposit into the fund.

2. All monies accruing to the credit of the fund are hereby appropriated and shall be expended by the family drug court coordinator for the benefit and administration of the family drug court program.

3. Claims against the fund shall include only expenses incurred for the administration of the family drug court program and payment may be made after the claim is approved by the family drug court team.

4. The necessary forms and procedures to account for the monies shall be developed and implemented by the Office of the State Auditor and Inspector.

C. 1. The cost for treatment, drug testing, and supervision fees shall be set by the family drug court team and shall reflect actual expenses or rates established by the Department of Mental Health and Substance Abuse Services and made part of the court's order for payment.

2. The costs for drug testing and supervision fees shall be paid to the family drug court coordinator for deposit into the county Family Drug Court Revolving Fund.

3. The costs for treatment shall be paid to the respective family drug court treatment provider or providers.

4. The court clerk shall collect all other costs and fees ordered.

D. 1. No court order for costs and fees shall be limited by any term of supervision, treatment, or extension thereof.

2. Court orders for costs and fees shall remain an obligation of the adult member or members of the family responsible for the health or welfare of the child or children with court monitoring until fully paid.

SECTION 12. AMENDATORY 10 O.S. 2001, Section 7003-5.4a, as amended by Section 37, Chapter 233, O.S.L. 2009, and as renumbered by Section 250, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-4-804), is amended to read as follows:

Section 1-4-804. A. 1. The Department of Human Services shall notify the court, the postadjudication review board, the district attorney, the child's attorney, and the guardian ad litem of the child, if any, whenever a child in the custody of the Department is moved from one location to another.

2. The Department shall notify the foster family prior to movement of the child pursuant to the provisions of Section 1-4-805 of this title.

3. The Department shall inform the guardian ad litem, if any, and the child's attorney of the specific location of the child.

B. The notification required by this section shall be made by the Department within a reasonable time after the Department is made

aware of the need for movement, but in no event less than ~~two (2)~~ five (5) judicial days prior to movement unless an emergency exists. As used in this section, "emergency " means movement of a child that is:

1. Pursuant to an order of the court including, but not limited to, an order authorizing placement of a child with a parent or sibling;

2. Requested by the child-placing agency or foster parent of the child, and the request is for immediate removal of the child without delay or notice as provided by this section;

3. For emergency medical or mental health treatment;

4. For substantial noncompliance by a foster parent or child-placing agency with applicable placement standards and agreements such that the child is in imminent danger; or

5. Due to a pending investigation of an allegation of abuse or neglect of a child by a foster parent or child-placing agency or other person residing in the foster family home.

C. The court, on its own motion, may hold, or any party receiving notice pursuant to this section, shall be granted, an informal hearing concerning the reasons and necessity for moving the child, if requested in writing, within five (5) days following the receipt of notice.

SECTION 13. AMENDATORY 10 O.S. 2001, Section 7003-5.5a, as last amended by Section 39, Chapter 233, O.S.L. 2009, and as renumbered by Section 252, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-4-806), is amended to read as follows:

Section 1-4-806. A. The court may order a trial home reunification by returning the child to the care of the parent or legal guardian from whom the child was removed for a period not to exceed six (6) months; provided, when determined necessary the court may extend the period of trial reunification to a specific date certain by entering such extension order prior to the expiration of the initial six-month trial reunification period.

~~B.~~ During the period of the trial home reunification, the Department of Human Services shall:

1. Continue to have legal custody of the child, thereby permitting the Department to visit the child in the home of the parent, at school, in a child care facility, or any other setting the Department deems necessary and appropriate;

2. Continue to provide appropriate services to both the parent, if eligible, and the child during the period of the trial home reunification;

3. Terminate the trial home reunification and remove the child to foster care, without court order or authorization, ~~in order~~ when necessary to protect the child's health, safety, or welfare ~~and remove the child to foster care~~; and

4. Advise the court and parties within three (3) judicial days of the termination of the trial home reunification when ~~a visit is~~ terminated by the Department without a court order~~; and~~

~~5. Prepare a report for the court when the~~.

