An Act

ENROLLED HOUSE
BILL NO. 2300

By: Peterson, Nelson, Ownbey, Rousselot, Tibbs, Kern and Nollan of the House

and

Crain and Shortey of the Senate

An Act relating to children; amending 10 O.S. 2011, Section 405, which relates to the licensing of certain child care shelters and facilities; specifying certain certification authority shall be with the Office of Juvenile Affairs; amending 10 O.S. 2011, Section 601.3, which relates to duties of the Oklahoma Commission on Children and Youth; removing shelter certification authority; amending 10A O.S. 2011, Section 1-1-105, as amended by Section 1 of Enrolled House Bill No. 2251 of the 2nd Session of the 53rd Oklahoma Legislature, which relates to definitions; modifying definition; amending 10A O.S. 2011, Section 1-4-806, which relates to trial reunification; requiring background checks; amending 10A O.S. 2011, Section 1-4-809, which relates to deprived child permanency hearing requirements; modifying reasonable effort requirements; amending 10A O.S. 2011, Sections 1-9-111 and 1-9-112, which relate to Department of Human Services operation of children's shelters; specifying certain requirements shall be subject to placement availability; prohibiting placement of certain children in shelter care; providing deadline; modifying authority of Department to select Advocate General; specifying investigation reporting requirements for certain Client Advocacy investigations; amending 10A O.S. 2011, Section 2-7-202, which relates to powers and duties of the Office of Juvenile Affairs; directing Office to certify certain shelters; specifying requirements; creating the Oklahoma Mentoring

Children of Incarcerated Parents Program; stating purpose; requiring the Oklahoma Commission on Children and Youth to initiate certain requests for proposals; specifying entities eligible to submit applications; specifying requirements of programs; directing the Oklahoma Commission on Children and Youth to award certain grant; stating uses of grant funds; authorizing the Oklahoma Commission on Children and Youth to enter into certain agreement; directing the Commission to provide for independent evaluations of program; specifying contents of certain report; authorizing the Oklahoma Commission on Children and Youth to promulgate certain rules; directing the Department of Central Services to work in conjunction with the Oklahoma Commission on Children and Youth; repealing 10A O.S. 2011, Sections 1-10-101 and 1-10-102, which relate to the Children's Services Oversight Committee; providing for codification; providing an effective date; and declaring an emergency.

SUBJECT: Children

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

SECTION 1. AMENDATORY 10 O.S. 2011, Section 405, is amended to read as follows:

Section 405. A. No child care facility may be operated or maintained in this state, unless licensed or temporarily authorized by the Department of Human Services, except for the shelters certified by the ~~Oklahoma Commission on Children and Youth~~ Office of Juvenile Affairs pursuant to Section ~~601.3 of this title~~ 2-7-202 of Title 10A of the Oklahoma Statutes; provided, that the Department shall not be required to be licensed, but shall be bound by the standards it prescribes. No new child care facility may be established without the prior approval of the Department, which shall be granted only after the Department is satisfied that the facility will meet minimum standards for a license to operate.

B. The Department shall not grant approval for a permit, or a license for a new child care facility to receive and care for children until:

1. All background investigation requirements are met pursuant to Section 404.1 of this title; and

2. All required training including, but not limited to, cardiopulmonary resuscitation (CPR), first aid, health and safety training, and minimum education requirements pursuant to licensing requirements have been completed for any person left alone with children.

C. The incorporation or domestication of a corporation organized for the purpose of operating a child care facility shall not exempt such corporation from compliance with the provisions of Sections 401 through 418 of this title.

D. An application for a license shall be made on forms provided by the Department and in the manner prescribed. Temporary authorization may be granted to allow the Department to investigate the activities and standards of care of the applicant. The Department may issue a license once it is satisfied that the applicant meets the requirements as provided in Sections 401 through 418 of this title. All licenses shall be in force unless revoked as authorized by Section 407 of this title.