B. 1. When trial home reunification is terminated whether by the Department or court order, the Department shall prepare a report for the court which describes the circumstances of the child during the trial home reunification period and recommends ~~appropriate~~ court orders, if any, ~~for the court to enter~~ deemed appropriate to provide for the safety and stability of the child.

~~C.~~ 2. In the event a trial home reunification is terminated by the Department by removing the child to foster care without prior court order or authorization, the court shall conduct a hearing within fifteen (15) days of receiving notice of the termination of the trial home reunification by the Department and shall determine whether a continuation of the child in the child's home or with the child's caretaker is contrary to the welfare of the child and whether reasonable efforts were made to prevent the removal of the child from the trial home reunification.

C. 1. Upon the completion of the six-month trial home reunification period or any extension thereof, the court may further extend supervision of the child in the home by awarding legal custody of the child to the parent or legal guardian with whom the child has been reunited and ordering the Department to provide supervision in accordance with the rules promulgated by the Commission.

2. The duration of the extended supervision shall not exceed six (6) months except in circumstances the court deems appropriate and necessary to protect the health, safety or welfare of the child.

SECTION 14. AMENDATORY 10 O.S. 2001, Section 7005-1.3, as last amended by Section 73, Chapter 233, O.S.L. 2009, and as renumbered by Section 271, Chapter 233, O.S.L. 2009 (10A O.S. Supp. 2009, Section 1-6-103), is amended to read as follows:

Section 1-6-103. A. Juvenile court records and Department of Human Services agency records pertaining to a child may be inspected, and their contents shall be disclosed, without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. The court having the child currently before it in any proceeding pursuant to this title, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, and court-appointed special advocates;

2. A district attorney, United States Attorney, or Attorney General of this or another state and the employees of such offices in the course of their official duties pursuant to this title or the prosecution of crimes against children, or upon their request in their official capacity as advisor in a grand jury proceeding;

3. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of this title or other proceeding where child custody or visitation is at issue;

4. Employees of juvenile bureaus in the course of their official duties pursuant to this title, and employees of the Department of Human Services in the course of their official duties;

5. Employees of a law enforcement agency of this or another state or military enclave and employees of a child protective service of another state or military enclave in the course of their official duties pertaining to investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

6. The Oklahoma Commission on Children and Youth as provided by Sections 601.2 and 601.6 of Title 10 of the Oklahoma Statutes;

7. The Office of Juvenile Affairs;

8. A federally recognized Indian tribe in which the child who is the subject of the record is a member or is eligible to become a member of the tribe and is the biological child of a member of an Indian tribe pursuant to the provisions of the Federal Indian Child Welfare Act and the Oklahoma Indian Child Welfare Act; provided such Indian tribe, in the course of its official duties, is:

a. investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody,

b. providing services to or for the benefit of a child including, but not limited to, protective, emergency, social and medical services, or

c. the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

The records that are to be provided to Indian tribes under this subsection shall include all case records, reports, and documents as defined in Section 1-6-101 of this title;

9. The Governor or to any person the Governor designates, in writing;

10. Any federal official of the United States Department of Health and Human Services;

11. Any member of the Legislature approved in writing by the Speaker of the House of Representatives or the President Pro Tempore of the Senate;

12. A foster parent, with regard to records concerning the social, medical, psychological, or educational needs of a child

currently placed with that foster parent or of a child being considered for placement with that foster parent;

13. An employee of any state or federal corrections or law enforcement agency in the performance of the official duties of the employee concerning presentence investigations or supervision of a parent of an alleged or adjudicated deprived child, or the legal guardian, custodian, or any other adult member of the child's home who is responsible for the health, safety, or welfare of the child; and

14. An employee of a state agency of this or another state in the performance of the official duties of the employee concerning the establishment of paternity or the establishment or enforcement of a child support order or other entitlement for the benefit of a child; provided, disclosure shall be limited to information directly related to the purpose of such disclosure.