SECTION 2. AMENDATORY 10 O.S. 2011, Section 601.3, is amended to read as follows:

Section 601.3 The Oklahoma Commission on Children and Youth is hereby authorized and directed to:

1. Establish and maintain the Office of Planning and Coordination for Services to Children and Youth;

2. Establish and maintain the Office of Juvenile System Oversight; <u>and</u>

3. Designate community partnership districts for services to children and youth and, within the limitations of available funds, whether appropriated or otherwise available, provide staff, technical assistance and other assistance as necessary and appropriate to the district boards~~; and~~

~~4. Establish a system of certification in accordance with the Child Care Facilities Licensing Act for the shelters managed and operated by the Department of Human Services pursuant to Section 7004-3.1 of this title~~.

SECTION 3. AMENDATORY 10A O.S. 2011, Section 1-1-105, as amended by Section 1 of Enrolled House Bill No. 2251 of the 2nd Session of the 53rd Oklahoma Legislature, is amended to read as follows:

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

1. "Abandonment" means:

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

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

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

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

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

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

c. "Sexual exploitation" includes but is not limited to allowing, permitting, or encouraging a child to engage in prostitution, as defined by law, by a person responsible for the health, safety, or welfare of a child, or allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic, as defined by law, photographing, filming, or depicting of a child in those acts by a person responsible for the health, safety, and welfare of the child;

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

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

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

6. "Behavioral health" means mental health, substance abuse, or co-occurring mental health and substance abuse diagnoses, and the continuum of mental health, substance abuse, or co-occurring mental health and substance abuse treatment;

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

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

a. nonurban centers in districts with child populations that are less than sixty thousand (60,000), and

b. midlevel nonurban centers in districts with child populations equal to or greater than sixty thousand (60,000), but not including Oklahoma and Tulsa counties;

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

10. "Child-placing agency" means an agency that arranges for or places a child in a foster family home, group home, adoptive home, or independent living program;

11. "Commission" means the Commission for Human Services;

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

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

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

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

16. "Custodian" means an individual other than a parent, legal guardian or Indian custodian, to whom legal custody of the child has

been awarded by the court. As used in this title, the term "custodian" shall not mean the ~~Oklahoma~~ Department of Human Services;

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

18. "Department" means the ~~Oklahoma~~ Department of Human Services;

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

20. "Deprived child" means a child:

a. who is for any reason destitute, homeless, or abandoned,

b. who does not have the proper parental care or guardianship,

c. who has been abused, neglected, or is dependent,

d. whose home is an unfit place for the child by reason of depravity on the part of the parent or legal guardian of the child, or other person responsible for the health or welfare of the child,

e. who is a child in need of special care and treatment because of the child's physical or mental condition, and the child's parents, legal guardian, or other custodian is unable or willfully fails to provide such special care and treatment. As used in this paragraph, a child in need of special care and treatment includes, but is not limited to, a child who at birth tests positive for alcohol or a controlled dangerous substance and who, pursuant to a drug or alcohol screen of the child and an assessment of the parent, is determined to be at risk of harm or threatened harm to the health or safety of a child,

f. who is a child with a disability deprived of the nutrition necessary to sustain life or of the medical treatment necessary to remedy or relieve a life-threatening medical condition in order to cause or allow the death of the child if such nutrition or medical treatment is generally provided to similarly situated children without a disability or children with disabilities; provided that no medical treatment shall be necessary if, in the reasonable medical judgment of the attending physician, such treatment would be futile in saving the life of the child,

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

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

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

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

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

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

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

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

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

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

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

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

27. "Foster parent eligibility assessment" includes a criminal background investigation including, but not limited to, a national criminal history records search based upon the submission of fingerprints, home assessments, and any other assessment required by

the Department of Human Services, the Office of Juvenile Affairs, or any child-placing agency pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act;

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

29. "Guardian ad litem of the estate of the child" means a person appointed by the court to protect the property interests of a child pursuant to Section 1-8-109 of this title;

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

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

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

a. a substantial risk of death,

b. extreme physical pain,

c. protracted disfigurement,

d. a loss or impairment of the function of a body member, organ, or mental faculty,

e. an injury to an internal or external organ or the body,

f. a bone fracture,

g. sexual abuse or sexual exploitation,

h. chronic abuse including, but not limited to, physical, emotional, or sexual abuse, or sexual exploitation which is repeated or continuing,

i. torture that includes, but is not limited to, inflicting, participating in or assisting in inflicting intense physical or emotional pain upon a child repeatedly over a period of time for the purpose of coercing or terrorizing a child or for the purpose of satisfying the craven, cruel, or prurient desires of the perpetrator or another person, or

j. any other similar aggravated circumstance;

33. "Heinous and shocking neglect" includes, but is not limited to:

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

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

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

d. any other similar aggravating circumstance;

34. "Independent living program" means a program specifically designed to assist a child to enhance those skills and abilities necessary for successful adult living. An independent living program may include, but shall not be limited to, such features as minimal direct staff supervision, and the provision of supportive services to assist children with activities necessary for finding an appropriate place of residence, completing an education or vocational training, obtaining employment, or obtaining other similar services;

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

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

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

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

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

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

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

(1) "Substantiated ~~—Court intervention recommended~~" means ~~a report that is~~ the Department has determined ~~by a child protective services worker~~, after an investigation of a report of child abuse or neglect and based upon some credible evidence, ~~to constitute~~ that child abuse or neglect ~~which is of such a nature that the Department finds that the health, safety, or welfare of the child is threatened,~~ has occurred. When child abuse or neglect is substantiated, the Department may recommend:

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

(b) child abuse and neglect prevention and intervention-related services for the child, parents or persons responsible for the care

of the child if court intervention is not determined to be necessary,

(2) ~~"Substantiated - Services recommended" means a report that is determined by a child protective services worker, after an investigation and based upon some credible evidence, to constitute child abuse or neglect which is of such a nature that the Department recommends prevention and intervention related services for the parents or persons responsible for the care of the child or children, but for which initial court intervention is not required,~~

~~(3)~~ "Unsubstantiated - Services recommended" means ~~a report in which a child protective services worker~~ the Department has determined, after an investigation of a report of child abuse or neglect, ~~determines there is~~ that insufficient evidence exists to fully determine whether child abuse or neglect has occurred~~, but one in which~~. If child abuse or neglect is unsubstantiated, the Department ~~determines~~ may recommend, when determined to be necessary, that the ~~child and the family~~ parents or persons responsible for the care of the child ~~could benefit from receiving~~ obtain child abuse and neglect prevention- and intervention-related services, or

~~(4)~~ (3) "Ruled out" means a report in which a child protective services ~~worker~~ specialist has determined, after an investigation of a report of child abuse or neglect, ~~determines~~ that no child abuse or neglect has occurred;

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

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

41. "Kinship relation" or "kinship relationship" means relatives, stepparents, or other responsible adults who have a bond or tie with a child and/or to whom has been ascribed a family relationship role with the child's parents or the child; provided,

however, in cases where the Indian Child Welfare Act applies, the definitions contained in 25 U.S.C., Section 1903 shall control;

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

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

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

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

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

47. "Neglect" means:

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

(1) adequate nurturance and affection, food, clothing, shelter, sanitation, hygiene, or appropriate education,

(2) medical, dental, or behavioral health care,

(3) supervision or appropriate caretakers, or

(4) special care made necessary by the physical or mental condition of the child,

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

(1) the use, possession, sale, or manufacture of illegal drugs,

(2) illegal activities, or

(3) sexual acts or materials that are not age-appropriate, or

c. abandonment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. has been certified by the Developmental Disabilities Services Division of the Department of Human Services,

b. is monitored by the Division, and

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

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

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

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

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

SECTION 4. AMENDATORY 10A O.S. 2011, 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. The Department of Human Services shall conduct a criminal background check of any adult in the home, who is not a parent, legal guardian, or custodian, prior to any trial reunification. The background check shall include inquiries into Oklahoma State Bureau of Investigation and Federal Bureau of Investigation records for a national criminal history record check pursuant to the provisions of Section 150.9 of Title 74 of the Oklahoma Statutes.

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, when necessary to protect the child's health, safety, or welfare; and

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

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 court orders, if any, deemed appropriate to provide for the safety and stability of the child.