B. In addition to the persons listed in subsection A of this section, juvenile court records may be inspected, and their contents shall be disclosed, without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. Employees of court-appointed special advocate programs, as defined in Section 1-1-105 of this title, in the course of their official duties pertaining to recruiting, screening, training, assigning cases, supervising, and supporting volunteers in their roles as guardian ad litem pursuant to Section 1-4-306 of this title;

2. Members of postadjudication review boards established pursuant to the provisions of Section 1116.2 of Title 10 of the Oklahoma Statutes, the Child Death Review Board, and multidisciplinary personnel. In addition to juvenile court records, members of such postadjudication review boards may inspect, without a court order, information that includes, but is not limited to:

a. psychological and medical records,

b. placement history and information, including the names and addresses of foster parents,

c. family assessments,

d. treatment or service plans, and

e. school records;

3. The Department of Human Services or other public or private agency or individual having court-ordered custody or physical custody pursuant to Department placement of the child who is the subject of the record;

4. The child who is the subject of the record and the parents, legal guardian, custodian, or foster parent of such child; and

5. A person authorized by the court to conduct bona fide research, provided such research may not publish the names or identities of parents, children, or other persons contained in the records.

C. In addition to the persons and entities named in subsection A of this section, Department of Human Services agency records may be inspected, and their contents shall be disclosed, without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. Postadjudicatory review boards, court-appointed special advocates, and members of the Child Death Review Board;

2. Any district court which has ordered a home study by the Department in an action for divorce, annulment, custody of a child, or appointment of a legal guardian of a child, or any subsequent proceeding in such actions; provided, however, the Department may limit disclosure in the home study to summaries or to information directly related to the purpose of the disclosure;

3. Members of multidisciplinary teams or multidisciplinary personnel designated by the Department, investigating a report of known or suspected child abuse or neglect or providing services to a child or family which is the subject of the report;

4. A physician who has before him or her a child whom the physician reasonably suspects may be abused or neglected or any health care or mental health professionals involved in the evaluation or treatment of the child or the parents, legal guardian, foster parent, custodian, or other family members of the child;

5. Any public or private agency or person authorized by the Department to diagnose, or provide care, treatment, supervision, or other services to a child who is the subject of a report or record of child abuse or neglect; provided, the Department may limit such disclosure to summaries or to information directly necessary for the purpose of such disclosure;

6. Any person or agency for research purposes, if all of the following conditions are met:

a. the person or agency conducting the research is employed by the State of Oklahoma or is under contract with this state and is authorized by the Department to conduct the research, and

b. the person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to the documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed;

7. The Oklahoma Health Care Authority; and

8. A medical examiner when such person is determining the cause of death of a child.

D. In accordance with the rules promulgated for such purpose pursuant to Section 620.6 of this title, records listed in subsection A of Section 1-6-102 of this title may be inspected and their contents disclosed without a court order to participating agencies.

E. Nothing in this section shall be construed as prohibiting the Department from disclosing such confidential information as may be necessary to secure appropriate care, treatment, protection or supervision of a child alleged to be abused or neglected.

SECTION 15. AMENDATORY 10 O.S. 2001, Section 7303-1.2, as last amended by Section 41, Chapter 234, O.S.L. 2009, and as renumbered by Section 178, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2009, Section 2-2-102), is amended to read as follows:

Section 2-2-102. A. 1. Upon the filing of a petition alleging the child to be in need of supervision, or upon the assumption of custody pursuant to Section 2-2-101 of this title, the district court of the county shall have jurisdiction where a child:

a. resides,

b. is found, or

c. is alleged to be or is found to be in need of supervision.

2. The court shall have jurisdiction of the parent, legal custodian, legal guardian, stepparent of the child, or any adult person living in the home of the child regardless of where the parent, legal custodian, legal guardian, stepparent, or adult person living in the home of the child is found.

3. When jurisdiction has been obtained over a child who is or is alleged to be in need of supervision, such may be retained until the child becomes eighteen (18) years of age.

4. For the convenience of the parties and in the interest of justice, a proceeding under the Oklahoma Juvenile Code, Article 2 of this title, may be transferred to the district court in any other county.

B. 1. Upon the filing of a petition alleging the child to be delinquent or upon the assumption of custody pursuant to Section 2-2-101 of this title, the district court of the county where the delinquent act occurred shall have jurisdiction of the child and of the parent, legal custodian, legal guardian, stepparent of the child or any adult person living in the home of the child regardless of where the parent, legal custodian, legal guardian, stepparent, or adult person living in the home of the child is found.

2. When jurisdiction has been obtained over a child who is or is alleged to be a delinquent, jurisdiction may be retained until the child becomes nineteen (19) years of age upon the court's own motion, motion by the district attorney or motion by the Office of Juvenile Affairs, as provided in Section 2-7-504 of this title.

3. The juvenile proceeding may be filed before the child becomes eighteen (18) years of age or within one (1) year after the

date of the eighteenth birthday of the child if the underlying act would constitute a felony if committed by an adult.

C. The district court in which a petition is filed or the district court in which custody has been assumed pursuant to the provisions of Section 2-2-101 of this title may retain jurisdiction of a delinquent child in such proceeding notwithstanding the fact that the child is subject to the jurisdiction of another district court within the state. Any adjudication and disposition made by the court in which said petition is filed shall control over prior orders in regard to the child.

D. Except as otherwise provided in the Oklahoma Juvenile Code, a child who is charged with having violated any state statute or municipal ordinance, other than those enumerated in Section 2-5-101, 2-5-205 or 2-5-206 of this title, shall not be tried in a criminal action but in a juvenile proceeding.

E. If, during the pendency of a criminal charge against any person, it shall be ascertained that the person was a child at the time of committing the alleged offense, the district court or municipal court shall transfer the case, together with all the papers, documents and testimony connected therewith, to the juvenile division of the district court. The division making the transfer shall order the child to be taken forthwith to the place of detention designated by the juvenile division, to that division itself, or release the child to the custody of a suitable person to be brought before the juvenile division.

F. Nothing in this act shall be construed to prevent the exercise of concurrent jurisdiction by another division of the district court or by the municipal courts in cases involving children wherein the child is charged with the violation of a state or municipal traffic law or ordinance.

SECTION 16. AMENDATORY 10 O.S. 2001, Section 7303-7.5, as amended by Section 62, Chapter 234, O.S.L. 2009, and as renumbered by Section 183, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2009, Section 2-2-702), is amended to read as follows:

Section 2-2-702. A. Any judge who is assigned to hear juvenile cases in counties having a population in excess of eighty thousand (80,000)~~,~~ and where ~~county~~ funding is available~~,~~ may appoint a suitable person or persons to act as referee or referees <u>on a full-time or part-time basis</u>, to hold office at the pleasure of the

judge. ~~Such referees~~ Referees shall be ~~lawyers~~ licensed to practice law in this state and shall be specially qualified for their duties. Reasonable compensation shall be fixed by the presiding judge of the administrative district.

B. All referees are subject to the administrative authority and assignment power of the chief judge of the juvenile court of the county. ~~No referee may hear a contested trial, hearing, motion or petition if a party or attorney for a party objects in writing to the assignment of a referee to hear the matter.~~ The duties and powers of referees shall be to hear and report all matters assigned by the chief juvenile judge and to recommend findings of fact, conclusions of law, temporary and interim orders, and final orders of judgment. ~~All recommended orders and findings of a referee shall be subject to confirmation by the judge.~~

C. 1. Upon the conclusion of the hearing ~~in each case~~, the referee shall ~~transmit to the judge~~ provide a copy in writing of the recommended findings, conclusions, and orders ~~in writing~~ to the parties, counsel and the referring judge instanter. ~~The recommended findings and orders of a referee become the findings and orders of the court when confirmed by the judge. The order of the court shall be proof of such confirmation and also of the fact that the matter was duly referred to the referee. A copy of the order entered by the referee shall be served upon the parties and counsel without delay or as provided in Section 696.2 of Title 12 of the Oklahoma Statutes.~~