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 5. AMENDATORY 10A O.S. 2011, Section 1-4-809, is amended to read as follows:

Section 1-4-809. A. At any time prior to or following the adjudicatory hearing the court, on its own motion or upon the motion of a party, may find that reasonable efforts to prevent the removal of a child from home or to reunify the child and family are not required if the court determines, based upon a preponderance of the evidence, that:

1. The parent or legal guardian of the child, who is an infant age twelve (12) months or younger, has abandoned the child;

2. The parent or legal guardian of the child has:

a. committed murder or manslaughter of any child,

b. aided or abetted, attempted, conspired, or solicited to commit the murder or manslaughter of any child,

c. committed a felony assault upon any child that resulted in the child receiving serious bodily injury, or

d. subjected any child to aggravated circumstances including, but not limited to, heinous and shocking abuse or heinous and shocking neglect; ~~or~~

3. The parental rights of a parent to the child's sibling have been terminated involuntarily;

4. The parent has been found by a court of competent jurisdiction to have committed sexual abuse against the child or another child of the parent; or

5. The parent is required to register with a sex offender registry pursuant to Section 113(a) of the Adam Walsh Child Protection and Safety Act of 2006, 42 U.S.C., Section 16913(a).

B. The court shall conduct a permanency hearing within thirty (30) days of a determination by the court that any of the conditions specified in subsection A of this section exist. Reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan.

SECTION 6. AMENDATORY 10A O.S. 2011, Section 1-9-111, is amended to read as follows:

Section 1-9-111. A. 1. The Department of Human Services is authorized to manage and operate the children's shelter located in Oklahoma City, known and designated as the Pauline Mayer Children's Shelter, and the children's shelter located in Tulsa, known and designated as the Laura Dester Children's Shelter. The Department shall implement a plan to transition the use of shelters from a placement for children taken into custody into an alternative purpose to be determined by the Department. Kinship care homes and emergency foster care homes shall be utilized for the care of children instead of a shelter whenever possible. The Department ~~shall structure the plan so that within a reasonable time no more than twenty-five children may be placed in each shelter managed and operated by the Department and~~ shall monitor and report to the Legislature and Governor on a monthly basis the daily average shelter population and the number of kinship care homes utilized and the total number of emergency foster care homes available by county.

2. Subject to the availability of suitable placements, no child in the custody of the Department of Human Services:

a. six (6) years of age or younger shall be placed in shelter care after June 30, 2013, or

b. thirteen (13) years of age or younger shall be placed in shelter care after June 30, 2014.

3. The Department is authorized to manage and operate, to the extent of funds available, such group homes as may be necessary to provide a diversity of placement alternatives for children adjudicated deprived and placed in the custody of the Department.

B. The Commission for Human Services shall establish and maintain methods of administration, including those necessary to establish and maintain a merit system of personnel administration, and shall prescribe rules necessary for the efficient and effective operation of the children's facilities operated by the Department.

C. 1. The Director of the Department shall employ and fix the duties and compensation of a director or supervisor, and other personnel necessary, for each of the children's facilities operated by the Department.

2. The Department shall promulgate, and in its hiring and employment practices, the Department shall adhere to, written minimum qualifications by position for personnel working with or around children in such facilities. Minimum qualifications shall be designed to assure that:

a. personnel possess sufficient education, training, experience, and background to provide adequate and safe professional care and services to children, and

b. children will not be exposed to abuse, deprivation, criminal conduct, or other unwholesome conditions attributable to employee incompetence or misconduct.

D. 1. It shall be the duty of the State Fire Marshal and the State Commissioner of Health to cause annual unannounced inspections of children's facilities operated by the Department, utilizing adequately trained and qualified inspection personnel, to determine and evaluate conditions in their respective areas of agency jurisdiction.

2. Inspections shall include, but not be limited to, compliance with:

a. minimum fire, life, and health safety standards, and

b. minimum standards governing general sanitation of the institution.