2. ~~A rehearing by the judge shall be allowed if any party files a written motion for review or upon motion by the court within three (3) judicial days after notice of the order of the referee. The motion for review shall specify the grounds for review and the specific provisions of the recommended findings or orders disputed and the court, upon receipt of a motion for review, shall set a time and place for a review hearing. The objecting party shall serve the motion for review and notice of hearing upon all parties to the action. Failure to timely file the motion for review shall waive any and all objections to the findings and order of the referee and said order shall become the decree of the court.~~

~~3. The court shall accept the findings of fact of the referee unless the findings are clearly erroneous. The court, after a hearing, may adopt the report, modify the report in whole or in part, receive further evidence, or recommit the report with further instructions.~~

~~D. All orders and findings recommended by a referee become an effective order when countersigned by the court and remain effective during the pendency of a review, including a remand to the referee, unless the court:~~

~~1. Expressly stays the effect of the order;~~

~~2. Changes the order during the pendency of the review; or~~

~~3. Changes or vacates the order upon completion of the review~~ Unless stayed by order of the referee or the reviewing judge, all orders of a referee shall become immediately effective and shall continue in full force and effect until vacated or modified upon rehearing by order of the reviewing judge. Any order entered by a referee becomes a final order of the reviewing court upon expiration of three (3) judicial days following its entry, unless a review was ordered or requested. The chief judge of the juvenile court may establish requirements that any or all recommended orders of the referee must be expressly approved by the reviewing judge before becoming effective.

D. 1. Any party, as well as the Department of Human Services when the child is in the legal custody of the Department, may file a written objection to the referee's recommendations within three (3) judicial days after notice of the recommendations. The objection shall clearly specify the reason and grounds for the objection. On receipt of the objection, the reviewing court shall set a hearing date for the review. The objecting party shall promptly provide a copy of the objection and notice of the review to the Department and all parties to the action. Failure to file a timely request for district court review shall constitute a waiver of any and all objections to the recommendations of the referee.

2. The review of the district court shall be limited to a review of the record developed before the referee.

3. The court shall accept the findings of fact of the referee unless they are clearly erroneous. After a review of the objection, the court may confirm or reconfirm the recommendations, reject, or modify them in whole or in part, receive further evidence, or remand them with instructions.

SECTION 17. AMENDATORY 10 O.S. 2001, Section 7305-1.1, as last amended by Section 73, Chapter 234, O.S.L. 2009, and as

renumbered by Section 186, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2009, Section 2-4-101), is amended to read as follows:

Section 2-4-101. A. In each county having a population of eighty thousand (80,000) or more, as shown by the last preceding Federal Decennial Census, there is created a juvenile bureau and a citizens' advisory committee. ~~For legal representation purposes only, the juvenile bureau and all facilities operated by the juvenile bureau are designated as a department of the county.~~

B. In each county having a duly constituted juvenile bureau as of January 1, 2005, as provided for in subsection A of this section, the juvenile bureau shall remain in place and continue in operation. No other counties shall establish juvenile bureaus.

SECTION 18. AMENDATORY 10 O.S. 2001, Section 7115, as last amended by Section 5, Chapter 3, O.S.L. 2008, and as renumbered by Section 207, Chapter 233, O.S.L. 2009 (21 O.S. Supp. 2009, Section 843.5), is amended to read as follows:

Section 843.5 A. Any parent or other person who shall willfully or maliciously engage in child abuse shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment. As used in this subsection, "child abuse" means the willful or malicious abuse, as defined by paragraph ~~1~~ 2 of ~~subsection B of~~ Section ~~7102~~ 1-1-105 of ~~this title~~ Title 10A of the Oklahoma Statutes, of a child under eighteen (18) years of age by another, or the act of willfully or maliciously injuring, torturing or maiming a child under eighteen (18) years of age by another.

B. Any parent or other person who shall willfully or maliciously engage in enabling child abuse shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00) or both such fine and imprisonment. As used in this subsection, "enabling child abuse" means the causing, procuring or permitting of a willful or malicious act of child abuse, as defined by paragraph ~~1~~ 2 of ~~subsection B of~~ Section ~~7102~~ 1-1-105 of

~~this title~~ Title 10A of the Oklahoma Statutes, of a child under eighteen (18) years of age by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of abuse as proscribed by this subsection.

C. Any parent or other person who shall willfully or maliciously engage in child neglect shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment. As used in this subsection, "child neglect" means the willful or malicious neglect, as defined by paragraph ~~3~~ 46 of ~~subsection B of~~ Section ~~7102~~ 1-1-105 of ~~this title~~ Title 10A of the Oklahoma Statutes, of a child under eighteen (18) years of age by another.

D. Any parent or other person who shall willfully or maliciously engage in enabling child neglect shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment. As used in this subsection, "enabling child neglect" means the causing, procuring or permitting of a willful or malicious act of child neglect, as defined by paragraph ~~3~~ 46 of ~~subsection B of~~ Section ~~7102~~ 1-1-105 of ~~this title~~ Title 10A of the Oklahoma Statutes, of a child under eighteen (18) years of age by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of neglect as proscribed by this subsection.

E. Any parent or other person who shall willfully or maliciously engage in child sexual abuse shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment, except as provided in Section 51.1a of ~~Title 21 of the Oklahoma Statutes~~ this title or as otherwise provided in subsection F of this section for a

child victim under twelve (12) years of age. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this subsection shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment. As used in this section, "child sexual abuse" means the willful or malicious sexual abuse, as defined by subparagraph b of paragraph ~~6~~ 2 of ~~subsection B of~~ Section ~~7102~~ 1-1-105 of ~~this title~~ Title 10A of the Oklahoma Statutes, of a child under eighteen (18) years of age by another.

F. Any parent or other person who shall willfully or maliciously engage in sexual abuse to a child under twelve (12) years of age shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for not less than twenty-five (25) years nor more than life imprisonment, and by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00).

G. Any parent or other person who shall willfully or maliciously engage in enabling child sexual abuse shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment. As used in this subsection, "enabling child sexual abuse" means the causing, procuring or permitting of a willful or malicious act of child sexual abuse, as defined by subparagraph b of paragraph ~~6~~ 2 of ~~subsection B of~~ Section ~~7102~~ 1-1-105 of ~~this title~~ Title 10A of the Oklahoma Statutes, of a child under the age of eighteen (18) by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of sexual abuse as proscribed by this subsection.

H. Any parent or other person who shall willfully or maliciously engage in child sexual exploitation shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a

fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment except as provided in subsection I of this section for a child victim under twelve (12) years of age. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of this subsection shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment. As used in this subsection, "child sexual exploitation" means the willful or malicious sexual exploitation, as defined by subparagraph c of paragraph ~~6~~ 2 of ~~subsection B of~~ Section ~~7102~~ 1-1-105 of ~~this title~~ Title 10A of the Oklahoma Statutes, of a child under eighteen (18) years of age by another.

I. Any parent or other person who shall willfully or maliciously engage in sexual exploitation of a child under twelve (12) years of age shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for not less than twenty-five (25) years nor more than life imprisonment, and by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00).

J. Any parent or other person who shall willfully or maliciously engage in enabling child sexual exploitation shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment. As used in this subsection, "enabling child sexual exploitation" means the causing, procuring or permitting of a willful or malicious act of child sexual exploitation, as defined by subparagraph c of paragraph ~~6~~ 2 of ~~subsection B of~~ Section ~~7102~~ 1-1-105 of ~~this title~~ Title 10A of the Oklahoma Statutes, of a child under eighteen (18) years of age by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of sexual exploitation as proscribed by this subsection.