3. Reports of inspections shall be made in writing, itemizing and identifying any deficiencies, and recommending corrective measures, and shall be filed with the Department, the Office of Juvenile System Oversight, and the Commission on Children and Youth.

4. The Department shall file copies of the reports of the inspections and recommendations of the accrediting agencies with the Office of Juvenile System Oversight.

E. 1. The Department may:

a. give assistance to local school districts in providing an education to children in facilities operated by the Department,

b. supplement the education, and

c. provide facilities for such purposes.

2. It shall be the duty of the Department to assure that children in the facilities receive educational services which will stress basic literacy skills including, but not limited to, curricula requirements stressing reading, writing, mathematics, science, and vocational-technical education.

SECTION 7. AMENDATORY 10A O.S. 2011, Section 1-9-112, is amended to read as follows:

Section 1-9-112. A. 1. The ~~Commission for~~ Director of Human Services is authorized and directed to establish the Office of Client Advocacy within the Department of Human Services and to employ personnel necessary to carry out the purposes of this section and the duties listed in this section. Personnel may be dismissed only for cause.

2. The chief administrative officer of the Office of Client Advocacy shall be the Advocate General, who shall be an attorney ~~selected from a list of three names submitted by the Oklahoma Commission on Children and Youth~~. The Advocate General shall be a member of the Oklahoma Bar Association and shall have a minimum of three (3) years' experience as an attorney. The compensation of the Advocate General shall be no less than that of the classification of Attorney III as established in the Merit System of Personnel

Administration classification and compensation plan, but shall be an unclassified position.

3. The duties and responsibilities of the Advocate General are to:

a. supervise personnel assigned to the Office of Client Advocacy,

b. monitor and review grievance procedures and hearings,

c. establish and maintain a fair, simple, and expeditious system for resolution of grievances of:

(1) all children in the custody of the Department of Human Services regarding:

(a) the substance or application of any written or unwritten policy or rule of the Department or agent of the Department, or

(b) any decision or action by an employee or agent of the Department, or of any child in the custody of the Department,

(2) foster parents relating to the provision of foster care services pursuant to this section and Section 1-9-117 of this title, and

(3) all persons receiving services from the Developmental Disabilities Services Division of the Department of Human Services,

d. investigate allegations of abuse, neglect, sexual abuse, and sexual exploitation, as those terms are defined in the Oklahoma Children's Code, by a person responsible for a child, regardless of custody:

(1) residing outside their own homes other than children in foster care or children in the custody of the Office of Juvenile Affairs and placed in an Office of Juvenile Affairs secure facility,

(2) in a day treatment program as defined in Section 175.20 of Title 10 of the Oklahoma Statutes, and submit a report of the results of the investigation to the appropriate district attorney and to the State Department of Health,

(3) receiving services from a community services worker as that term is defined in Section 1025.1 of Title 56 of the Oklahoma Statutes, and

(4) residing in a state institution listed in Section 1406 of Title 10 of the Oklahoma Statutes,

e. establish a system for investigating allegations of misconduct, by a person responsible for a child, not rising to the level of abuse, neglect, sexual abuse, or sexual exploitation with regard to any child or resident listed in subparagraph d of this paragraph,

f. coordinate any hearings or meetings of Departmental administrative review committees conducted as a result of unresolved grievances or as a result of investigations,

g. make recommendations to the Director, and provide regular or special reports regarding grievance procedures, hearings and investigations to the Director, the Commission, the Office of Juvenile System Oversight and other appropriate persons as necessary,

h. forward to the Office of Juvenile Systems Oversight, for the information of the Director of that office, a copy of the final report of any grievance which is not resolved in the favor of the complainant,

i. perform such other duties as required by the Director of the Department or the Commission, and

j. develop policies and procedures as necessary to implement the duties and responsibilities assigned to the Office of Client Advocacy.

B. The Office of Client Advocacy shall make a complete written report of their investigations. The investigation report, together

with its recommendations, shall be submitted to the appropriate district attorney's office.

C. 1. Except as otherwise provided by the Oklahoma Children's Code, the reports required by Section 1-2-101 of this title or any other information acquired pursuant to the Oklahoma Children's Code shall be confidential and may be disclosed only as provided in Section 1-2-108 of this title and the Oklahoma Children's Code.

2. Except as otherwise provided by the Oklahoma Children's Code, any violation of the confidentiality requirements of the Oklahoma Children's Code shall, upon conviction, be a misdemeanor punishable by up to six (6) months in jail, by a fine of Five Hundred Dollars ($500.00), or by both such fine and imprisonment.

3. Any records or information disclosed as provided by this subsection shall remain confidential. The use of any information shall be limited to the purpose for which disclosure is authorized. Rules promulgated by the Commission for Human Services shall provide for disclosure of relevant information concerning Office of Client Advocacy investigations to persons or entities acting in an official capacity with regard to the subject of the investigation.

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

D. 1. The Office of Client Advocacy shall investigate any complaint alleging that an employee of the Department or a child-placing agency has threatened a foster parent with removal of a child from the foster parent, harassed a foster parent, or refused to place a child in a licensed or certified foster home, or disrupted a child placement as retaliation or discrimination towards a foster parent who has:

a. filed a grievance pursuant to Section 1-9-120 of this title,

b. provided information to any state official or Department employee, or

c. testified, assisted, or otherwise participated in an investigation, proceeding, or hearing against the Department or child-placing agency.

2. The provisions of this subsection shall not apply to any complaint by a foster parent regarding the result of a criminal, administrative, or civil proceeding for a violation of any law, rule, or contract provision by that foster parent, or the action taken by the Department or a child-placement agency in conformity with the result of any such proceeding.

3. The Office of Client Advocacy shall at all times be granted access to any foster home or any child-placing agency which is certified, authorized, or funded by the Department.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-9-112.1 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. In addition to the requirements of Section 1-9-112 of Title 10A of the Oklahoma Statutes, the investigation report of the Office of Client Advocacy concerning a report of abuse or neglect of a child in the legal custody of the Department of Human Services shall also be submitted to the Children and Family Services Division Director, or designee, within thirty (30) days from the date of the referral.

B. The Office of Client Advocacy investigation of a report of abuse or neglect of a child in the custody of the Department shall result in a written response within thirty (30) days from the date of the referral stating one of the following findings:

1. "Substantiated" means the Office of Client Advocacy has determined, after an investigation of a report of child abuse or neglect of a child in Department of Human Services custody and based upon some credible evidence, that child abuse or neglect occurred;

2. "Unsubstantiated" means the Office of Client Advocacy has determined, after an investigation of a report of child abuse or neglect of a child in Department of Human Services custody, that insufficient evidence exists to fully determine whether child abuse or neglect occurred; or

3. "Ruled out" means the Office of Client Advocacy has determined, after an investigation of a report of child abuse or

neglect of a child in Department of Human Services custody, that no child abuse or neglect occurred.

SECTION 9. AMENDATORY 10A O.S. 2011, Section 2-7-202, is amended to read as follows:

Section 2-7-202. A. There is hereby created the Office of Juvenile Affairs which shall be responsible for programs and services for juveniles alleged or adjudicated to be delinquent or in need of supervision. Within the Office of Juvenile Affairs there is hereby created:

1. The Division of Institutional Services which shall be responsible for the institutions operated by or contracted for by the Office of Juvenile Affairs;

2. The Division of Community-based Youth Services which shall be responsible for contracting with, monitoring, evaluation and support of community-based Youth Services Agencies;

3. The Division of Juvenile and Treatment Services which shall be responsible for intake, probation and parole services, supervision and placement of juveniles and the contracting for, monitoring and evaluation of residential and treatment programs other than institutions and community-based Youth Services Agencies; and

4. Such other divisions specifically established by the Executive Director of the Office of Juvenile Affairs, with the approval of the Board.

The Executive Director of the Office of Juvenile Affairs, with the approval of the Board, shall appoint a Director of the Division of Institutional Services, a Director of the Division of Community-based Youth Services, and a Director of the Division of Juvenile and Treatment Services to serve as the administrative head of each division, respectively. The Division Directors shall have at least six (6) years of experience in the same or similar programs or facilities as they are to supervise and a baccalaureate degree or higher level of education.

B. Suitable office space shall be provided by the Department of Central Services to the Office of Juvenile Affairs, to the extent necessary for the Office to implement its jurisdictional duties

provided by the Oklahoma Juvenile Code, and the Office may incur necessary expenses for office rent.

C. Effective July 1, 1995, the Office of Juvenile Affairs shall be a Merit System agency and all employees of the Office of Juvenile Affairs shall be classified employees who are subject to the Oklahoma Personnel Act and the Merit System of Personnel Administration, except as otherwise provided by law.

D. Effective July 1, 1995, within its jurisdictional areas of responsibility, the Office of Juvenile Affairs, acting through the Executive Director, or persons authorized by law, rule or designated by the Executive Director to perform such acts, shall have the power and duty to:

1. Advise, consult, cooperate and enter into agreements with agencies of the state, municipalities and counties, other states and the federal government, and other persons;

2. Enter into agreements for, accept, administer and use, disburse and administer grants of money, personnel and property from the federal government or any department or agency thereof, or from any state or state agency, or from any other source, to promote and carry on in this state any program within its jurisdictional area of responsibility;

3. Require the establishment and maintenance of records and reports;

4. Establish a system of training for personnel in order to assure uniform statewide application of law and rules;

5. Enforce the provisions of the Oklahoma Juvenile Code and rules promulgated thereunder and orders issued pursuant thereto;

6. Charge and receive fees pursuant to fee schedules promulgated by the Board of Juvenile Affairs;

7. Conduct studies, research and planning of programs and functions, pursuant to the authority granted by the Oklahoma Juvenile Code;

8. Enter into interagency agreements;

9. Provide administrative and support services to the Board of Juvenile Affairs as necessary to assist the Board in the performance of their duties;

10. Establish and maintain such facilities and institutions as are necessary or convenient for the operation of programs for children under the jurisdiction of the Office of Juvenile Affairs;

11. Lease, from time to time, any real property which the Board of Juvenile Affairs shall determine advisable to more fully carry into effect the operation of the Office of Juvenile Affairs in accordance with applicable state statutes. All such leases for real property shall be subject to the provisions of Section 63 of Title 74 of the Oklahoma Statutes;

12. Purchase or lease any equipment, supplies or materials pursuant to The Oklahoma Central Purchasing Act;

13. Contract for professional services;

14. Acquire, construct, extend, and operate any and all facilities of all kinds which in the judgment of the Executive Director and the approval of the Legislature shall be necessary or convenient to carry out the duties of the Office of Juvenile Affairs, as authorized by law; and

15. Exercise all incidental powers which are necessary and proper to implement and administer the purposes of the Oklahoma Juvenile Code.

E. The Office of Juvenile Affairs shall maintain a fair, simple and expeditious system for resolution of grievances of all persons committed to the Office of Juvenile Affairs regarding the substance or application of any written or unwritten policy, rule of the Board of Juvenile Affairs or of an agent or contractor of the Office of Juvenile Affairs or any decision, behavior or action by an employee, agent or contractor or by any other person committed to the Office of Juvenile Affairs.

F. Effective November 1, 2012, the Office of Juvenile Affairs shall establish a system of certification in accordance with the Oklahoma Child Care Facilities Licensing Act for the shelters managed and operated by the Department of Human Services pursuant to the requirements of Section 1-9-111 of this title. The Office of Juvenile Affairs shall certify shelters pursuant to the requirements

of existing rules as established by the Oklahoma Commission on Children and Youth until such time the Office of Juvenile Affairs has promulgated rules for the certification of shelters.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-10-101 of Title 10A, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Commission on Children and Youth shall establish the Oklahoma Mentoring Children of Incarcerated Parents Program.