K. Notwithstanding any other provision of law, any parent or other person convicted of forcible anal or oral sodomy, rape, rape by instrumentation, or lewd molestation of a child under fourteen (14) years of age subsequent to a previous conviction for any offense of forcible anal or oral sodomy, rape, rape by instrumentation, or lewd molestation of a child under fourteen (14) years of age shall be punished by death or by imprisonment for life without parole.

SECTION 19. AMENDATORY 22 O.S. 2001, Section 20, as amended by Section 126, Chapter 234, O.S.L. 2009 (22 O.S. Supp. 2009, Section 20), is amended to read as follows:

Section 20. ~~A.~~ When any person is convicted of an offense against the laws of this state and is sentenced to imprisonment to be served in a county jail or a state correctional institution, the judge of the district court shall inquire whether such person is a single custodial parent of any minor child. If such person is a single custodial parent, the judge shall inquire into the arrangements that have been made for the care and custody of the child during the period of incarceration of the custodial parent. If the judge finds that no arrangements have been made or such arrangements ~~are not appropriate or in the best interests of the child, the court shall order the parent to execute the necessary powers of attorney, guardianship, or other appropriate legal documents or legal proceeding to place the child in order to ensure adequate and appropriate care and custody of the child during the absence of the parent. The parent may place the child with:~~

~~1. The other parent of the child involved, if such parent's rights have not been terminated. If the custodial parent has custody of the child pursuant to an order of a court in a divorce proceeding, the court having jurisdiction over the divorce proceeding shall determine whether a modification of the custody order placing the child in the custody of the other parent is appropriate and in the best interests of the child. The court shall notify the sentencing judge whether the custody order has been modified to place custody with the other parent. If the custody order is not modified, the judge shall order the parent to make other appropriate arrangements for the child;~~

~~2. A relative within the fourth degree when the judge determines such placement to be suitable for the child;~~

~~3. The Department of Human Services in accordance with the rules of the Department for the voluntary placement of children, or a child welfare agency duly licensed or recognized pursuant to the Oklahoma Child Care Facilities Licensing Act; or~~

~~4. Some other individual with the written assent of the court.~~

~~B. When the custody of the child is placed with the other parent pursuant to a modification of a custody order by the court having jurisdiction over the divorce proceeding, the provisions of subsection C of this section shall not apply. Provided, upon the recommendation of such court, the sentencing judge may require the parent to whom custody is transferred to comply with the provisions of subsections D and E of this section.~~

~~C. 1. Except as provided by subsection B of this section, when the parent proposes to place the child with an individual specified by paragraph 1, 2 or 4 of subsection A of this section, the court shall require a placement investigation and report be made to the court. The person making the investigation and report to the court shall be a person qualified by training or experience as designated by the court; provided, the court shall give preference to designating an appropriately licensed or certified individual or agency to complete the investigation. The placement investigation shall include inquiry to determine whether the proposed home is a suitable one for the child and any other circumstances and conditions which may have a bearing on the health, safety and welfare of the child. The report shall become a part of the files in the case and shall contain a definite recommendation for or against the proposed placement and the reason therefor.~~

~~2. If suitable placement is not found pursuant to the provisions of this subsection, or the single custodial parent refuses or is unwilling to make appropriate arrangements for such child to the satisfaction of the court, the court shall order the district attorney to determine whether a petition alleging the child to be a deprived child is warranted and, if warranted by the facts in the case, to file such petition. When such petition is filed, the court may issue temporary orders for the care and custody of the child as otherwise provided by Title 10A of the Oklahoma Statutes. If the child is found by the court to be a deprived child, the provisions of Title 10A of the Oklahoma Statutes related to deprived children shall apply.~~

~~D. Except when the child is found by a court to be a deprived child or as otherwise provided by subsection B of this section, when the child is placed as provided by this section or the period of incarceration of the custodial parent is less than six (6) months, the judge shall transfer matters related to the placement of the child to the judge of the district court having juvenile docket responsibilities and review the placement and circumstances of the child at least once every six (6) months until such time as the child is returned to the parent or the child reaches eighteen (18) years of age.~~