B. The purpose of the Oklahoma Mentoring Children of Incarcerated Parents Program is to provide effective intervention services through one-to-one mentoring relationships to children of incarcerated parents who either:

1. Are in the custody of the Office of Juvenile Affairs and currently placed outside the home; or

2. Have been identified by the Office of Juvenile Affairs as at risk of becoming involved in the juvenile justice system.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-10-102 of Title 10A, unless there is created a duplication in numbering, reads as follows:

1. The Oklahoma Commission on Children and Youth shall issue a request for proposals on or before July 1, 2012, and each July 1 thereafter for which the Oklahoma Mentoring Children of Incarcerated Parents Program is funded, seeking applications to administer the Oklahoma Mentoring Children of Incarcerated Parents Program.

2. The Department of Central Services shall work in conjunction with the Commission to coordinate a competitive bid process.

3. The Commission, in coordination with the Department of Central Services, shall review the applications for compliance with the established requirements.

4. Entities eligible to submit applications to administer the Oklahoma Mentoring Children of Incarcerated Parents Program shall be limited to nonprofit organizations or programs which are exempt from taxation pursuant to the provisions of Section 501 (c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(3) and which

otherwise meet the requirements set forth in paragraph 5 of this section.

5. The Commission may approve an application that meets the requirements set forth in this subsection and as established by the Commission. The approved applicant shall provide one-to-one mentoring services to children of incarcerated parents who are in the custody of the Office of Juvenile Affairs and currently placed outside the home, or have been identified by the Office of Juvenile Affairs as at risk of becoming involved in the juvenile justice system. The selected applicant shall:

a. currently serve youth ages 6-18,

b. have a statewide presence,

c. currently provide one-to-one mentoring to children of incarcerated parents,

d. have served children of incarcerated parents for five (5) years or more,

e. have rigorous volunteer application and screening processes,

f. have child safety policies and procedures,

g. measure performance outcomes via multiple tools,

h. have five (5) years or more of performance outcome data,

i. provide ongoing safety training and diversity training for program staff,

j. have an established working relationship with the Office of Juvenile Affairs,

k. set match-retention-rate goals,

l. have experience working with high-risk populations, and

m. deliver contracted services at a cost no greater than One Thousand Five Hundred Dollars ($1,500.00) per mentor-mentee match.

6. On or before July 1, 2012, and each July 1 thereafter for which the Oklahoma Mentoring Children of Incarcerated Parents Program is funded, the Office of Juvenile Affairs shall forward applications that the Office of Juvenile Affairs has determined meet the requirements of this section to the Commission. On or before November 1, 2012, and each November thereafter for which the Oklahoma Mentoring Children of Incarcerated Parents Program is funded, the Commission shall award, through a competitive bid process, one grant to one applicant to provide one-to-one mentoring services to children of incarcerated parents who either are in the custody of the Office of Juvenile Affairs and currently placed outside the home or have been identified by the Office of Juvenile Affairs as at risk of becoming involved in the juvenile justice system.

7. In addition to the grant funding, the Commission shall be authorized to provide other appropriate assistance to the selected applicant.

8. The Commission shall be authorized to promulgate rules and establish procedures necessary to implement the provisions of this act.

9. The Department of Central Services shall work in conjunction with the Commission to implement the provisions of this act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-10-103 of Title 10A, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Commission on Children and Youth shall prepare annually a report describing the Oklahoma Mentoring Children of Incarcerated Parents Program and measuring its effectiveness. The report shall be submitted to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor of this state no later than March 1 of each applicable year. The report may be used for the purpose of determining whether to continue or sunset the Oklahoma Mentoring Children of Incarcerated Parents Program.

SECTION 13. REPEALER 10A O.S. 2011, Sections 1-10-101 and 1-10-102, are hereby repealed.

SECTION 14. Section 8 of this act shall become effective January 1, 2013.

SECTION 15. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 25th day of May, 2012.

Presiding Officer of the House of Representatives

Passed the Senate the 25th day of May, 2012.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 25th

day of May, **20** 12,

at 2:25 **o'clock** PM.

By: Jessie R. Ryan

Approved by the Governor of the State of Oklahoma the 8th **day of**

June, **20** 12, **at** 2:54 **o'clock** P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

8th **day of** June, **20** 12,

at 4:45 **o'clock** P. **M.**

By: Michelle R Day