~~1. The person or agency with whom the child has been placed shall submit a report to the judge prior to each review at such time and in such manner as ordered by the judge.~~

~~2. The report shall include but not be limited to a summary of the physical, mental, and emotional condition of the child, the conditions existing in the home or facility where the child has been placed and the adjustment of the child to said home or facility, the child's attendance and progress in school, and any contact or involvement of the child with the courts or law enforcement other than the supervision of the placement of the child by the sentencing judge.~~

~~3. When a change in the placement of the child is desired or proposed by the person or agency with whom the child has been placed, the sentencing judge shall be notified and the placement of the child shall not be changed except with the approval of said judge. The judge shall approve any subsequent placement of the child as otherwise provided by this section and the person or agency with whom the child is subsequently placed shall be subject to the provisions of this subsection.~~

~~E. Failure to file a report or to notify the judge of a desired or proposed change in the placement of the child shall be deemed to be contempt of court and is punishable as otherwise provided by law~~ pose a safety threat to the child, the court shall make a referral to the Department of Human Services by contacting the statewide child abuse and neglect hotline and shall complete a form, which shall be provided by the Department and approved by the Administrative Director of the Courts, indicating that the defendant has been sentenced to incarceration and that the defendant has sole custody of a minor child or children and has not made appropriate arrangements for the care of the child or children during the period of incarceration.

SECTION 20. AMENDATORY 43A O.S. 2001, Section 5-511, as last amended by Section 142, Chapter 234, O.S.L. 2009 (43A O.S. Supp. 2009, Section 5-511), is amended to read as follows:

Section 5-511. A. Hearings pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act shall be private unless specifically ordered by the judge to be conducted in public, but persons having a direct interest in the case shall be admitted. Stenographic notes or other transcript of the hearings shall be kept as in other cases, but they shall not be open to inspection except by order of the court or as otherwise provided by Title 10A of the Oklahoma Statutes for court records relating to children.

B. The minor may remain silent as a matter of right in hearings pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act and shall be so advised. No statement, admission or confession made by the minor alleged to be a minor in need of treatment shall be used against the minor for any purpose except for proceedings pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

C. A decision determining a minor to be a minor in need of treatment must be based on sworn testimony and the minor must have the opportunity for cross-examination unless the facts are stipulated. Where the facts are stipulated, the judge must ascertain from the minor if the minor agrees with the stipulation and understands the consequences of stipulating the facts.

D. In hearings to determine whether a minor is a minor in need of treatment, the minor shall have the right to demand a trial by jury, which shall be granted as in other cases, unless waived, or the judge on his or her own motion may call a jury to try any such case. Such jury shall consist of six persons.

1. If a jury trial is not demanded, the court may receive as evidence and act upon the evaluation or report of the licensed mental health professional who evaluated the minor;

2. When the hearing is conducted as a jury trial, any witness on behalf of the district attorney shall be subject to cross-examination by the attorney for the minor alleged to be a minor requiring treatment.

E. If authorized by the court, any proceeding held pursuant to the Inpatient Mental Health and Substance Abuse Treatment of Minors Act may be conducted via teleconference communication; provided, that when a parent or child appears for a proceeding via teleconference, the attorney representing that parent or child shall personally appear at the hearing. For purposes of this paragraph, "teleconference communication" means participation in the hearing by interactive telecommunication, including telephonic communication, by the absent party, those parties present in court, the attorneys, and others deemed to be necessary participants to the proceeding including, but not limited to, foster parents and facility staff where a child may be receiving care or treatment.

SECTION 21. This act shall become effective November 1, 2010.

Passed the House of Representatives the 5th day of May, 2010.

Presiding Officer of the House of Representatives

Passed the Senate the 20th day of May, 2010.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 21st

day of May, 20 10,

at 1:14 **o'clock** P **M.**

By:

Approved by the Governor of the State of Oklahoma the 26th **day of** May, 20 10, **at** 6:13 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 27th **day of** May, 20 10,

at 2:56 **o'clock** P **M.**

By: